

ORDINANCE 21-10

AN ORDINANCE AMENDING THE HOLDEN BEACH CODE OF ORDINANCES TO COMPLY WITH REQUIREMENTS OF CHAPTER 160D OF THE NORTH CAROLINA GENERAL STATUTES

BE IT ORDAINED BY the Mayor and Board of Commissioners of the Town of Holden Beach, North Carolina that the Holden Beach Code of Ordinances be amended as follows:

Section One: Amend the Holden Beach Code of Ordinances ~~to read~~ as follows (changes in colored writing):

Town of Holden Beach, North Carolina

Code of Ordinances

Contains 2019 S-16 Supplement, current through:

Ordinance 19-03, passed 3-19-19; and

State legislation current through 2018 North Carolina

Legislative Service, Pamphlet No. 5

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Adopting Ordinance

ORDINANCE NO. 96-15

AN ORDINANCE ENACTING AND ADOPTING SUPPLEMENT NO. 1 TO THE CODE OF ORDINANCES FOR THE TOWN OF HOLDEN BEACH.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the first supplement of the Code of Ordinances of the Town of Holden Beach, which supplement contains all ordinances of a general and permanent nature enacted since the new Code of Ordinances of the Town of Holden Beach was adopted;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF HOLDEN BEACH:

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Section 1. That the first supplement to the Code of Ordinances of the Town of Holden Beach as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Board of Commissioners, and the Clerk of the Town of Holden Beach is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

PASSED AND ADOPTED by the Board of Commissioners of the Town of Holden Beach on this 2nd day of December, 1996.

Jim Hartman /s/

Jim Hartman, Mayor

ATTEST:

Joyce B. Shore /s/

Joyce B. Shore, Town Clerk

ORDINANCE NO. 97-16

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE TOWN OF HOLDEN BEACH, NORTH CAROLINA.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 2nd supplement of the Code of Ordinances of the Town of Holden Beach, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the Town of Holden Beach; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Town of Holden Beach code.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA.

Section 1. That the 2nd supplement to the Code of Ordinances of the Town of Holden Beach as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Board of Commissioners, and the Clerk of the Town of Holden Beach is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

PASSED AND ADOPTED by the Board of Commissioners of the Town of Holden Beach, North Carolina, on this 28th day of October, 1997.

Jeff Lee /s/

Jeff Lee, Mayor Pro Tem

ATTEST:

Joyce B. Shore /s/

Joyce B. Shore, Town Clerk

ORDINANCE NO. 98-16

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE TOWN OF HOLDEN BEACH, NORTH CAROLINA.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 3rd supplement to the Code of Ordinances of the Town of Holden Beach, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the Town of Holden Beach; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Town of Holden Beach code;

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA:

Section 1. That the 3rd supplement to the Code of Ordinances of the Town of Holden Beach as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Board of Commissioners, and the Clerk of the Town of Holden Beach is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

PASSED AND ADOPTED by the Board of Commissioners of the Town of Holden Beach, North Carolina, on this 13th day of July, 1998.

James W. Lowell /s/

James W. Lowell, Mayor

ATTEST:

Joyce B. Shore /s/

Joyce B. Shore, Town Clerk

ORDINANCE NO. 98-20

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES FOR THE TOWN OF HOLDEN BEACH, NORTH CAROLINA.

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 4th supplement to the Code of Ordinances of the Town of Holden Beach, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the Town of Holden Beach; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Town of Holden Beach code;

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE AUTHORITY OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA:

Section 1. That the 4th supplement to the Code of Ordinances of the Town of Holden Beach as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Board of Commissioners, and the Clerk of the Town of Holden Beach is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

PASSED AND ADOPTED by the Board of Commissioners of the Town of Holden Beach, North Carolina, on this 23rd day of November, 1998.

James W. Lowell /s/

James W. Lowell, Mayor

ATTEST:

Joyce B. Shore /s/

Joyce B. Shore, Town Clerk

ORDINANCE NO. 99-16

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA. (Supplement No. 5)

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 5th supplement to the Code of Ordinances of the Town of Holden Beach, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the Town of Holden Beach; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Town of Holden Beach code;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA:

Section 1. That the 5th supplement to the Code of Ordinances of the Town of Holden Beach as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Board of Commissioners, and the Clerk of the Town of Holden Beach is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

PASSED AND ADOPTED by the Board of Commissioners of the Town of Holden Beach, North Carolina, on this 23rd day of August, 1999.

James W. Lowell /s/

James W. Lowell, Mayor

ATTEST:

Joyce B. Shore /s/

Joyce B. Shore, Town Clerk

ORDINANCE NO. 00-22

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA. (Supplement No. 6)

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 6th supplement to the Code of Ordinances of the Town of Holden Beach, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the Town of Holden Beach; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the Town of Holden Beach code;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF [Holden Beach](#)

Section 1. That the 6th supplement to the Code of Ordinances of the Town of Holden Beach as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Board of Commissioners, and the Clerk of the Town of Holden Beach is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

PASSED AND ADOPTED by the Board of Commissioners of the Town of Holden Beach, North Carolina, on this 27th day of November, 2000.

James W. Lowell /s/

James W. Lowell, Mayor

ATTEST:

Joyce B. Shore /s/

Joyce B. Shore, Town Clerk

ORDINANCE NO. 03-02

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA. (Supplement No. 7)

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 7th supplement to the Code of Ordinances of the Town of Holden Beach, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the Town of Holden Beach; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the North Carolina General Statutes; and

WHEREAS, it is the intent of the Legislative Authority to accept these updated sections in accordance with the changes of the law of the State of North Carolina; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA:

Section 1. That the 7th supplement to the Code of Ordinances of the Town of Holden Beach as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Board of Commissioners, and the Clerk of the Town of Holden Beach is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

PASSED AND ADOPTED by the Board of Commissioners of the Town of Holden Beach, North Carolina, on this 24th day of February, 2003.

James W. Lowell /s/

James W. Lowell, Mayor

ATTEST:

Joyce B. Shore /s/

Joyce B. Shore, Town Clerk

ORDINANCE NO. 03-03

AN ORDINANCE ENACTING AND ADOPTING A SUPPLEMENT TO THE CODE OF ORDINANCES OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA. (Supplement No. 8)

WHEREAS, American Legal Publishing Corporation of Cincinnati, Ohio, has completed the 8th supplement to the Code of Ordinances of the Town of Holden Beach, which supplement contains all ordinances of a general and permanent nature enacted since the prior supplement to the Code of Ordinances of the Town of Holden Beach; and

WHEREAS, American Legal Publishing Corporation has recommended the revision or addition of certain sections of the Code of Ordinances which are based on or make reference to sections of the North Carolina General Statutes; and

WHEREAS, it is the intent of the Legislative Authority to accept these updated sections in accordance with the changes of the law of the State of North Carolina; and

WHEREAS, it is necessary to provide for the usual daily operation of the municipality and for the immediate preservation of the public peace, health, safety and general welfare of the municipality that this ordinance take effect at an early date;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF HOLDEN BEACH, NORTH CAROLINA:

Section 1. That the 8th supplement to the Code of Ordinances of the Town of Holden Beach as submitted by American Legal Publishing Corporation of Cincinnati, Ohio, and as attached hereto, be and the same is hereby adopted by reference as if set out in its entirety.

Section 2. Such supplement shall be deemed published as of the day of its adoption and approval by the Board of Commissioners, and the Clerk of the Town of Holden Beach is hereby authorized and ordered to insert such supplement into the copy of the Code of Ordinances kept on file in the Office of the Clerk.

PASSED AND ADOPTED by the Board of Commissioners of the Town of Holden Beach, North Carolina, on this 24th day of February, 2003.

James W. Lowell /s/

James W. Lowell, Mayor

ATTEST:

Joyce B. Shore /s/

Joyce B. Shore, Town Clerk

CHARTER FOR THE TOWN OF

HOLDEN BEACH, NORTH CAROLINA

STATE OF NORTH CAROLINA

MUNICIPAL BOARD OF CONTROL

In re: Proposed incorporation of the Town of Holden Beach, Brunswick County, North Carolina.

Pursuant to a petition filed under Article 17 of Chapter 160 of the General Statutes of North Carolina with the Honorable Thad Eure, Secretary of State and Secretary of the Municipal Board of Control, on the 25th day of November, 1968, requesting the incorporation of Holden Beach, North Carolina and an order made by the said Thad Eure on the 25th day of November, 1968, fixing the time and place for a hearing on said petition, the Municipal Board of Control met at 10:00 A.M. January 10, 1969 in the Conference Room of the Attorney General in the Justice Building. The meeting was recessed to meet in the Conference Room of the North Carolina State Bar in the Justice Building where the hearing proceeded before Thad Eure, Secretary of State and Secretary of the Municipal Board of Control, and Harry T. Westcott, Chairman of the Utilities Commission and Acting Chairman of the Municipal Board of Control, Robert Morgan, Attorney General and Chairman of the Municipal Board of Control, having disqualified himself. The petitioners, represented by Grover A. Gore, Attorney at Law, and those in opposition to the petition, represented by A.H. Gainey, Jr., Attorney at Law, were fully heard at the said hearing and a conference held for clarification of the record on the 14th day of February, 1969.

NOW, THEREFORE, the Municipal Board of Control finds the following facts:

1. That the petition is signed by a majority of the resident qualified electors of the territory proposed to be incorporated.
2. That the petition is signed by a majority of the resident freeholders of the territory proposed to be incorporated.
3. That the said territory is accurately described in said petition as amended with a map attached thereto.
4. That the petition as amended contains the names of all the qualified voters in the territory to be incorporated.
5. That the petition contains the assessed valuation of the real property of the proposed town which is at least twenty-five thousand dollars according to the last preceding tax assessment.
6. That the petition contains the proposed name of the new town.
7. That the petition is signed by at least twenty-five resident freeholders of the age of twenty-one years or older, at least twenty of whom are qualified voters.
8. That the petition is verified by three of the signers who are qualified voters.
9. That at least thirty days before the hearing, notice of such hearing, signed by three of the freeholders signing the petition for the organization of the town was published once a week for four weeks in a newspaper published in the county where such territory is situated and posted at the county courthouse door of such county for a like period.

The allegations of the petition appearing to be true and the requirements of Article 17 of Chapter 160 of the General Statutes of North Carolina having been substantially complied with,

IT IS THEREFORE ORDERED that the territory described as follows:

BEGINNING at a point on the West bank of Lockwoods Folly Inlet where the low-water mark of the same intersects the Atlantic Ocean; runs thence along the low-water mark of the Atlantic Ocean in a westwardly direction approximately 43,200 feet to a point on the low-water mark of the East bank of Shallotte Inlet where the same intersects the Atlantic Ocean; runs thence along the low-water mark of Shallotte Inlet in a northwardly direction approximately 5,280 feet to where the same intersects the center line of the Intra-Coastal Waterway Canal; runs thence in an eastwardly direction and with the center line of said Intra-Coastal Waterway Canal approximately 43,500 feet to a point in the West bank of Lockwoods Folly Inlet where the low-water mark of the same intersects the Intra-Coastal Waterway Canal; runs thence along the low-water mark of Lockwoods Folly Inlet in a southerly direction approximately 2,960 feet to the place and point of BEGINNING, containing an island beach approximately eight miles long, the same including what is known as Holden Beach, Bobinson Beach, and Colonial Beach, and is bounded on the East by Lockwoods Folly Inlet; on the South by the Atlantic Ocean; on the West by Shallotte Inlet; and on the North by the center line of the Intra-Coastal Waterway Canal. A map of said territory to be incorporated is attached hereto and made a part hereof.

is hereby incorporated into a town under the name "The Town of Holden Beach;" with all the powers and subject to all the laws governing municipal corporations set forth in the General Statutes of North Carolina.

IT IS FURTHER ORDERED that the governing body of The Town of Holden Beach shall consist of the Mayor and five commissioners and that the first election for said officials shall be held on Tuesday, May 6, 1969, in accordance with the laws pertaining to municipal elections. The place of such election shall be the Holden Beach Fishing Pier. Mrs. Elizabeth Holden is appointed Registrar and Ben Elixson and Mrs. Gladys Hare are appointed judges to hold said election. The amended list of the qualified voters attached to the petition shall be treated as the registration of qualified voters for said election subject to additional registration in accordance with law.

Editor's note:

Ord. No. 4-89, § 1, adopted March 6, 1989, provided for an amendment to the Charter as follows: The form of government for the Town of Holden Beach shall be changed from the "mayor-council form of government" to the "council-manager form of government" in accordance with Part 2 of Article 7 of Chapter 160A of the North Carolina General Statutes.

AND IT IS FURTHER ORDERED that the following named persons shall constitute the ad interim Mayor and Commissioners of The Town of Holden Beach to hold office until their successors are elected and qualified: Mayor, John F. Holden; Commissioners, J. D. Griffin, Sr., Hugh Dutton, Joseph A. Hewett, Claude Van Werry and E. M. Briles.

AND IT IS FURTHER ORDERED that a certified copy of this Order and the papers in reference to the organization of The Town of Holden Beach shall be filed and recorded in the office of the Clerk of Superior Court of Brunswick County.

This the 14th day of February, 1969.

/s/

HARRY T. WESTCOTT,
Chairman of the Utilities Commission
and Acting Chairman of the Municipal
Board of Control

/s/

THAD EURE, Secretary of State and Secretary
of the Municipal Board of Control

TITLE I: GENERAL PROVISIONS

Chapter

10. GENERAL PROVISIONS

CHAPTER 10: GENERAL PROVISIONS

Section

- 10.01 Title of code
- 10.02 Interpretation
- 10.03 Application to future ordinances
- 10.04 Captions
- 10.05 Definitions
- 10.06 Rules of interpretation
- 10.07 Severability
- 10.08 Reference to other sections
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- 10.12 Reasonable time
- 10.13 Ordinances repealed
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- 10.15 Effective date of ordinances

- 10.16 Repeal or modification of ordinance
- 10.17 Ordinances which amend or supplement code
- 10.18 Section histories; statutory references
- 10.19 Duty of Town Clerk to maintain code

- 10.98 Civil remedies
- 10.99 General penalty

§ 10.01 TITLE OF CODE.

This codification of ordinances by and for the municipality of Holden Beach shall be designated as the Code of Holden Beach and may be so cited.

(Ord. 07-04, passed 5-22-07)

§ 10.02 INTERPRETATION.

Unless otherwise provided herein, or by law or implication required, the same rules of construction, definition, and application shall govern the interpretation of this code as those governing the interpretation of state law.

(Ord. 07-04, passed 5-22-07)

§ 10.03 APPLICATION TO FUTURE ORDINANCES.

All provisions of Title I compatible with future legislation, shall apply to ordinances hereafter adopted amending or supplementing this code unless otherwise specifically provided.

(Ord. 07-04, passed 5-22-07)

§ 10.04 CAPTIONS.

Headings and captions used in this code other than the title, chapter, and section numbers are employed for reference purposes only and shall not be deemed a part of the text of any section.

(Ord. 07-04, passed 5-22-07)

§ 10.05 DEFINITIONS.

(A) General rule. Words and phrases shall be taken in their plain, or ordinary and usual sense. However, technical words and phrases having a peculiar and appropriate meaning in law shall be understood according to their technical import.

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

BOARD OF COMMISSIONERS or COMMISSIONERS. The governing body of the town, constituted and elected pursuant to law.

('85 Code, § 1-2)

CLERK or TOWN CLERK. The municipal clerk duly appointed pursuant to law.

('85 Code, § 1-2)

CODE, THIS CODE or THIS CODE OF ORDINANCES. This municipal code as modified by amendment, revision, and adoption of new titles, chapters, or sections.

COUNTY. Brunswick County, North Carolina.

DEPARTMENT. The organizational unit of the town government established or designated by ordinance or this code as a department, together with any agency or instrumentality of the town government assigned to such organizational unit by the Board of Commissioners.

('85 Code, § 1-2)

LAWS. The laws of the State of North Carolina.

('85 Code, § 1-2)

LICENSED. Licensed in accordance with the appropriate section or chapter of this code.

('85 Code, § 1-2)

MANAGER, TOWN. The Town manager is the chief appointed official with powers and duties as set forth in the Holden Beach Code of Ordinances, § 30.09.

MAY. The act referred to is permissive.

MAYOR. The Mayor is the Chief elected official with powers and duties as set forth in the Holden Beach Code of Ordinances, § 30.04.

MONTH. A calendar month.

OATH. An affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words SWEAR and SWORN shall be equivalent to the words AFFIRM and AFFIRMED.

('85 Code, § 1-2)

OFFICER, OFFICE, EMPLOYEE, or COMMISSION. An officer, office, employee, or commission of this municipality unless the context clearly requires otherwise.

ORDINANCE. Any act of local legislation heretofore or hereafter adopted, and including this code, so long as it shall have been adopted by the procedure required for the adoption of an ordinance and so long as it shall remain in force and effect pursuant to law.

('85 Code, § 1-2)

OWNER. Any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or a part of such building or land.

('85 Code, § 1-2)

~~PERSON. Extends to and includes person, persons, firm, corporation, copartnership, trustee, lessee, or receiver. Whenever used in any clause prescribing and imposing a penalty, the terms PERSON or WHOEVER as applied to any unincorporated entity shall mean the partners or members thereof, and as applied to corporations, the officers or agents thereof. An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.~~

PERSONAL PROPERTY. Goods and chattels, rights and credits, moneys and effects, evidences of debt, and all written instruments by which any right to, interest in or ~~incumbrances~~ encumbrances upon, property or any debt or financial obligation as created, acknowledged, evidenced, transferred, discharged, or defeated, in whole or in part, and everything, except real property as herein defined, which may be the subject of ownership.

('85 Code, § 1-2)

PRECEDING or FOLLOWING. Next before or next after, respectively.

('85 Code, § 1-2)

~~PROPERTY. Real and personal property. All real property subject to land use regulation by a local government. The Term includes any improvements or structures customarily regarded as part of real property.~~

('85 Code, § 1-2)

PUBLIC GROUNDS, PUBLIC PLACE or PUBLIC PLACES. Shall severally be construed to mean any and every public ground, public park, or any other public place in the town.

('85 Code, § 1-2)

REAL PROPERTY. Includes lands, tenements and hereditaments, all rights thereto and interests therein.

('85 Code, § 1-2)

SHALL. The act referred to is mandatory.

SIGNATURE or SUBSCRIPTION. Includes a mark when the person cannot write.

STATE. The State of North Carolina.

SUBCHAPTER. A division of a chapter, designated in this code by a heading in the chapter analysis and a capitalized heading in the body of the chapter, setting apart a group of sections related by the subject matter of the heading. Not all chapters have subchapters.

TENANT or OCCUPANT. Applied to a building or land, a person who occupies the whole or a part of such buildings or lands, either alone or with others.

('85 Code, § 1-2)

TOWN. The Town of Holden Beach, North Carolina.

WEEK. Seven days.

('85 Code, § 1-2)

WRITTEN. Any representation of words, letters, or figures, whether by printing or otherwise.

YEAR. A calendar year, unless otherwise expressed; equivalent to the words YEAR OF OUR LORD.

(Ord. 07-04, passed 5-22-07)

§ 10.06 RULES OF INTERPRETATION.

The construction of all ordinances of this municipality shall be by the following rules, unless such construction is plainly repugnant to the intent of the legislative body or of the context of the same ordinance:

(A) And or Or. Either conjunction shall include the other as if written "and/or," if the sense requires it.

(B) Acts by assistants. When a statute or ordinance requires an act to be done which, by law, an agent or deputy as well may do as the principal, such requisition shall be satisfied by the performance of such act by an authorized agent or deputy.

(C) Gender; singular and plural; tenses. Words denoting the masculine gender shall be deemed to include the feminine and neuter genders; words in the singular shall include the plural, and words in the plural shall include the singular; the use of a verb in the present tense shall include the future, if applicable.

(D) General term. A general term following specific enumeration of terms is not to be limited to the class enumerated unless expressly so limited.

(Ord. 07-04, passed 5-22-07)

§ 10.07 SEVERABILITY.

If any provision of this code as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

(Ord. 07-04, passed 5-22-07)

§ 10.08 REFERENCE TO OTHER SECTIONS.

Whenever in one section reference is made to another section hereof, such reference shall extend and apply to the section referred to as subsequently amended, revised, re-codified, or renumbered unless the subject matter is changed or materially altered by the amendment or revision.

(Ord. 07-04, passed 5-22-07)

§ 10.09 REFERENCE TO OFFICES.

Reference to a public office or officer shall be deemed to apply to any office, officer, or employee of this municipality exercising the powers, duties, or functions contemplated in the provision, irrespective of any transfer of functions or change in the official title of the functionary.

(Ord. 07-04, passed 5-22-07)

§ 10.10 ERRORS AND OMISSIONS.

If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or words necessary to express the intention of the provisions affected; the use of a word or words to which no meaning can be attached; or the use of a word or words when another word or words was clearly intended to express such intent, such spelling shall be corrected and such word or words supplied, omitted, or substituted as will conform with the manifest intention, and the provisions shall have the same effect as though the correct words were contained in the text as originally published. No alteration shall be made or permitted if any question exists regarding the nature or extent of such error.

(Ord. 07-04, passed 5-22-07)

§ 10.11 OFFICIAL TIME.

The official time, as established by applicable state/federal laws, shall be the official time within this municipality for the transaction of all municipal business.

(Ord. 07-04, passed 5-22-07)

§ 10.12 REASONABLE TIME.

(A) In all cases where an ordinance requires an act to be done in a reasonable time or requires reasonable notice to be given, reasonable time or notice shall be deemed to mean the time which is necessary for a prompt performance of such act or the giving of such notice.

(B) The time within which an act is to be done, as herein provided, shall be computed by excluding the first day and including the last. If the last day be Sunday, it shall be excluded.

(Ord. 07-04, passed 5-22-07)

§ 10.13 ORDINANCES REPEALED.

This code, from and after its effective date, shall contain all of the provisions of a general nature pertaining to the subjects herein enumerated and embraced. All prior ordinances pertaining to the subjects treated by this code shall be deemed repealed from and after the effective date of this code.

(Ord. 07-04, passed 5-22-07)

§ 10.14 ORDINANCES UNAFFECTED.

All ordinances of a temporary or special nature and all other ordinances pertaining to subjects not embraced in this code shall remain in full force and effect unless herein repealed expressly or by necessary implication.

(Ord. 07-04, passed 5-22-07)

§ 10.15 EFFECTIVE DATE OF ORDINANCES.

All ordinances passed by the legislative body requiring publication shall take effect from and after the due publication thereof, unless otherwise expressly provided. Ordinances not requiring publication shall take effect from their passage, unless otherwise expressly provided.

(Ord. 07-04, passed 5-22-07)

§ 10.16 REPEAL OR MODIFICATION OF ORDINANCE.

(A) Whenever any ordinance or part of an ordinance shall be repealed or modified by a subsequent ordinance, the ordinance or part of an ordinance thus repealed or modified shall continue in force until the due publication of the ordinance repealing or modifying it when publication is required to give effect thereto, unless otherwise expressly provided.

(B) No suit, proceedings, right, fine, forfeiture, or penalty instituted, created, given, secured, or accrued under any ordinance previous to its repeal shall in any way be affected, released, or discharged, but may be prosecuted, enjoyed, and recovered as fully as if the ordinance had continued in force unless it is otherwise expressly provided.

(C) When any ordinance repealing a former ordinance, clause, or provision shall be itself repealed, the repeal shall not be construed to revive the former ordinance, clause, or provision, unless it is expressly provided.

(Ord. 07-04, passed 5-22-07)

§ 10.17 ORDINANCES WHICH AMEND OR SUPPLEMENT CODE.

(A) If the legislative body shall desire to amend any existing chapter or section of this code, the chapter or section shall be specifically repealed and a new chapter or section, containing the desired amendment, substituted in its place.

(B) Any ordinance which is proposed to add to the existing code a new chapter or section shall indicate, with reference to the arrangement of this code, the proper number of such chapter or section. In addition to such indication thereof as may appear in the text of the proposed ordinance, a caption or title shall be shown in concise form above the ordinance.

(Ord. 07-04, passed 5-22-07)

§ 10.18 SECTION HISTORIES; STATUTORY REFERENCES.

(A) As histories for the code sections, the specific number and passage date of the original ordinance, and the most recent three amending ordinances, if any, are listed following the text of the code section. Example: (Ord. 10, passed 5-13-60; Am. Ord. 15, passed 1-1-70; Am. Ord. 20, passed 1-1-80; Am. Ord. 25, passed 1-1-85)

(B) (1) If a statutory cite is included in the history, this indicates that the text of the section reads substantially the same as the statute. Example: (G.S. § 160A-144) (Ord. 10, passed 1-17-80; Am. Ord. 20, passed 1-1-85).

(2) If a statutory cite is set forth as a "statutory reference" following the text of the section, this indicates that the reader should refer to that statute for further information.

§ 39.01 PUBLIC RECORDS AVAILABLE.

This municipality shall make available to any person for inspection or copying all public records, unless otherwise exempted by state law.

Statutory reference:

For provisions concerning the inspection of public records, see G.S. §§ 139-1 et seq.

(C) If a section of this code is derived from the previous code of ordinances of the city published in 1985 and subsequently amended, the 1985 code section number shall be indicated in the history by "('85 Code, § _)."

(Ord. 07-04, passed 5-22-07)

§ 10.19 DUTY OF TOWN CLERK TO MAINTAIN CODE.

It shall be the duty of the Clerk or a person authorized and directed by the Clerk to keep up-to-date the certified copy of this code of ordinances, which is required to be filed in the office of the Clerk for use by the public. All changes in the code and all ordinances adopted by the Board of Commissioners subsequent to the adoption of the code, which Board of Commissioners shall adopt specifically as a part of the code, shall, when finally adopted, be included therein by reference until such change or new ordinances are printed as supplements to the code, at which time such supplements shall be inserted therein.

('85 Code, § 1-7) (Ord. 07-04, passed 5-22-07)

§ 10.98 CIVIL REMEDIES.

(A) Any provisions of this code or any other town ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.

(B) Any provision of this code or any other town ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement pursuant to G.S. § 160A-175(e).

('85 Code, § 1-5.3)

(C) The provisions of this code and any other town ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this section and § 10.99 of this chapter.

('85 Code, § 1-5.4) (Ord. 93-07, passed 3-1-93; Am. Ord. 07-04, passed 5-22-07)

§ 10.99 GENERAL PENALTY.

(A) Criminal.

(1) Unless otherwise specifically provided, violation of any part of this code or any other town ordinance shall be a misdemeanor, as provided by G.S. § 14-4, as amended.

(2) Unless a higher fine is stated in a particular chapter or section of this code or in an ordinance, violators will be subject to a \$100 criminal fine, and up to 30 days imprisonment for each offense.

(3) Each day a provision of the code or an ordinance is violated is a separate offense.

('85 Code, § 1-5.1)

(B) Civil.

(1) In addition to criminal fines, the penalty clause for a specific section of the code or ordinance may impose civil penalties against an offender.

(2) Each day a provision of the code or an ordinance is violated is a separate offense. The civil fine will accrue daily, starting on the day the violation first occurs, and continuing through the day the violation ceases.

(3) Civil fines are due and payable within three business days after service of a civil citation is complete. Each day's fine for a continuing offense shall be due and payable within three business days of the day of the offense without further notice or service. The fines are payable at the Town Hall during regular business hours.

(4) Service of a civil citation is completed on the day it is personally delivered, or five days after it is mailed, to the following: an offender who is an individual or owner of a sole proprietorship; any general partner of a partnership that is the offender; or the registered agent, or manager or other person in a supervisory capacity at the local place of business of an offender that is a corporation. The town shall use the address provided to the Tax Collector for all tax bills, and shall rely upon that address in serving notice. The five-day period for mailed service shall begin the day it is placed in the United States mail, in a properly stamped and addressed envelope, addressed to the appropriate person named above at the offender's address for tax mailings. Personal service may be made by any police officer, Town Manager, or Building Inspector.

(5) Recovery of overdue civil penalties shall be by a civil action against the offender in the nature of debt.

(6) Civil citations for all violations of code provisions and ordinances regulating building and housing, environmental matters, mobile homes, zoning, and subdivisions shall be issued by the Building Inspector. All other civil citations may be issued by any police officer or the Town Manager.

('85 Code, § 1-5.2) (Ord. 93-07, passed 3-1-93; Am. Ord. 02-04, passed 3-11-02; Am. Ord. 07-04, passed 5-22-07)

TITLE III: ADMINISTRATION

Chapter

30. TOWN GOVERNMENT AND OFFICIALS

31. TOWN POLICIES
32. [RESERVED]
33. EMERGENCY MANAGEMENT
34. PARKS AND RECREATION ADVISORY BOARD
35. INLET AND BEACH PROTECTION BOARD

CHAPTER 30: TOWN GOVERNMENT AND OFFICIALS

Section

Governing Body

- 30.01 Town Charter
- 30.02 Form of government
- 30.03 Collective name
- 30.04 Mayor; duties
- 30.05 Mayor Pro Tempore
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30.40 Gifts and favors; special treatment

30.41 Interest

30.42 Public disclosure

30.43 Disclosure of business and property interests

30.44 Enforcement

Cross-reference:

Duty of Town Clerk to maintain code, see § 10.19

GOVERNING BODY

§ 30.01 TOWN CHARTER.

The Town of Holden Beach is established by charter from the North Carolina General Assembly and conferred with powers and duties specified therein from which are derived its powers and duties as set forth in this code. As such, no action inconsistent with the Charter shall be permitted except those that may be authorized by amendments adopted pursuant to state statute.

(Ord. 07-04, passed 5-22-07)

§ 30.02 FORM OF GOVERNMENT.

(A) The town shall operate under the Commissioner-Manager (weak Mayor) form of government. The legislative authority of the town shall be vested in the Mayor and Town Board of Commissioners, hereinafter referred to as the BOC, which shall consist of a Mayor and five Commissioners chosen as hereafter provided.

(B) The BOC shall not in any manner dictate the appointment or removal of any town administrative officers or employees whom the Town Manager or any of his or her subordinates are empowered to appoint, but they may express their views, and fully and freely discuss with the Town Manager anything pertaining to appointment and removal of such officers and employees.

(C) Interference with administration. Except for the purpose of inquiries and investigation under the following subsections, the BOC shall deal with town officers and employees who are subject to the direction and supervision by the Town Manager solely through the Town Manager, and neither shall the BOC give orders to any such officers or employees, either publicly or privately.

(1) Investigations. The BOC may make investigations into the affairs of the town and the conduct of any town department, office or agency.

(2) Independent audit. The BOC shall provide for an independent annual audit of all town accounts and may provide for such more frequent audits as it may deem necessary. Such audits shall be made by a certified public accountant or firm of such accounts who have no personal interest, direct or indirect, in the fiscal affairs of the town government or any of its officers. The BOC may, without requiring competitive bids, designate such accountant or firm annually or for a period not exceeding three years; provided that the designation for any fiscal year shall be made not later than 30 days after the beginning of such fiscal year. If the state makes such an audit, the BOC may accept it as satisfying the requirements of this section.

(D) Nothing contained herein shall prevent the BOC from creating, abolishing, consolidating, altering, or modifying departments within the town.

(Ord. 07-04, passed 5-22-07)

§ 30.03 COLLECTIVE NAME.

The Mayor and Town Board of Commissioners shall be collectively known as "BOC," in which all legislative powers of the town shall be vested.

(Ord. 07-04, passed 5-22-07)

§ 30.04 MAYOR; DUTIES.

The Mayor shall serve as the chief spokesperson for the town and the chief advocate of formally approved and adopted town policy. In addition, the Mayor shall preside at meetings of the BOC; shall be recognized as head of the town government for all ceremonial purposes and by the governor for the purposes of disaster or emergency declarations. The Mayor shall sign ordinances and resolutions only on their passage; shall sign deeds, bonds, contracts and other instruments approved by BOC as required by law. Willful failure by a mayor to discharge their legal duties shall result in those duties being assumed by the Mayor Pro Tem by reason of disqualification, as set forth in § 30.05. Legal remedies for failure to discharge the duties of Mayor may result in legal censure or charges of contempt, and may

serve as grounds for impeachment. The Mayor shall convene the Town BOC in special called session when deemed necessary by the Mayor. Unless otherwise expressly provided by law or this chapter, the Mayor shall have no vote on any question before the Town BOC except in case of a tie.

(Ord. 07-04, passed 5-22-07)

§ 30.05 MAYOR PRO TEMPORE.

(A) The BOC shall elect from one of its members: (1) a Mayor Pro Tempore, and (2) an Executive Secretary, who shall not be the same member. The normal term of office of both the Mayor Pro Tempore and the Executive Secretary shall be one year, commencing at the first regular meeting in December; provide, however that each shall serve at the pleasure of the BOC.

(B) The Mayor Pro Tempore shall discharge the duties and exercise the powers and authority of Mayor in the absence, disability, disqualification of the Mayor and during a vacancy in the office of Mayor; provided his or her rights and duties as BOC shall remain unimpaired; except he or she shall receive the salary or expenses of Mayor when serving in that capacity. No additional oath of office shall be required of the Mayor Pro Tempore upon assuming the duties of the Mayor beyond that oath taken at the time of appointment to Mayor Pro Tempore.

(C) The Executive Secretary shall be responsible for: (1) creating the agenda for each regular and special meeting of the BOC, and (2) assembling all supporting agenda package materials, in consultation with the Mayor, other members of the BOC and the Town Manager and Town Attorney, as applicable. The Executive Secretary shall timely deliver the same to the Town Clerk for copying, delivery and publication in accordance with these ordinances and the Rules of Procedure provided for herein. The Town Clerk and Town Manager shall provide logistical and advisory support to the Executive Secretary in performing these functions and the Town Attorney shall provide legal interpretation or support as requested by the Executive Secretary. No notice of any regular or special meeting of the BOC, nor any agenda or agenda package materials with respect thereto shall be delivered or published by the Town Clerk without the express prior authorization of the Executive Secretary.

(Ord. 07-04, passed 5-22-07; Am. Ord. 15-08, passed 12-16-15)

Statutory reference:

Mayor Pro Tempore; disability of Mayor, see G.S. § 160A-70

§ 30.06 PROVISIONAL MAYOR PRO TEMPORE.

In case neither the Mayor nor Mayor Pro Tem can attend to or discharge the duties of Mayor, whatever the cause, the Town BOC shall elect from its membership a provisional Mayor Pro Tem to act until a Mayor or Mayor Pro Tem can act, who shall take the same oath and be clothed with all of the rights, power and authority of Mayor until a Mayor or Mayor Pro Tem can act except the right to receive the salary and expense of Mayor when no vacancy exists in the office of Mayor. The provisional Mayor Pro Tempore shall be administered the same oath as the Mayor Pro Tempore except that the title of office shall be Provisional Mayor Pro Tempore.

(Ord. 07-04, passed 5-22-07)

§ 30.07 QUALIFICATIONS OF MAYOR AND BOC.

The qualifications for elected office shall be as provided in G.S. § 160A-59.

(Ord. 07-04, passed 5-22-07)

§ 30.08 COMMISSIONERS; DUTIES.

The Town Commissioners shall serve as the legislative body for the town. Except as otherwise provided by law, the government and general management of the town shall be vested in the Commissioners (G.S. § 160A-67). By Town Charter, the Commissioners have conferred powers and duties on the Mayor and Manager as set forth in this chapter. By authority contained in G.S. § 160A-146, the Commissioners have the authority to organize and reorganize town government, and except where expressly prohibited by law, may create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies to promote orderly and efficient administration of town affairs. Pursuant to G.S. § 160A-147, the Commissioners shall appoint the Manager to serve at its pleasure, and it is to them that the Manager shall be responsible and accountable. The Commissioners shall determine the need for and the composition of any boards and committees, and shall appoint members to serve at their pleasure.

(Ord. 07-04, passed 5-22-07)

§ 30.09 TOWN MANAGER; DUTIES.

The town operates under a Council/Town Manager form of government. The Town Manager oversees all town departments, programs and operations pursuant to the policies, ordinances and directives adopted by the Board of Town Commissioners. The Manager serves as the primary personnel officer, appoints and suspends all municipal employees except those otherwise provided for by law, and provides general oversight of all town departments. Other responsibilities include serving as the town budget officer preparing the recommended annual town budget and providing all other management services necessary to assure the efficient and effective operation of town government. The Manager works closely with local elected and appointed officials and citizen volunteers to maximize the ability of the town to effectively serve its citizens. The Town Manager serves at the pleasure of the Mayor and Board of Commissioners subject to a mutually approved employment contract.

(Ord. 07-04, passed 5-22-07)

§ 30.10 OATH OF OFFICE.

The persons elected as Mayor and/or Commissioners shall, on or before the first regular meeting in December following that election, qualify by taking and subscribing before some officer authorized by law to administer oaths. They shall file such oath with the Town Clerk, who shall enter same onto the minutes of that meeting.

(Ord. 07-04, passed 5-22-07)

§ 30.11 TERMS OF OFFICE; FILLING OF VACANCIES.

(A) The term of office of the Mayor shall be two years, and Commissioner shall be two years, both of which begin on the day of first regular meeting in December following their election, except in case either is elected to serve an unexpired term, in which case the newly elected officers shall

qualify and commence serving immediately upon the declaration of the result of the election by the Town BOC.

(B) Vacancies shall be filled as provided for in G.S. § 160A-63.

(Ord. 07-04, passed 5-22-07)

§ 30.12 SALARIES OF MAYOR AND COMMISSIONERS.

The BOC shall be compensated for their service in the manner prescribed by G.S. § 160A-64. Such salary and expense allowance shall be exclusive of amounts paid by the town for group insurance premiums or reimbursements for travel.

(Ord. 07-04, passed 5-22-07)

§ 30.13 REGULAR MEETINGS OF TOWN BOC.

Regular meetings of the Town BOC shall be held at a time and location as the Town BOC shall fix by policy. Meeting information shall be publicized as prescribed in G.S. § 160A-71.

(Ord. 07-04, passed 5-22-07)

§ 30.14 SPECIAL MEETINGS OF TOWN BOC.

Special meetings of the Town BOC shall be subject to the provisions of G.S. § 160A-71.

(Ord. 07-04, passed 5-22-07)

§ 30.15 VOTING AND QUORUMS.

(A) Quorum. The Mayor and three Commissioners, or three Commissioners without the Mayor shall constitute a quorum (simple majority) of the Town BOC (G.S. § 160A-74).

(B) Voting shall be consistent with the provisions of G.S. § 160A-75.

(Ord. 07-04, passed 5-22-07)

§ 30.16 ADJOURNING, CONTINUING OR RECESSING MEETING.

Adjourning, continuing, or recessing of meetings shall be in conformance with G.S. § 160A-71.

(Ord. 07-04, passed 5-22-07)

§ 30.17 OFFICIAL RECORD OF PROCEEDINGS REQUIRED.

The BOC and all committees and sub-committees thereof, and each of the various commissions, boards, agencies and authorities of the town appointed by or under delegation of the authority of the BOC, and all committees and sub-committees thereof shall (1) make and keep a correct, complete and accurate record of their respective acts and doings, including written communications on which such bodies are required to act, and (2) make and keep an audio or audio-video recording of all public and executive meetings. A copy of the minutes of all meetings of the BOC and of the various commissions, boards, agencies and authorities of the town, together in each case with all agendas, agenda packages and materials presented at such meetings, shall be furnished to the Town Clerk and the Mayor and BOC

within a time specified by each body's by-laws approved by the BOC. The town shall maintain all such agendas, agenda packages and other materials, all such minutes, and all such audio and audio-video recording permanently as public records of the town available to the public in accordance with applicable provisions of North Carolina law. Commencing January 1, 2016, the Town Clerk shall cause all agenda, agenda packages, materials, and recordings, except only for any portions thereof that constitute non-public records, to be published and made available on the website of the town.

(Ord. 07-04, passed 5-22-07; Am. Ord. 15-09, passed 12-16-15)

§ 30.18 CODES OF TECHNICAL REGULATIONS.

The Town BOC may adopt any standard code of technical regulations, other lengthy ordinances, Land Use Plans and zoning maps by reference thereto in an adopting ordinance. Any such ordinance plan or map adopted by reference shall specify wherein such ordinance or map shall be kept; that it is a public record; and that it is available to the general public for inspection.

(Ord. 07-04, passed 5-22-07)

§ 30.19 RULES OF PROCEDURE.

The BOC shall adopt such rules of procedure not inconsistent with North Carolina General Statutes at their regular scheduled meeting each December, or at other such times deemed appropriate, and publish same in the office of the Town Clerk.

(Ord. 07-04, passed 5-22-07)

§ 30.20 ENACTMENT OF ORDINANCES AND RESOLUTIONS.

The Town BOC shall have power and authority to adopt such ordinances and resolutions and make such rules, regulations, and orders as it deems right, proper, necessary, appropriate, or incident to the good government, peace, safety, security, health, happiness, protection, convenience, good order and dignity of said town, and the inhabitants thereof.

(Ord. 07-04, passed 5-22-07)

§ 30.21 FORM OF ORDINANCE.

Every proposed ordinance shall be introduced in writing and in the form required for final adoption. Each ordinance which involves lengthy documents not included within the body of such ordinance shall include a reference to such documents. No ordinance shall contain more than one subject matter, which [subject] shall be clearly expressed in its title. The enacting clause shall be "Be it ordained by the Town BOC of Holden Beach." Any ordinance which repeals or amends an existing ordinance or part of the town code shall set forth the ordinance sections or subsections to be repealed or amended.

(Ord. 07-04, passed 5-22-07)

§ 30.22 PROCEDURE FOR ADOPTING ORDINANCES.

The procedure for introducing and adopting ordinances shall be consistent with G.S. § 168-75, as may be amended from time to time.

(Ord. 07-04, passed 5-22-07)

§ 30.23 EFFECTIVE DATE OF ORDINANCES.

Except as otherwise provided in this chapter, every adopted ordinance shall become effective upon the date of its adoption or at any later date specified in such ordinance.

(Ord. 07-04, passed 5-22-07)

§ 30.24 LEGAL PUBLICATIONS.

Publication in a newspaper of general circulation within the town of all town tax and other legal advertisements, notices, and matters required by law or ordinance to be published shall be sufficient. Days used for computing legal notices shall be normal work days excluding weekends and holidays.

(Ord. 07-04, passed 5-22-07)

§ 30.25 COMMISSIONS, BOARDS, AGENCIES AND AUTHORITIES ESTABLISHED BY ORDINANCE OR UNDER THE AUTHORITY OF THE BOC.

(A) Except as otherwise expressly provided for in these ordinances:

(1) No person shall be appointed or elected by the BOC, or pursuant to any authority delegated by the BOC, as a voting or non-voting member or officer or other official of any commission, board, agency, authority or other similar group or body established by ordinance or otherwise under the authority of the BOC (other than committees and sub-committees of the BOC that are comprised only of members of the BOC or the Audit Committee of the BOC) who is member of the BOC; the Town Manager, Town Attorney, Town Clerk, Police Chief or any full or part-time employee of the town who reports to any of the foregoing; a contractor, consultant or other person providing goods or services to the town in consideration of cash or other thing valued at more than \$1,000 in any one year or an officer or material owner thereof; or the spouse, domestic partner, child or parent of any of the foregoing. Notwithstanding the foregoing, the BOC shall not appoint a sibling of any member of the BOC to fill a vacancy on the BOC.

(2) No such person, once so appointed or elected, shall remain a member, officer or other official thereof, if such person is or subsequent to his or her appointment or election becomes any of the foregoing; and

(3) All persons so elected or appointed shall be either residents of the town or owners of residential property located within the town.

(B) In addition, without limiting the foregoing and notwithstanding any other provisions of these regulations to the contrary, none of the Town Manager, any employee of the town reporting to the Town Manager, the Town Clerk or the Town Attorney shall serve or function as the chairperson, vice chairperson, secretary or any similar capacity of (1) any commission, board, agency, authority or other similar group or body established by ordinance or otherwise under the authority of the BOC, or (2) any committee, working group or similar group thereof; provided, however that this shall not prevent any such persons from providing logistical and advisory support to such commission, board, agency, authority or other similar group or body or any committee, working group or similar group thereof, and such support shall be provided at the request of the chairperson or secretary thereof.

(Ord. 15-10, passed 12-16-15; Am. Ord. 16-07, passed 3-8-16; Am. Ord. 18-01, passed 2-20-18)

§ 30.25.01 § 160D-109. Conflicts of interest.

(a) Governing Board. - A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter 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 governing 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.

(b) Appointed Boards. - Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter 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 this Chapter 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 this Chapter 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 a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

(d) Quasi-Judicial Decisions. - A member of any board exercising quasi-judicial functions pursuant to this Chapter 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. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)

§ 30.26 AUDIT COMMITTEE OF THE BOC.

(A) There is hereby established an Audit Committee of the BOC, which shall be comprised of a Chairman of the BOC Audit Committee and not fewer than two, nor more than four Public Members, as determined by the BOC at the first regular Board of Commissioners meeting in January.

(B) Powers and duties. The Audit Committee shall:

(1) Serve as an advisory board for the town's Board of Commissioners;

(2) Assist and advise the BOC in its oversight responsibilities for the town's financial reporting process, systems of internal financial controls and the external audit process;

(3) Recommend to the BOC the selection of the independent external audit firm to conduct the annual external audit;

(4) Evaluate the performance of the external audit firm as it relates to the annual audit of the town and its self-insurance policies;

(5) Review, advise and make recommendations to the BOC with respect to the town's treasury management function and its' risk management policies and procedures, including without limitation, the town's insurance and self- insurance policies;

(6) Confirm the town's internal control systems are in place and implemented, including information technology security and control;

(7) Confirm Town Management implements audit report recommendations;

(8) Continually evaluate the independence of the external auditors; to audit findings and forward findings to the Board of Commissioners;

(9) Review the town's CAFR, management letter and management's response;

(10) Review and reassess the adequacy of this Charter at least every two years, with any revision submitted to the Board of Commissioners for approval;

(11) Provide an avenue of communication among the Board of Commissioners, Town Management and the external independent auditors;

(12) Perform other functions from time to time as shall be delegated or assigned to it by the BOC.

(C) Appointment, terms. The Chairman of the BOC Audit Committee shall be elected by the BOC at the first regular meeting in January. The Chairman of the Audit Committee shall make a recommendation to the Board of Commissioners on who shall serve as Public Members. The Chairman of the BOC Audit Committee, an elected Commissioner, and each of the Public Members shall have a normal term of one year, and shall serve at the pleasure of the BOC.

(D) Meetings.

(1) The Audit Committee will meet at least four times each year (quarterly) to assess the quarterly financial statements. The Committee will also meet at least one additional time a year to review the final audit report from the external auditors. The Chair may call additional meetings as deemed necessary in fulfillment of the role of the Committee.

(2) The Audit Committee shall comply with the provisions of the North Carolina Open Meetings Law, G.S. §§ 143-318.9 et seq. A quorum shall be in attendance before any action of an official nature can be taken. A quorum shall exist when a majority of the Committee is in attendance.

(3) The Audit Committee may invite the manager, staff, auditors and others to attend the meetings and provide pertinent information, as necessary.

(E) Attendance. All Committee members are expected to attend every meeting. Requests for excused absences due to sickness, death or emergencies of like nature shall be approved by the Committee as approved absences and shall not affect membership, except that in the event of a long illness, or other such cause for prolonged absence, the member may be replaced.

(Ord. 16-02, passed 1-12-16; Am. Ord. 18-18, passed 12-18-18)

STANDARDS OF CONDUCT FOR TOWN OFFICIALS

§ 30.35 PURPOSE.

(A) The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people; government decisions and policy must be made in proper channels of the governmental structure; public office must not be used for personal gain or personal interest; and the public must have confidence in the integrity of its government. In recognition of these goals, the provisions of this subchapter are ordained by the Board of Commissioners.

('85 Code, § 2-3)

(B) This subchapter is adopted to establish guidelines for ethical standards of conduct for all such officials by setting forth some of those acts or actions that may be incompatible with the best interest of the town. To that end, all town officials, hereinafter defined as including the Mayor, members of the Town Board of Commissioners, Planning and Zoning Board, Board of Adjustment, Town Manager, Department Heads, the Town Attorney and all other town employees shall be subject to and abide by the standards of conduct set forth in this subchapter.

('85 Code, § 2-3a.)

(C) Copies of the standards of conduct set forth in this subchapter shall be distributed to all public officials affected hereunder, present and future.

('85 Code, § 2-3c.)

(Ord. 93-17, passed 10-14-93; Am. Ord. 00-15, passed 6-26-00; Am. Ord. 07-04, passed 5-22-07)

§ 30.36 CONTRACTS AND AGREEMENTS.

No town official shall have or hereafter acquire an interest in any contract or agreement with the town if he or she will privately benefit or profit from the contracting or undertaking in violation of G.S. § 14-234.

('85 Code, § 2-3a.1.) (Ord. 93-17, passed 10-14-93; Am. Ord. 07-04, passed 5-22-07)

§ 30.37 PRIVATE GAIN.

No town official shall use his or her official position or the town's facilities for his or her private gain, or any town property for personal interest, nor shall he or she appear before or represent in writing any private person, group, or interest before any department, state agency, commission, or board of the town except in matters of purely civic or public concern. The provisions of this section are

not intended to prohibit his or her speaking before neighborhood groups and other nonprofit organizations.

('85 Code, § 2-3a.2.) (Ord. 93-17, passed 10-14-93; Am. Ord. 07-04, passed 5-22-07)

§ 30.38 CONFIDENTIAL INFORMATION.

No town official shall use or disclose confidential information gained in the course of or by reason of his or her official position for purposes of advancing his or her financial or personal interest.

('85 Code, § 2-3a.3.) (Ord. 93-17, passed 10-14-93; Am. Ord. 07-04, passed 5-22-07)

§ 30.39 PRIVATE EMPLOYMENT.

No town official shall engage in, or accept private employment or render service, for private interest when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independent judgment or action in the performance of his or her official duties, unless otherwise permitted by law.

('85 Code, § 2-3a.4.) (Ord. 93-17, passed 10-14-93; Am. Ord. 07-04, passed 5-22-07)

§ 30.40 GIFTS AND FAVORS; SPECIAL TREATMENT.

(A) No town official shall directly or indirectly solicit any gift; or accept or receive any gift having a value of \$50 or more, whether in the form of money, services, loan, travel, entertainment, hospitality, thing, or promise, or any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him or her, or could reasonably be expected to influence him or her as a reward for any official action on his or her part. Legitimate political contributions shall not be considered as gifts under the provisions of this division (A).

('85 Code, § 2-3a.5.)

(B) No town official shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

('85 Code, § 2-3a.6.)

(Ord. 93-17, passed 10-14-93; Am. Ord. 07-04, passed 5-22-07)

§ 30.41 INTEREST.

For the purpose of this subchapter, INTEREST shall mean direct or indirect pecuniary or material benefit accruing to a town official as a result of a contract or transaction which is or may be the subject of an official act or action by or with the town. For the purpose of this code, a town official shall be deemed to have an interest in the affairs of:

- (A) Any person in his or her immediate household;
- (B) Any business entity in which the town official is an officer or director; and

(C) Any business entity in which the stock of, or legal or beneficial ownership of, in excess of 5% of the total stock or total legal or beneficial ownership, is controlled or owned directly or indirectly by the town official.

('85 Code, § 2-3a.7.) (Ord. 93-17, passed 10-14-93; Am. Ord. 07-04, passed 5-22-07)

§ 30.42 PUBLIC DISCLOSURE.

The Mayor or any member of the Board of Commissioners who has an interest in any official act or action before the Commission shall publicly disclose on the record of the Commission the nature and extent of such interest, and shall withdraw from any consideration of the matter if excused by the Commission.

('85 Code, § 2-3a.8.) (Ord. 93-17, passed 10-14-93; Am. Ord. 07-04, passed 5-22-07)

§ 30.43 DISCLOSURE OF BUSINESS AND PROPERTY INTERESTS.

(A) All town officials as defined herein shall file with the Town Clerk on the first day of January of each year a: statement containing the information set forth in division (B) of this section.

(B) The identity, by name and address, of any business entity of which he, she, or any member of his or her household is an owner, an officer or a director. Additionally, the town official and spouse shall give the name of their employer or, if self-employed, state the nature of their work.

(C) The identity, by location and address, of all real property located in the town, owned by the town official or any member of his or her immediate household, including any option to purchase or any lease(s) for ten years or more, other than his or her personal residence.

(D) The statements required by this section shall be filed on a form prescribed by the Town Clerk and become public records available for inspection and copying by any person during normal business hours. The Town Manager is authorized to establish and charge reasonable fees for the copying of these records.

(Ord. 95-15, passed 10-2-95; Am. Ord. 07-04, passed 5-22-07)

§ 30.44 ENFORCEMENT.

This subchapter shall be subject to enforcement in the following manner, said sanctions being the exclusive remedies available hereunder:

(A) The Town Manager shall take whatever lawful disciplinary action he or she deems appropriate, including but not limited to reprimand, suspension, demotion, or termination of service, for any officer, department head, or employee in the administrative service of the town under his or her jurisdiction who he or she finds has violated this subchapter.

(B) For all other persons, the Town Board of Commissioners may adopt a resolution of censure which shall be placed as a matter of record in the minutes of an official Board meeting.

(C) No sanction provided for hereunder shall be invoked until an adequate investigation shall have been made and the person charged with the violation shall have been afforded all of his or her legal and constitutional rights including a due process hearing, the right to present evidence, to

cross examine the witnesses and to be represented by counsel at the hearing, upon the request of the person so charged.

('85 Code, § 2-3b.) (Ord. 93-17, passed 10-14-93; Am. Ord. 07-04, passed 5-22-07)

CHAPTER 31: TOWN POLICIES

Section

31.01 Policies available for inspection

§ 31.01 POLICIES AVAILABLE FOR INSPECTION.

Town policies and procedures shall be kept archived in the office of the Town Clerk and are available there for public inspection during regular business hours. Policies shall include, but are not limited to, the following:

- (A) Employee Policy Manual with job descriptions;
- (B) Emergency Operation Policy; and
- (C) Other policies as may be officially adopted and archived in the office of the Town Clerk.

(Ord. 07-04, passed 5-22-07)

CHAPTER 32: [RESERVED]

Editor's note:

Chapter 32, which originally contained the city personnel policies, was repealed by Ordinance 97-10, passed July 1, 1997

CHAPTER 33: EMERGENCY MANAGEMENT

Section

General Provisions

- 33.01 Territorial applicability
- 33.02 Mayor to declare state of emergency
- 33.03 Proclamations; restrictions permitted
- 33.04 Town Emergency Management Director (EMD) duties; Mayor's powers
- 33.05 Proclamation imposing prohibitions and restrictions
- 33.06 Removal of prohibitions and restrictions
- 33.07 Separate and superseding proclamations
- 33.08 Absence or disability of Mayor
- 33.09 Establishment of the Emergency Preparedness Review Committee

Vehicle Registration

33.20 Purpose

33.21 Registration, fee and display of decal

33.99 Penalty

Editor's note: The Emergency Preparedness Plan is archived and available for public inspection in the office of the Town Clerk.

GENERAL PROVISIONS

§ 33.01 TERRITORIAL APPLICABILITY.

This chapter shall apply only within the corporate limits of the town.

('85 Code, § 18-6) (Ord. 27, passed - - ; Am. Ord. 5-90, passed 4-2-90)

§ 33.02 MAYOR TO DECLARE STATE OF EMERGENCY.

(A) A state of emergency shall be declared to exist whenever deemed appropriate to protect lives, property, or to provide for the public safety in the event a disaster threatens the town.

(B) In the event of an existing or threatening emergency which endangers the lives, safety, health, and/or welfare of the people within the town or any part thereof, or a situation threatening damage to or destruction of property, the Mayor is hereby authorized and empowered under G.S. § 166A-19.31, as amended, to issue a public proclamation declaring to all persons the existence of a local state of emergency, and, in order to more effectively protect the lives and property of people within the town, shall place in effect as the situation dictates the Town Emergency Preparedness Plan, to activate mutual assistance compacts and to authorize the furnishing of assistance thereunder.

('85 Code, § 18-1.1) (Ord. 27, passed - -)

(C) Upon the official declaration of a state of emergency, the Town's Emergency Management Director shall establish an emergency operations center and establish an Incident Command System (ICS) as set forth in the Town's Emergency Preparedness Plan. That plan shall become the guiding document until the ICS is stood down.

(Ord. 07-04, passed 5-22-07)

§ 33.03 PROCLAMATIONS; RESTRICTIONS PERMITTED.

The proclamation may order prohibitions and restrictions:

(A) Of movements of people in public places by curfew or other order;

(B) Of the operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate;

(C) Upon the possession, transportation, sale, purchase, and consumption of intoxicating liquors;

(D) Upon the possession, transportation, sale, purchase, storage, and use of dangerous weapons and substances, and gasoline; and

(E) Upon other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency.

('85 Code, § 18-1.2) (Ord. 27, passed -- ; Am. Ord. 07-04, passed 5-22-07)

§ 33.04 TOWN EMERGENCY MANAGEMENT DIRECTOR (EMD) DUTIES; MAYOR'S POWERS.

(A) The Mayor shall be designated to serve as the Emergency Management Director (EMD). As such, the EMD shall administer this section and the town's emergency contingency plans. Utilizing the National Incident Management Structure (NIMS), the EMD shall be designated as the initial Incident Commander (IC) upon the implementation of any Emergency Plans who, in direct consultation with the governing board, shall serve as the IC until properly relieved by competent authority.

(B) Mayor's powers.

(1) In the implementation of the Town Emergency Preparedness Plan, the Mayor is authorized to take the following actions:

(a) Order evacuation of barrier beaches and low-lying areas.

(b) Insure the provisions of shelter for evacuees.

(c) Insure the security of the evacuated areas.

(d) Control reentry into evacuated areas.

(e) The Mayor, in consultation with the governing body, is hereby authorized and empowered to limit by the proclamation the application of all or any part of such restrictions or actions to any area specifically designated or described within the town and to specific hours of the day or night; and to exempt from all or any part of such restrictions or actions, while acting in the line of, and within the scope of, their respective duties, law enforcement officers, firefighters, and other public employees of hospitals and other medical facilities, on-duty military personnel whether state or federal; on-duty employees of public utilities, public transportation companies, and newspapers, magazine, radio broadcasting, and television broadcasting corporations operated for profit; and such other classes of persons as may be essential to the preservation of public order and immediately necessary to serve the safety, health, and welfare needs of the people within the town.

('85 Code, § 18-1.3) (Ord. 27, passed -- ; Am. Ord. 07-04, passed 5-22-07; Am. Ord. 08-04, passed 4-22-08)

§ 33.05 PROCLAMATION IMPOSING PROHIBITIONS AND RESTRICTIONS.

The proclamation shall be in writing. The Mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it in Town Hall. The Mayor shall retain a text of the proclamation and furnish upon request certified copies of it for use as evidence.

('85 Code, § 18-2) (Ord. 27, passed --)

§ 33.06 REMOVAL OF PROHIBITIONS AND RESTRICTIONS.

The Mayor shall by proclamation remove the prohibitions and restrictions as the emergency no longer requires them, or when directed to do so by the Board of Commissioners.

('85 Code, § 18-3.1) (Ord. 27, passed --)

§ 33.07 SEPARATE AND SUPERSEDING PROCLAMATIONS.

The Mayor in his discretion may invoke the restrictions authorized by this section in separate proclamations, and may amend any proclamation by means of a superseding proclamation.

('85 Code, § 18-3.2) (Ord. 27, passed --)

§ 33.08 ABSENCE OR DISABILITY OF MAYOR.

In case of the absence or disability of the Mayor, the Mayor-Pro Tem, or such other person as may be designated by the Board of Commissioners, shall have and exercise all of the powers herein given the Mayor. A line of succession, at least three deep should be designated by the Board of Commissioners. Recommendations shall include other elected officials, the Town Manager and other key staff as deemed appropriate.

('85 Code, § 18-3.3) (Ord. 27, passed -- ; Am. Ord. 07-04, passed 5-22-07)

§ 33.09 ESTABLISHMENT OF THE EMERGENCY PREPAREDNESS REVIEW COMMITTEE.

The Emergency Preparedness Review Committee is hereby established as a standing committee with powers and duties as set forth in the Holden Beach Emergency Preparedness Plan, as may be amended from time to time, and maintained in the most current form by the Town Clerk in his or her office.

(Ord. 07-04, passed 5-22-07)

VEHICLE REGISTRATION

§ 33.20 PURPOSE.

Residents' and other authorized personnel's motor vehicles operated in the town, during emergency situations, shall be registered with the town. This registration, together with the display of the windshield decal, shall be the basis for allowing early return to the island following a hurricane evacuation or other emergency. Absentee property owners may also register their vehicles and display the windshield decal for this purpose.

('85 Code, § 18-4.1) (Ord. 5-90, passed 4-2-90; Am. Ord. 00-01, passed 1-24-00) Penalty, see § 33.99

§ 33.21 REGISTRATION, FEE AND DISPLAY OF DECAL.

(A) The period of registration shall include the 12 months beginning with January 1 of the year of registration, or any remaining portion thereof and terminating December 31 of such year.

(B) Fees for decals are listed in the schedule adopted by the Board of Commissioners, which shall be available at the office of the Town Clerk.

(C) Upon satisfactory evidence that any decal has been lost or destroyed, the town shall issue a replacement therefor, at a cost to be posted by the town.

(D) Decals shall not be issued during the 24-hour period prior to an anticipated order of evacuation.

(E) Decals shall be displayed in the lower left-hand corner of the windshield above the vehicle inspection sticker.

(Ord. 00-01, passed 1-24-00; Am. Ord. 07-04, passed 5-22-07; Am. Ord. 08-07, passed 6-24-08)

§ 33.99 PENALTY.

(A) Any person violating any prohibition or restriction imposed by a proclamation authorized by this chapter, shall be penalized as follows:

(1) Criminal. In accordance with § 10.99(A) of this code of ordinances, the fine not to exceed the maximum as allowed by law.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, the civil fine is the maximum as allowed by law.

(B) Violators of §§ 33.20 through 33.21 of this chapter shall not be permitted in the town limits during a State of Emergency. The criminal and civil penalties of this section shall not apply to such subchapter [that is, to violators of §§ 33.20 through 33.21].

('85 Code, § 18-5) (Ord. 27, passed - - ; Am. Ord. 5-90, passed 4-2-90; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 95-01, passed 2-6-95; Am. Ord. 00-01, passed 1-24-00; Am. Ord. 07-04, passed 5-22-07)

CHAPTER 34: PARKS AND RECREATION ADVISORY BOARD

Section

34.01 Creation, name and number of members

34.02 Powers and duties

34.03 Appointment, terms

34.04 Meetings

34.05 Attendance

34.06 Officers

34.07 Officers' duties

§ 34.01 CREATION, NAME AND NUMBER OF MEMBERS.

There is hereby created a Parks and Recreation Advisory Board comprised of a maximum of seven residents or property owners of the Town of Holden Beach.

(Ord. 10-10, passed 10-12-10; Am. Ord. 18-03, passed 4-17-18)

§ 34.02 POWERS AND DUTIES.

The Parks and Recreation Advisory Board shall:

- (A) Serve as an advisory board for the Recreation Department and the town;
- (B) Advise the Board of Commissioners and Town Manager regarding the operations, maintenance, improvement, development and acquisition of town public spaces;
- (C) Suggest policies and make recommendations concerning recreation programs, plans and facilities to the Board of Commissioners and the Town Manager;
- (D) Serve as a link between the Board of Commissioners, Town Manager and the community on leisure services matters; and
- (E) Consult with and advise the Board of Commissioners and Town Manager in matters affecting recreation policies, programs, finances and the acquisition and disposal of lands and properties related to the total community recreation program and to its long range projected program for recreation.

(Ord. 10-10, passed 10-12-10; Am. Ord. 18-03, passed 4-17-18)

§ 34.03 APPOINTMENT, TERMS.

Each member of the Parks and Recreation Advisory Board shall be appointed by the Board of Commissioners for a three-year term. Appointments shall normally be in July of each year. No member shall serve for more than two consecutive terms, and a member having served two consecutive terms shall not be eligible for reappointment until after remaining off the Board for one year. For this purpose, a member appointed to fill a vacancy for more than one-half of a term shall be considered as having served a full term. Each member of the Parks and Recreation Advisory Board shall serve at the pleasure of the Board during their appointment. Approximately one third of the terms shall expire each year.

(Ord. 10-10, passed 10-12-10; Am. Ord. 14-08, passed 7-8-14)

§ 34.04 MEETINGS.

The Parks and Recreation Advisory Board shall meet as needed at the town hall or other suitable and available facility circumstances and convention may dictate. The Parks and Recreation Advisory Board shall comply with provisions of the North Carolina Open Meetings Law, G.S. §§ 143-318.9 et seq. A quorum shall be in attendance before action of an official nature can be taken. A quorum is at least one more than the number absent of the appointed members.

(Ord. 10-10, passed 10-12-10)

§ 34.05 ATTENDANCE.

An appointed member of the Parks and Recreation Advisory Board who misses three or more consecutive regular meetings or four meetings within a 12-month period loses their status as a member. Request for excused absences due to sickness, death or emergencies of like nature shall be approved by

the Board of Commissioners as approved absences and shall not affect membership, except that in the event of a long illness, or other such cause for prolonged absence, the member may be replaced.

(Ord. 10-10, passed 10-12-10)

§ 34.06 OFFICERS.

There shall be a Chair and a Vice-Chair of the Parks and Recreation Advisory Board. An annual election of the Chair and Vice-chair shall be held by the members and shall occur annually at the regular monthly meeting in July. The officers shall serve for one year from election with eligibility for reelection. Vacancies of the Chair and Vice-Chair created by termination or initial establishment of the Parks and Recreation Advisory Board shall be elected from its membership at its earliest convenience. The Town Manager or his or her designee will serve as secretary to the Parks and Recreation Advisory Board.

(Ord. 10-10, passed 10-12-10)

§ 34.07 OFFICERS' DUTIES.

(A) The Chair of the Parks and Recreation Advisory Board shall preside at all meetings and shall appoint all committees.

(B) When the Chair is absent the Vice-Chair shall perform the duties of the Chair. When both the Chair and Vice-chair are absent, a temporary-Chair shall be selected by those members who are present.

(C) The secretary shall provide to all members copies of agendas, official reports and the official minutes of all regular meetings and special meetings, prior to the next scheduled meeting.

(D) The secretary of the Parks and Recreation Advisory Board shall submit a report in writing of any suggestions, plans, recommendations, and the like to the Town Clerk following each meeting of the Parks and Recreation Advisory Board for inclusion in the following month's Board of Commissioners' agenda packets.

(Ord. 10-10, passed 10-12-10)

CHAPTER 35: INLET AND BEACH PROTECTION BOARD

Section

- 35.01 Creation, name and number of members
- 35.02 Powers and duties
- 35.03 Appointment, terms
- 35.04 Meetings
- 35.05 Attendance
- 35.06 Officers; legal counsel
- 35.07 Officers' duties

§ 35.01 CREATION, NAME AND NUMBER OF MEMBERS.

There is hereby created an Inlet and Beach Protection Board comprised of five property owners or residents of the Town of Holden Beach.

(Ord. 18-02, passed 4-17-18)

§ 35.02 POWERS AND DUTIES.

The Inlet and Beach Protection Board shall:

(A) Serve as an advisory board for the town;

(B) Prepare and recommend to the Board of Commissioners, a comprehensive long-term plan for the town's role, if any, in the management, dredging and protection of the Lockwood Folly and Shallotte Inlets, including their respective navigational channels, and the management, protection and nourishment of the town's ocean beaches and protective dune systems;

(C) Evaluate the feasibility and cost and benefits of proposed dredging projects (excluding canal dredging), beach and/or dune nourishment projects and protective structure projects (excluding canal dredging) to the town and to property owners within the town as a whole, and make recommendations to the Board of Commissioners with respect to such projects;

(D) With the assistance of the attorney assigned to support the Inlet and Beach Protection Board, make recommendations to the Board of Commissioners for amendments or modifications to the town's ordinances with respect to the "frontal dune" and "protective dune system";

(E) With the assistance of the attorney assigned to support the Inlet and Beach Protection Board, make recommendations to the Board of Commissioners for modifications to the town's ordinances with respect to public and private beach access walkways which promote protection and growth of the town's protective dune systems;

(F) Serve as a link between the Board of Commissioners, Town Manager and the community on the above described areas; and

(G) Perform such other duties within or related to the general purview of the Inlet and Beach Protection Board which may assigned to it from time-to-time by the Board of Commissioners.

(Ord. 18-02, passed 4-17-18)

§ 35.03 APPOINTMENT, TERMS.

Each member of the Inlet and Beach Protection Board shall be appointed by the Board of Commissioners for staggered terms of three years. Initial appointments shall be as follows: (i) Two members appointed for a two-year term; (ii) three members appointed for a three-year term. Initial appointments shall be made promptly after the effective date hereof, and, thereafter, appointments shall normally be made as of July 1 of each year, provided that vacancies occurring for reasons other than expiration of term shall be filled as they occur for the unexpired remainder of the term. No member shall serve for more than two consecutive terms, and a member having served two consecutive terms shall not be eligible for reappointment until after remaining off the Board for one year. For this purpose, a member appointed to fill a vacancy for more than one-half of a term shall be considered as

having served a full term. Each member of the Board shall serve at the pleasure of the Board of Commissioners.

(Ord. 18-02, passed 4-17-18)

§ 35.04 MEETINGS.

The Inlet and Beach Protection Board shall meet at least once monthly, unless there is no business to transact. The Inlet and Beach Protection Board shall comply with provisions of the North Carolina Open Meetings Law, G.S. §§ 143-318.9 et seq. A quorum shall be in attendance before any action of an official nature can be taken. A quorum shall exist when three members of Board are in attendance.

(Ord. 18-02, passed 4-17-18)

§ 35.05 ATTENDANCE.

An appointed member of the Inlet and Beach Protection Board who misses three or more consecutive regular meetings or four meetings within a 12-month period loses their status as a member. Request for excused absences due to sickness, death or emergencies of like nature shall be approved by the Board of Commissioners as approved absences and shall not affect membership, except that in the event of a long illness, or other such cause for prolonged absence, the member may be replaced.

(Ord. 18-02, passed 4-17-18)

§ 35.06 OFFICERS; LEGAL COUNSEL.

(A) There shall be a Chair and a Vice-Chair of the Inlet and Beach Protection Board. Upon the initial appointment of members and annually thereafter in July, the Inlet and Beach Protection Board shall elect a Chairperson and Vice-Chairperson from among the regular members appointed by the Board of Commissioners for terms of one year. Vacancies of the Chair and Vice-Chair created by termination shall be elected from its membership at its earliest convenience. The Town Manager or his or her designee shall serve as the clerk to the Inlet and Beach Protection Board. The clerk shall not be a member of the Board.

(B) The Board of Commissioners may designate and engage legal counsel, who may be the Town Attorney or other environmental legal counsel otherwise engaged to advise the Inlet and Beach Protection Board, as needed.

(Ord. 18-02, passed 4-17-18)

§ 35.07 OFFICERS' DUTIES.

(A) The Chair of the Inlet and Beach Protection Board shall preside at all meeting and shall appoint all committees.

(B) When the Chair is absent, the Vice-Chair shall perform the duties of the Chair. When both the Chair and Vice-Chair are absent, a temporary Chair shall be selected by those members who are present.

(C) The clerk shall provide all members copies of the agendas, official reports and the official minutes of the regular meetings and special meetings, prior to the next scheduled meeting.

(D) The Chair of the Inlet and Beach Protection Board shall submit a report in writing of any suggestions, plans, recommendations, and the like to the Town Clerk following each meeting of the Inlet and Beach Protection Board for inclusion in the following month's Board of Commissioners agenda packets.

(Ord. 18-02, passed 4-17-18)

TITLE V: PUBLIC WORKS

Chapter

- 50. SOLID WASTE
- 51. WATER
- 52. WASTEWATER

CHAPTER 50: SOLID WASTE

Section

- 50.01 Definitions
- 50.02 Container specifications
- 50.03 Burning or burying of garbage regulated
- 50.04 Accumulation and collection
- 50.05 Collections prohibited
- 50.06 Yard waste
- 50.07 Transporting waste materials; covering during transport
- 50.08 Rental homes

- 50.99 Penalty

§ 50.01 DEFINITIONS.

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

BUILDING MATERIAL SCRAP. All scrap material from the construction, reconstruction, remodeling or repair of a building, walkway, driveway, sign or other structure, including, but not limited to, excavated earth, tree stumps, rocks, gravel, bricks, plaster, concrete, lumber, insulation, fixtures (e.g., commodes, sinks) or wrappings for materials or any other materials necessary for the construction, reconstruction, remodeling or repair of a building.

GARBAGE. All animal, fruit and vegetable matter, all small cans, glassware, crockery, bags, and other small containers in which matter has been left or stored.

LARGE HOUSEHOLD ITEMS. Accessories or fittings for a particular use inside, outside or around a house including but not limited to tables and chairs; sofas and recliners; bed frames; dressers; mattresses and box springs; small electronics such as computers and televisions; refrigerators; ovens and microwave ovens; washing and drying machines.

PUTRESCIBLE WASTE. Solid waste that contains organic matter capable of being decomposed by microorganisms and of such a character and proportion as to cause obnoxious odors and to be capable of attracting or providing food for birds or animals.

RECYCLABLE REFUSE. Types and kinds of materials intended to be discarded, scrapped or otherwise disposed of that are defined as recyclable material under the current waste collection contract, e.g., cardboard; newspaper; magazines; small metal and glass containers and certain type of plastic containers in which matter has been stored and possibly residues left.

REFUSE. All other types and kinds of materials intended to be discarded, scrapped, or otherwise disposed of.

SUMMER RENTAL SEASON. The period of time that garbage collection occurs twice weekly per town contract.

YARD WASTE. All wastes pertaining to a landscaped/managed property, including but not limited to tree limbs, leaves, shrubbery, weeds, plants or grass.

('85 Code, § 9-1.1) (Ord. 5, passed -- ; Am. Ord. 10-90, passed 5-15-90; Am. Ord. 18-16, passed 12-18-18; Am. Ord. 19-03, passed 3-19-19)

§ 50.02 CONTAINER SPECIFICATIONS.

(A) Residential requirements.

(1) Garbage will be kept only in contractor-owned and provided standard, 90-gallon capacity roll-out containers. Each residence is authorized one container; however, additional containers are available for a set monthly fee.

(2) Recyclable refuse can be disposed of in standard garbage containers. Alternatively, 90-gallon capacity containers for recyclable materials are only available by contract through the town for a set annual fee.

(3) Property owners are responsible to assure they have sufficient 90-gallon containers to properly contain refuse prior to collection. Garbage placed on top of or beside the container(s) will not be picked up by the contractor, nor will garbage placed in non-standard containers.

(B) Commercial requirements.

(1) All commercial establishments catering to the public in such a manner as to create refuse shall be required to place an adequate number of refuse containers in such positions and locations as to encourage their use.

(2) All such commercial-related containers shall be maintained in a sound and presentable condition.

(C) No person shall throw, place, or deposit any garbage or refuse of any kind, in any place or in any public or private property, except in approved containers or as otherwise provided in accordance with the provisions of this section.

(D) Containers on town-owned property and other public areas are for the use of the town and for the general use of residents and visitors using the public areas. It shall be unlawful for anyone otherwise to place commercial or residential waste or refuse into such containers.

('85 Code, § 9-1.2) (Ord. 5, passed - - ; Am. Ord. 93-18, passed 10-20-93; Am. Ord. 94-02, passed 2-7-94; Am. Ord. 95-06, passed 2-22-95; Am. Ord. 98-12, passed 6-22-98; Am. Ord. 18-16, passed 12-18-18; Am. Ord. 19-03, passed 3-19-19) Penalty, see § 50.99

§ 50.03 BURNING OR BURYING OF GARBAGE REGULATED.

It shall be unlawful to burn or bury garbage or trash for the purpose of disposal unless a special permit has been issued by the Town Police Department.

('85 Code, § 9-1.3) (Ord. 5, passed - - ; Am. Ord. 10-90, passed 5-15-90; Am. Ord. 18-16, passed 12-18-18; Am. Ord. 19-03, passed 3-19-19) Penalty, see § 50.99

§ 50.04 ACCUMULATION AND COLLECTION.

(A) All garbage and household refuse shall be kept in proper containers as required by this chapter and it shall be unlawful for any person to permit garbage to accumulate or remain on any premises longer than is reasonably necessary for its removal. It is the intent of the town that all containers be secured either next to non- elevated, underneath elevated houses, or alongside of the house except prior to collection days when they are to be placed at street side. Trash corrals are an acceptable method of storage. Through a town contract for island wide rollback, empty trash and recycling containers will be rolled back to the street side of the house, under the house or to a corral if available. Full containers will stay curbside until emptied by the next pickup.

(B) It shall be the duty of every owner or occupant of every building or premises where garbage or refuse exists, to reasonably and regularly clean the 90-gallon containers and other legal refuse collection containers.

(C) The owners, occupants and lessees of all property, jointly and severally, are required to control all refuse, placing such refuse in proper containers and/or arranging for collection or other disposal disposition in accordance with the provisions of this chapter.

(D) Garbage and household refuse will be collected and removed from the aforesaid containers or cans in accordance with the schedule set forth in the garbage collection service contract, executed independently from this chapter.

(E) This chapter shall be enforced by the town either by civil proceedings or by removing and disposing of litter according to the provisions and procedures for abatement of litter as provided in this chapter and as prescribed by G.S. §§ 160A-174, 160A-175, 160A-193, and 160A-303.1, including the provisions for notice and hearings provided or referred to therein.

('85 Code, § 9-1.4) (Ord. 5, passed -- ; Am. Ord. 10-90, passed 5-15-90; Am. Ord. 98-12, passed 6-22-98; Am. Ord. 99-02, passed 2-8-99; Am. Ord. 02-04, passed 3-11-02; Am. Ord. 17-06, passed 4-18-17; Am. Ord. 18-16, passed 12-18-18; Am. Ord. 19-03, passed 3-19-19)

§ 50.05 COLLECTIONS PROHIBITED.

All matter, refuse, and materials such as industrial refuse, building materials and scraps, tree trimmings, walkway scraps, or any other refuse from building or remodeling, large containers, or large household items shall not be accepted or picked up as part of the regular garbage collection service contract.

('85 Code, § 9-1.5) (Ord. 5, passed -- ; Am. Ord. 10-90, passed 5-15-90; Am. Ord. 18-16, passed 12-18-18; Am. Ord. 19-03, passed 3-19-19) Penalty, see § 50.99

§ 50.06 YARD WASTE.

Yard waste will be accepted under certain conditions and at defined times under a contract separate from the standard waste collection contract. Permissible, properly bundled or bagged, yard waste must not be placed at roadside for collection more than two weeks prior to a scheduled collection. Property owners who are found in violation may receive written notice from the town that they are in violation of town ordinance in that regard. Those so affected will be asked to correct the situation so they come into compliance with the code or receive a civil fine of \$50 per day per offense.

(Ord. 18-16, passed 12-18-18; Am. Ord. 19-03, passed 3-19-19)

§ 50.07 TRANSPORTING WASTE MATERIALS; COVERING DURING TRANSPORT.

All persons transporting waste material, construction material, or any manner of loose materials over the public or private roadways in the town shall insure that such materials are not lost or scattered on or along the rights-of-way of such roadways. These materials shall be securely covered during transit in such manner as to prevent the loss thereof from the transporting vehicle.

('85 Code, § 9-1.7) (Ord. 10-90, passed 5-15-90; Am. Ord. 18-16, passed 12-18-18; Am. Ord. 19-03, passed 3-19-19) Penalty, see § 50.99

§ 50.08 RENTAL HOMES.

(A) Rental homes, as defined in Chapter 157, that are rented as part of the summer rental season, are subject to high numbers of guests, resulting in large volumes of trash. This type of occupancy use presents a significantly higher impact than homes not used for summer rentals. In interest of public health and sanitation and environmental concerns, all rental homes shall have a minimum of one trash can per two bedrooms. Homes with an odd number of bedrooms shall round up (for examples one to two bedrooms - one trash can; three to four bedrooms - two trash cans; five - six bedrooms - three trash cans, and the like). In instances where three trash cans or more are required, one can may be substituted with a contractor approved recycling bin.

(B) Any property found in violation of division (A) above shall be subject to the penalties listed in § 50.99.

(Ord. 07-13, passed 11-27-07; Am. Ord. 18-16, passed 12-18-18; Am. Ord. 19-03, passed 3-19-19)

§ 50.99 PENALTY.

(A) Criminal. Violators of Chapter 50 will not be subject to a criminal penalty.

(B) Civil. Any person who violates any provision of the chapter shall be subject to a \$50 per day civil fine in accordance with § 10.99(B) of this code of ordinances.

('85 Code, § 9-1.8) (Ord. 5, passed -- ; Am. Ord. 7-87, passed 6-1-87; Am. Ord. 10-90, passed 5-15-90; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 99-02, passed 2-8-99; Am. Ord. 18-16, passed 12-18-18; Am. Ord. 19-03, passed 3-19-19)

CHAPTER 51: WATER

Section

- 51.01 Service connections required
- 51.02 Classification of service
- 51.03 Rate schedule and tap-on fees
- 51.04 Separate meters required
- 51.05 Town's responsibility and liability
- 51.05.5 Rules governing public water systems
- 51.06 Consumer's responsibility
- 51.07 Extensions to mains and services
- 51.08 Access to premises
- 51.09 Change of occupancy
- 51.10 Meter reading; billing; collecting
- 51.11 Suspension of service
- 51.12 Complaints; adjustments
- 51.13 Abridgement or modification of rules
- 51.14 Tampering with meters prohibited

51.99 Penalty

§ 51.01 SERVICE CONNECTIONS REQUIRED.

(A) All habitable dwellings located within the corporate limits of the town shall have a potable public water supply. All owners of improved property located within the corporate limits and within a reasonable distance of any water line owned and operated by the town shall connect their premises to the town water system. Water supply to such premises from wells on Holden Beach is

prohibited except that water from wells may be used for washing cars, watering lawns and gardens, and similar purposes. The interconnection of well water systems with systems connected with the town water system is strictly prohibited.

(B) Consumers or their agents will make application for service, in person, at Town Hall.

(C) The town may reject any application for service not available under a standard rate or which involves excessive service cost, or which may affect the supply of service to other customers or for other good and sufficient reasons.

(D) The town may reject any application for service when the applicant is delinquent in payment of bills incurred for service previously supplied at any location, provided that when the owner of the premises has been served water and has not paid for the same, the town shall not be required to render service to anyone at the location where the water was used until the water bill has been paid.

('85 Code, § 10-1.1) (Ord. 29, passed -- ; Am. Ord. 15-82, passed --) Penalty, see § 51.99

§ 51.02 CLASSIFICATION OF SERVICE.

All services are classified under one category to include residential, schools, churches, and commercial users.

('85 Code, § 10-1.2) (Ord. 29, passed --)

§ 51.03 RATE SCHEDULE AND TAP-ON FEES.

(A) Basic rates.

(1) All rates associated with water service are listed in the schedule adopted by the Board of Commissioners, which shall be available at the office of the Town Clerk.

(2) Where more than one dwelling unit each dwelling unit shall be charged the base charge. When a multiple base charge is applicable, the total charge shall be calculated by multiplying the base charge by the total number of customers plus the fee listed for each 1,000 gallons in excess of 2,000 times the number of dwelling units.

(3) ADDITIONAL SERVICES shall be defined as meters used for the sole use of maintaining water levels in swimming pools; providing outside shower facilities on walkways or docks that are located on vacant lots; and providing water for landscaping and/or gardening.

(B) All meters for the use of filling and maintaining water levels in swimming pools; providing outside shower facilities on walkways or docks that are located on vacant lots; and providing water for landscaping and/or gardening shall have RPZ Backflow Preventer installed by the homeowner, at the homeowner's expense, to be inspected upon installation by the Public Works Department.

('85 Code, § 10-1.3) (Ord. 29, passed -- ; Am. Ord. 91-10, passed 6-24-91; Am. Ord. 94-17, passed 7-20-94; Am. Ord. 96-13, passed 8-19-96; Am. Ord. 99-01, passed 1-11-99; Am. Ord. 00-16, passed 7-10-00; Am. Ord. 01-09, passed 8-13-01; Am. Ord. 02-11, passed 7-8-02; Am. Ord. 03-07, passed 7-28-03; Am. Ord. 05-08, passed 8-8-05; Am. Ord. 05-09, passed 11-14-05; Am. Ord. 08-07, passed 6-24-08; Am. Ord. 13-05, passed 9-10-13; Am. Ord. 14-04, passed 3-11-14) Penalty, see § 51.99

§ 51.04 SEPARATE METERS REQUIRED.

A separate meter shall be installed for each dwelling unit, office, or other business or commercial use. All dwelling units built prior to the passage of this ordinance (February 6, 1984) shall not be subject to the provisions of this ordinance.

('85 Code, § 10-1.4) (Ord. 29, passed -- ; Am. Ord. 1-84, passed -- ; Am. Ord. 00-23, passed 12-11-00)

§ 51.05 TOWN'S RESPONSIBILITY AND LIABILITY.

(A) The town shall run a service line from its distribution line to the property line where the distribution line runs immediately adjacent and parallel to the property to be served, and for which a tap-on fee then in effect for each size of meter will be charged.

(B) The town may install its meter at the property line or, at the town's option, on the consumer's property or in a location mutually agreed upon.

(C) When two or more meters are to be installed on the same premises for different consumers, they shall be closely grouped and each clearly designated to which consumer it applies.

(D) The town does not assume the responsibility of inspecting the consumer's piping or apparatus and will not be responsible therefor.

(E) The town reserves the right to refuse service unless the consumer's lines or piping are installed in such a manner as to prevent cross-connections or backflow.

(F) The town shall not be liable for damage of any kind whatsoever resulting from water or the use of water on the consumer's premises, unless such damage results directly from negligence on the part of the town. The town shall not be responsible for any damage done by or resulting from any defect in the piping, fixtures, or appliances on the consumer's premises. The town shall not be responsible for negligence of third persons or forces beyond the control of the town resulting in any interruption of service.

(G) Under normal conditions, the consumer will be notified of any anticipated interruption of service.

('85 Code, § 10-1.5) (Ord. 29, passed --)

§ 51.05.5 RULES GOVERNING PUBLIC WATER SYSTEMS.

(A) The town adopts and incorporates in this section North Carolina Administrative Code, Title 15A, Department of Environmental, Health, and Natural Resources, Subchapter 18C, Water Supplies.

(B) Enforcement. Any person, firm, or corporation responsible for an installation or action found not to be in compliance with this section shall be issued a Notice of Violation (NOV), specifying corrective action, if required, enforcement action to be taken by the town, if required, and a specified period of time to achieve compliance, if required.

As provided herein, termination of water service is a remedy available to the town to enforce any of the provisions of this section. A violation of any of the provisions of this section shall constitute a

misdeemeanor, punishable as provided in G.S. § 14-4, with a fine not to exceed \$500. Enforcement of this program shall be administered by the Director or by an authorized representative.

(1) Direct cross-connection. Any installation that remains in noncompliance, after notice is given and the time prescribed in § 51.05.5(B)(3), shall be considered in violation of this section, and shall realize the disconnection of water service(s) until compliance is achieved and/or possible legal action. In addition, any person who shall continue any violation, beyond the time limit provided for in the aforementioned NOV and § 51.05.5(B)(3), shall be subject to a penalty in the amount not to exceed \$100 for each violation. Each day in which any violation continues after the offender has been notified of the violation shall be deemed a separate offense.

(2) Indirect cross-connection. Any installation or action found to be in noncompliance of this section shall be considered in violation of the same. In addition, any person found to be in violation of this section shall be fined in the amount not to exceed \$1,000 for each violation. If the installation or action involves the theft of water, the offender shall be charged according to state and local law and shall pay, in full, the cost for the estimated usage (see rate schedule currently in force) to the town.

(3) Appeals of a violation. Any owner who has received an order under the enforcement section of this code may appeal the order, in writing, to the Town Clerk and Town Manager, within ten days of receipt of notice. In the absence of an appeal, the Notice of Violation shall be final. The City Council shall hear and render a decision in a reasonable time. Enforcement of this program shall be administered by the Public Utilities Director or by an authorized representative.

(C) The Town Manager, or his or her authorized representative, is authorized to make all necessary and reasonable rules and ordinances with respect to the enforcement of this section. All such rules and ordinances shall be consistent with the provisions of this section and shall be effective upon the date of adoption by the Town of Board of Commissioners. (Any additional penalties not referenced in this section, but set forth in § 51.99, shall apply.)

(D) In the event any provision, standard, or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision that establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

(Ord. 14-04, passed 3-11-14)

§ 51.06 CONSUMER'S RESPONSIBILITY.

(A) Piping on the consumer's premises must be so arranged that the connections are conveniently located with respect to the town's lines or mains.

(B) If the consumer's piping or consumer's premises is so arranged that the town is called upon to provide additional meters, each place of metering will be considered as a separate and individual account.

(C) Where the meter is placed on the premises of a consumer, a suitable place shall be provided for placing such meter unobstructed and accessible at all times to the meter reader.

(D) The consumer's piping and apparatus shall be installed and maintained by the consumer at the consumer's expense in a safe and efficient manner and in accordance with the town's rules and regulations and in full compliance with the sanitary regulations of the State Board of Health.

(E) The consumer shall guarantee proper protection for the town's property placed on the consumer's premises and shall permit access to it only by authorized representatives of the town.

(F) In the event that any loss or damage to the property of the town or any accident or injury to persons or property is caused by or results from the negligence or wrongful act of the consumer, his agents or employees, the cost of the necessary repairs or replacements shall be paid by the consumer to the town; and any liability otherwise resulting shall be assumed by the consumer.

(G) The amount of such loss or damage or the cost of repairs shall be added to the consumer's bill, and if not paid, service may be discontinued by the town.

('85 Code, § 10-1.6) (Ord. 29, passed --) Penalty, see § 51.99

§ 51.07 EXTENSIONS TO MAINS AND SERVICES.

(A) Undeveloped subdivisions. Water distribution lines to serve undeveloped subdivisions will be handled as follows:

(1) The developer will submit plans for reviews and approval by the town, its engineer and the Division of Health Services.

(2) The developer will install the lines in accordance with the approved plans.

(3) Upon completion of the new extension including all required testing, the developer will deed the completed facility, to include all rights-of-way, easements, permits, franchises, and authorizations or other instruments needed for the operation and maintenance of the facility, to the town. The town will not reimburse the developer for the extension.

(B) Other extensions. Extension of water lines within the town's service areas will be handled as follows:

(1) The plans for extension will be submitted for review and approval by the town, its engineers and the Division of Health Services.

(2) The lines will be installed in accordance with the approved plans.

(3) Prior to or upon completion of the new extension including all required testing, all rights-of-way, easements, permits, franchises, and authorizations or other instruments needed for the installation, operation, and maintenance of the facility, will be deeded to the town. The cost involved in the new extension will be paid by the person requesting the extension.

('85 Code, § 10-1.7) (Ord. 29, passed -- ; Am. Ord. 93-07, passed 3-1-93)

§ 51.08 ACCESS TO PREMISES.

(A) Duly authorized agents of the town shall have access at all reasonable hours to the premises of the consumer for the purpose of installing or removing town property, inspecting piping, reading or testing meters or for any other purpose in connection with the town's service and facilities.

(B) Each consumer shall grant or convey or shall cause to be granted or conveyed to the town a perpetual easement and right-of-way across any property owned or controlled by the consumer wherever the perpetual easement and right-of-way is necessary for the town water or sewer facilities and lines so as to be able to furnish service to the consumer.

('85 Code, § 10-1.8) (Ord. 29, passed - - ; Am. Ord. 02-14, passed 10-28-02) Penalty, see § 51.99
§ 51.09 CHANGE OF OCCUPANCY.

(A) Not less than three days notice must be given in person or in writing at the town's office, to discontinue service for a change in occupancy.

(B) The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longer.

('85 Code, § 10-1.9) (Ord. 29, passed - -) Penalty, see § 51.99
§ 51.10 METER READING; BILLING; COLLECTING.

(A) Meters will be read and bills rendered monthly, but the town reserves the right to vary the dates or length of period covered, temporarily or permanently, if necessary or desirable.

(B) Bills for water will be figured in accordance with the town's published rate schedule then in effect and will be based on the amount consumed for the period covered by the meter readings.

(C) Charge for service commences when the meter is installed and connection made, whether used or not.

(D) Readings from different meters including meters that may be for the same or different premises, for the same or different consumer and for the same or different services, may be billed on the same invoice.

(E) Disconnection.

(1) It is the policy of the town to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The town's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(a) That all bills are due and payable on or before the date set forth on the bill;

(b) That if any delinquent bill is not paid by the date of the following bill, service will be disconnected for nonpayment on or about the sixth day after the due date. The proceeding bill containing the past due balance from the prior month will serve as the second notice; and

(c) That any customer disputing the correctness of his bill shall have a right to a hearing at which time he may be represented in person and by counsel or any other person of his choosing and may present orally or in writing his complaint and contentions to the town official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(2) Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered. In the absence of payment of the bill rendered or resort to the hearing procedure provided herein, service will be discontinued at the time specified, but in no event until the charges have been due and unpaid for at least 30 days.

(3) When it becomes necessary for the town to discontinue utility service to a customer for nonpayment of bills, service will be reinstated only after all bills for service then due have been paid, along with a turn-on charge established by the schedule adopted by the Board of Commissioners, which is available at the office of the Town Clerk.

(F) Failure to receive bills or notices shall not prevent such bills from becoming delinquent or relieve the consumer from payment.

(G) Payments will be due on the last day of the month. If the last day of the month falls on a weekend, payment will be due the following Monday. Payments received after the due date will be charged a late fee of 10% of the total bill.

('85 Code, § 10-1.10) (Ord. 29, passed -- ; Am. Ord. 15-82, passed -- ; Am. Ord. 08-03, passed 4-22-08; Am. Ord. 08-07, passed 6-24-08)

§ 51.11 SUSPENSION OF SERVICE.

(A) Service discontinued for nonpayment of bills will be restored only after bills are paid in full, and a service charge as established by the schedule adopted by the Board of Commissioners, which is available at the office of the Town Clerk is paid.

(B) The town reserves the right to discontinue its service without notice for the following additional reasons:

- (1) To prevent fraud or abuse.
- (2) Consumer's willful disregard of the town's rules.
- (3) Emergency repairs.
- (4) Insufficiency of supply due to circumstances beyond the town's control.
- (5) Legal processes.
- (6) Direction of public authorities.
- (7) Strike, riot, fire, flood, accident, or any unavoidable cause.

(C) The town may, in addition to prosecution by law, permanently refuse service to any consumer who tampers with a meter or other measuring device.

('85 Code, § 10-1.11) (Ord. 29, passed -- ; Am. Ord. 15-82, passed -- ; Am. Ord. 08-07, passed 6-24-08)
Penalty, see § 51.99

§ 51.12 COMPLAINTS; ADJUSTMENTS.

(A) If the consumer believes his bill to be in error, he shall present his claim at the Town Hall before the bill becomes delinquent. Such claim if made after the bill has become delinquent shall not be effective in preventing discontinuance of service as heretofore provided. The consumer may pay such bill under protest and the payment shall not prejudice his claim.

(B) The town will make special meter readings at the request of the consumer for a fee established by the schedule adopted by the Board of Commissioners, which is available at the office of the Town Clerk.

(C) Meters will be tested at the request of the consumer upon payment to the town of the actual cost to the town of making the test, provided, however, that if the meter is found to over-register beyond 10% of the correct volume, no charge will be made.

(D) If the seal of a meter is broken by other than the town's representative or if the meter fails to register correctly or is stopped for any cause, the consumer shall pay an amount estimated from the record of his previous bills and/or from other proper data.

('85 Code, § 10-1.12) (Ord. 29, passed -- ; Am. Ord. 15-82, passed -- ; Am. Ord. 08-07, passed 6-24-08)

§ 51.13 ABRIDGEMENT OR MODIFICATION OF RULES.

(A) No promise, agreement, or representation of any employee of the town shall be binding upon the town except as it shall have been agreed upon in writing, signed, and accepted by the acknowledged officers of the town.

(B) No modification of rates or any of the rules and regulations shall be made by an agent of the town.

('85 Code, § 10-1.13) (Ord. 29, passed --) Penalty, see § 51.99

§ 51.14 TAMPERING WITH METERS PROHIBITED.

(A) It shall be unlawful for any person other than a town employee or person duly authorized by a town employee to remove, turn water on or off at, or otherwise tamper with, any installed water meter or part thereof. Persons desiring service to be turned off or on at a meter shall call Town Hall for authorization to do so.

(B) The actual cost of any service calls made necessary due to turning water off or on at the meter shall be charged to the customer of record and shall be included in the next succeeding bill.

(C) Whenever it is discovered that a meter has been removed, turned on or off, or otherwise tampered with, a fine of \$25 shall automatically be charged against the customer of record. The customer shall be notified immediately upon such discovery and shall be advised of the circumstances and of the fine.

('85 Code, § 10-1.14a.—c.) (Ord. 7-86, passed 5-5-86; Am. Ord. 93-11, passed 9-7-93) Penalty, see § 51.99

§ 51.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided, shall be subject to the penalty provided in § 10.99 of this code of ordinances.

(B) (1) Criminal. Any person who violates any provision of § 51.14 of this chapter shall, in accordance with § 10.99(A) of this code of ordinances, be punished by a fine not to exceed \$100 per offense.

(2) Civil. Any person who violates any provision of § 51.14 of this chapter shall, in accordance with § 10.99(B) of this code of ordinances, be punished by a civil fine of \$100 per offense.

(C) Any person who uses water from a meter installed under the provisions of § 51.03(A) for a purpose other than stated is subject to a fine of \$500 (or maximum allowed by North Carolina Statute, whichever is higher) and the meter will be removed within three days.

('85 Code, § 10-1.14d.) (Ord. 7-86, passed 5-5-86; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 05-09, passed 11-14-05)

CHAPTER 52: WASTEWATER

Section

52.01 Purpose and intent

52.02 Definitions

52.03 Town sewer policies

52.04 Share fees

52.05 Tap fees

52.06 Share costs for residential dwelling units, commercial lots and vacant platted lots with roads

52.07 (Reserved)

52.08 Rate schedule

52.09 Meter reading; billing; collecting; suspension of service; complaints; adjustments

§ 52.01 PURPOSE AND INTENT.

(A) This document is both a revised restatement of the plan approved by the Town Commission on September 11, 2000, and a projection for financing the town-owned vacuum sewage collection system and town financing of its portion of the Brunswick County Regional Wastewater System capital costs.

(B) Under the authority of G.S. § 160A-314, the pre-payment method by a property owner of an equitable share of the total construction cost of the vacuum wastewater collection system was approved by the Town Commission on September 11, 2000.

(1) The sewer operational date was anticipated to be September 30, 2003, and share costs prior to that date were established.

(2) This document recommends no additional share costs for payments approved by the Town Commission and paid prior to July 1, 2003.

(Ord. 02-13, passed 10-14-02)

§ 52.02 DEFINITIONS.

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

BCCC MONTHLY CALCULATIONS. The town is scheduled to pay Brunswick County \$85,449 (present estimate) each month for its share of the county's capital costs.

BEDROOM, ~~sleeping Room.~~

~~————SLEEPING ROOM. A room designated as sleeping or bedroom on the plans and permit application. DETERMINATION. In determining the number of bedrooms in a dwelling unit, each bedroom and any other rooms or additions that can reasonably be expected to function as a bedroom shall be considered a bedroom for design purposes. (15A NCAC 18A.1949)~~

BRUNSWICK COUNTY CAPITAL COSTS (BCCC). The capital cost of Phase I of the Brunswick Regional Wastewater Treatment System. Total estimated cost is \$40,905,172. The Holden Beach portion of that total is \$13,633,675, which is scheduled to be paid at \$1,025,385 per year for 25 years. The town will study other, more advantageous means of repayment.

COMMERCIAL UNIT. Consisting of wholesale/retail business establishments, churches, hotels, motels, apartment complexes, bed and breakfast establishments, business offices, campgrounds, clubhouses, marinas, restaurants, and any other similar non-residential enterprise.

CONNECTING LINE. The line from a dwelling unit to the sewer line located at the property boundary.

DWELLING UNIT. ~~A single unit providing complete independent living facilities for one or more person, including permanent provisions for living, sleeping, eating, cooking and sanitation One or more rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units that may be in the same structure, and containing independent cooking and sleeping facilities. One or more rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units that may be in the same structure, and containing independent cooking and sleeping facilities. (See § 157.006)~~

SHARE. Entitles access to the Vacuum Sewage Collection System.

SHARE PAYMENT DUE DATE. Originally June 30, 2003. Extended, at an increased cost, until paid.

TAP FEE. The cost to connect to the system.

VACANT LOT/PARCEL. Those that are platted are considered for share purposes to be a minimum of 50-feet in average width and are assumed to be the site of a single dwelling unit. Parcels that are unplatted will be considered in increments of 10,000 square feet, with each increment equaling one share.

VACUUM SEWAGE COLLECTION SYSTEM. Consisting of a vacuum valve pits, interconnecting lines, main lines, pumping stations, and a force main under the ICW to the mainland.

(Ord. 02-13, passed 10-14-02)

§ 52.03 TOWN SEWER POLICIES.

(A) Connection to the sewer system of each dwelling unit and commercial unit is mandatory.

(B) All residential and commercial structures must be connected to the sewer system within one year after the system becomes operational.

(1) Property owners not connected to the sewer system by the deadline of May 31, 2007 will be charged the sewer rate based on their monthly water usage at the rate schedule listed in § 52.08, plus an escalating monthly fee starting at \$25 and increasing every month at additional \$25 increments (i.e. \$25 first month, \$50 second month, \$75 third month, etc.)

(C) The Vacuum Sewage Collection System will be financed through share and user fees. Ad Valorem tax revenue shall not be used.

(D) Connecting line costs will be paid to a plumbing or other contractor hired individually by each property owner connecting to the sewer system.

(E) Payment plans involving monthly payments to be completed by June 30, 2003, shall remain in effect.

(F) A share not paid by June 30, 2003, will be charged as listed in Tables A and B (see §§ 52.06 and 52.07).

(G) Paid shares are non-refundable and shall remain for the benefit of the property for which they were initially paid.

(H) If multi-dwelling units are constructed on a lot upon which a share fee was or was not paid, or an additional dwelling unit is added to an existing structure, the property owner will be charged all cumulative share fees based upon amounts in effect per dwelling unit at the time of construction.

(I) The existing § 151.68 sewer/stormwater impact fee shall be changed to provide separate accounts for sewer and stormwater.

(J) Restaurants, grills, delicatessens, etc. are required to have a grease trap.

(K) The use of septic tanks shall be prohibited one year after the system becomes operational. Unused septic tanks shall be subject to state/county regulations.

(L) Water meters may be permitted, on a case by case basis, without additional sewage costs. Examples of permitted uses may include maintaining water levels in swimming pools, providing outside shower facilities on walkways or docks that are not located on improved lots, providing water for landscaping and/or gardening.

(Ord. 02-13, passed 10-14-02; Am. Ord. 07-01, passed 1-23-07) Penalty, see § 10.99

§ 52.04 SHARE FEES.

(A) Residential dwelling units, occupied commercial lots, and vacant platted lot with roads. Fees for residential dwelling units, occupied commercial lots and vacant platted lots with roads shall be listed in the schedule adopted by the Board of Commissioners, which is available at the office of the Town Clerk.

(B) Platted lots without roads.

(1) Fees shall be listed in the schedule adopted by the Board of Commissioners, which is available at the office of the Town Clerk.

(2) The property owner will be responsible for installing all sewer infrastructures to town standards at his or her expense that are situated within the town right-of-way, together with any and all connecting lines between the tap located on the street right-of-way and structure's discharge pipes.

(3) Upon completion, the infrastructure located within the town right-of-way shall be dedicated to the town.

(C) Unplatted lot parcels without roads.

(1) The owner pays the access share of \$1,500 per 10,000 square-foot parcel prior to June 30, 2003.

(2) The property owner shall be responsible for installing all sewer infrastructures to town standards at his/her expense that are situated within the town rights-of-way, together with any and all connecting lines between the tap located on the street right-of-way and the structure's discharge pipes.

(3) Upon completion, the infrastructures located within the town rights-of-way shall be dedicated to the town.

(4) Fees shall be listed in the schedule adopted by the Board of Commissioners, which is available at the office of the Town Clerk.

(5) The property owner will be responsible for installing all sewer infrastructures to town standards at his or her expense that are situated within the town right-of-way, together with any and all connecting lines between the tap located on the street right-of-way and structure's discharge pipes.

(6) Upon completion, the infrastructure located within the town right-of-way shall be dedicated to the town.

(Ord. 02-13, passed 10-14-02; Am. Ord. 08-07, passed 6-24-08)

§ 52.05 TAP FEES.

Tap fees are listed in the schedule adopted by the Board of Commissioners, which shall be available at the office of the Town Clerk.

(Ord. 02-13, passed 10-14-02; Am. Ord. 08-07, passed 6-24-08)

§ 52.06 SHARE COSTS FOR RESIDENTIAL DWELLING UNITS, COMMERCIAL LOTS AND VACANT PLATTED LOTS WITH ROADS.

Share costs are listed in the schedule adopted by the Board of Commissioners, which shall be available at the office of the Town Clerk.

(Ord. 02-13, passed 10-14-02; Am. Ord. 08-07, passed 6-24-08)

§ 52.07 RESERVED.

§ 52.08 RATE SCHEDULE.

Basic rates.

(A) All rates associated with wastewater service are listed in the schedule adopted by the Board of Commissioners, which shall be available at the office of the Town Clerk.

(B) When more than one dwelling unit in a single ownership is served through a single meter, a base charge dwelling unit, plus usage 1,000 shall be made. Condominiums, multiple and duplex units and separate buildings using sewer and held in individual ownership shall be charged the base charge. When a multiple base charge is applicable, the total charge shall be calculated by multiplying the base charge by the total amount of customers, plus the amount per 1,000 gallons in excess of 2,000 gallons per month multiplied times the number of customers.

(Ord. 06-05, passed 5-8-06; Am. Ord. 07-09, passed 6-26-07; Am. Ord. 08-07, passed 6-24-08)

§ 52.09 METER READING; BILLING; COLLECTING; SUSPENSION OF SERVICE; COMPLAINTS; ADJUSTMENTS.

(A) Meter reading, billing and collecting of funds for wastewater shall be in accordance with the regulations set forth for water in § 51.10.

(B) Suspension of service shall be in accordance with the regulations set forth for water in § 51.11.

(C) Complaints and adjustments shall be in accordance with the regulations set forth for water in § 51.12.

(Ord. 08-03, passed 4-22-08)

TITLE VII: TRAFFIC CODE

Chapter

- 70. GENERAL PROVISIONS
- 71. TRAFFIC SCHEDULES
- 72. PARKING REGULATIONS

CHAPTER 70: GENERAL PROVISIONS

Section

- 70.01 Words and phrases
- 70.02 Official time standard
- 70.03 Tire squealing of motor vehicles prohibited
- 70.04 Skateboards prohibited
- 70.05 Sleeping in vehicles prohibited

- 70.99 Penalty

Cross-reference:

For provisions requiring motor vehicle registration, see §§ 33.20 through 33.23.

§ 70.01 WORDS AND PHRASES.

Whenever any words and phrases are used in this traffic code, the meaning respectively ascribed to them by reference to sections of the North Carolina General Statutes shall be deemed to apply to such words and phrases as used herein.

('85 Code, § 7-1) (Am. Ord. 14-09, passed 8-12-14)

§ 70.02 OFFICIAL TIME STANDARD.

Whenever certain hours are named in this traffic code, they shall mean either Eastern Standard Time or Eastern Daylight Saving Time as may be in current use in the town.

('85 Code, § 7-2) (Am. Ord. 14-09, passed 8-12-14)

§ 70.03 TIRE SQUEALING OF MOTOR VEHICLES PROHIBITED.

It shall be unlawful to operate a motor vehicle within the town limits in such a manner as to cause the wheels to lose traction with the surface of the street or driveway, upon which it is being driven, and to otherwise operate it in such a manner so as to cause the tires of the motor vehicle to "squeal".

('85 Code, § 7-4.1) (Ord. 13, passed - - ;Am. Ord. 14-09, passed 8-12-14) Penalty, see § 70.99

§ 70.04 SKATEBOARDS PROHIBITED.

The riding or use of skateboards or other similar recreational vehicle, or device, skates, and scooters is prohibited upon any part of Ocean Boulevard East and Ocean Boulevard West.

('85 Code, § 3-9.1) (Ord. 15-85, passed -- ; Am. Ord. 93-07, passed 3-1-93; Am. Ord. 14-09, passed 8-12-14) Penalty, see § 70.99

§ 70.05 SLEEPING IN VEHICLES PROHIBITED.

It shall be unlawful for any person to sleep in a vehicle parked in any public place or upon any public street right-of-way between 11:00 p.m. and 6:00 a.m.

('85 Code, § 3-10) (Ord. 11-86, passed 8-4-86; Am. Ord. 14-09, passed 8-12-14) Penalty, see § 70.99

§ 70.99 PENALTY.

(A) Any person who violates any provision of this traffic code for which no penalty is otherwise provided shall be responsible for an infraction and shall be required to pay a penalty of \$50, as authorized by G.S. § 14-4(b).

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of §§ 70.03, 70.05, or Chapter 71 of this traffic code shall be subject to a civil fine of \$50 per offense.

('85 Code, §§ 3-10.2, 7-4.2, 7-6.2) (Ord. 11-86, passed 8-4-86; Am. Ord. 6-90, passed 4-2-90; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 14-09, passed 8-12-14)

(C) (1) Criminal. There shall be no criminal penalty for violation of § 70.04 of this chapter.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of § 70.04 of this chapter shall be subject to a civil fine of \$50 per offense.

('85 Code, § 3-9.2) (Ord. 93-11, passed 9-7-93; Am. Ord. 14-09, passed 8-12-14)

(D) Civil. In accordance with § 10.99(B), with the exception of § 72.02(f) and (h), any person who violates any provision of Chapter 72 of this traffic code shall be subject to a civil fine of \$75 per offense. Any person who violates § 72.02(f) or (h) of this traffic code shall be subject to a civil fine of \$250 per offense.

('85 Code, § 7-3.5) (Ord. 9-84, passed -- ; Am. Ord. 3-85, passed -- ; Am. Ord. 9-90, passed 5-15-90; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 14-09, passed 8-12-14)

CHAPTER 71: TRAFFIC SCHEDULES

Schedule

- I. Speed limits
- II Stop intersections

SCHEDULE I. SPEED LIMITS.

(A) The streets or parts of streets described in this traffic schedule shall have the speed limits designated in the following table.

('85 Code, § 7-5) (Ord. 3-86, passed -- ; Am. Ord. 14-09, passed 8-12-14)

(B) In accordance with division (A) of this traffic schedule, the following speed limits shall be established for the following streets or parts of streets:

Name of Street	Speed Limit (mph)	Seasonal Limitations
S.R. 1116 (Ocean Boulevard, East and West), from its western terminus to its eastern terminus	35	April 1 - September 30

(inclusive)	S.R. 1116 from a point 1.76 miles west of NC 130 (Greensboro Street) to a point 5.01 miles west of NC 130 (west end of road)	45	October 1 - March 31
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(inclusive each year)	Delanne Street	15	Dunescape Drive	15	Serenity Lane	15	Windswept Way	15	All other streets	25	And all other streets within the Holden Beach West Subdivision	25	No seasonal limitations
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('85 Code, Ch. VII, Sched. III) (Ord. 3-86, passed -- ; Am. Ord. 91-14, passed 8-5-91; Am. Ord. 93-01, passed 1-4-93; Am. Ord. 96-03, passed 5-20-96; Am. Ord. 99-06, passed 5-10-99; Am. Ord. 99-15, passed 7-26-99; Am. Ord. 99-23, passed 12-13-99; Am. Ord. 02-05, passed 4-8-02; Am. Ord. 14-09, passed 8-12-14) Penalty, see § 70.99

SCHEDULE II. STOP INTERSECTIONS.

(A) Observance signs required. Those intersections described in this schedule are hereby declared to be stop intersections when stop signs are placed, erected, or installed at such intersections, and each driver of a vehicle shall stop in obedience to such signs before entering the intersection, and shall not proceed into or across the through street until he has first determined that no conflict with traffic will be involved.

('85 Code, § 7-6.1) (Ord. 6-90, passed 4-2-90; Am. Ord. 14-09, passed 8-12-14)

(B) In accordance with the provisions of division (A) of this section, the following intersections shall be declared to be stop intersections.

Stop Street Through Street Avenue B
McCray Street Avenue C
Ocean Boulevard, East Avenue D
Ocean Boulevard, East Bendigo Street
Hillside Drive Bendigo Street
Ocean Boulevard, East Blockade Runner Drive
Ocean Boulevard, East Boyd Street
Brunswick Avenue, West Boyd Street
Ocean Boulevard, West Brunswick Avenue, East
Ferry Road Brunswick Avenue, East
Jordan Boulevard Brunswick Avenue, West
High Point Street Brunswick Avenue, West
Jordan Boulevard Burlington Street
Ocean Boulevard, West Carolina Avenue
South Shore Drive Charlotte Street
Ocean Boulevard, West Clipper Ship Drive
Ocean Boulevard, West Cole Street
Ocean Boulevard, West Conch Street
Ocean Boulevard, West Conch Street
Canal Drive Crab Street
Canal Drive Crab Street
Ocean Boulevard, East Davis Street
Brunswick Avenue, West Davis Street
Ocean Boulevard, West Deal Drive
Ocean Boulevard, West Delanne Street
Brunswick Avenue, West Delanne Street
Ocean Boulevard, West Dolphin Drive
Ocean Boulevard, West Dunescape Drive
Windswept Way Durham Street
Ocean Boulevard, West Elizabeth Street
Hillside Drive Elizabeth Street
Ocean Boulevard, East Fayetteville Street
Ocean Boulevard, West Ferry Road
Ocean Boulevard, East Frigate Road
Ocean Boulevard, West Gerda Street
Boyd Street Gerda Street
Roger

StreetGreensboro StreetOcean Boulevard, WestHalstead StreetBrunswick Avenue, EastHalstead StreetCarolina AvenueHalstead StreetOcean Boulevard, EastHalstead StreetSouth Shore DriveHigh Point StreetOcean Boulevard, WestIron Age DriveOcean Boulevard, EastJordan BoulevardOcean Boulevard, EastLion's Paw DriveOcean Boulevard, WestLois AvenueBoyd StreetLois AvenueRoger StreetLoggerhead CourtOcean Boulevard, WestLumberton StreetOcean Boulevard, WestMarlin DriveOcean Boulevard, WestMcCray StreetDunescape DriveMullet StreetCanal DriveMullet StreetOcean Boulevard, EastNeptune DriveBrunswick Avenue, WestNeptune DriveOcean Boulevard, WestQuinton StreetBrunswick Avenue, EastQuinton StreetCarolina AvenueQuinton StreetOcean Boulevard, EastQuinton StreetSouth Shore DriveRaleigh StreetOcean Boulevard, WestRanger StreetHillside DriveRanger StreetOcean Boulevard, EastRecreation area roadSerenity LaneRoger StreetBrunswick Avenue, WestRoger StreetOcean Boulevard, WestRothschild StreetBrunswick Avenue, WestRothschild StreetOcean Boulevard, WestSailfish DriveOcean Boulevard, WestSailors DriveBrunswick Avenue, WestSailors DriveYacht Watch DriveSalicornia CourtOcean Boulevard, WestSalisbury StreetOcean Boulevard, WestSaltation CourtOcean Boulevard, WestSand Dollar DriveOcean Boulevard, WestSand Piper LaneSand Spur LaneSand Spur LaneBrunswick Avenue, WestSand Spur LaneSand Dune LaneSanford StreetOcean Boulevard, WestSchooner DriveOcean Boulevard, WestScotch Bonnet DriveOcean Boulevard, WestSea Gull StreetOcean Boulevard, WestSeaside DriveOcean Boulevard, WestShell DriveOcean Boulevard, WestShrimp StreetCanal DriveShrimp StreetOcean Boulevard, EastSkimmer CourtOcean Boulevard, WestSouth Shore DriveFerry RoadStrawflower CourtOcean Boulevard, WestSunshine LaneOcean Boulevard, WestTarpon DriveOcean Boulevard, WestTuna DriveOcean Boulevard, WestWindjammer DriveOcean Boulevard, WestWindswept WaySerenity LaneYacht Watch DriveBrunswick Avenue, WestYacht Watch DriveRogers Street

('85 Code, Ch. VII, Sched. IV) (Ord. 6-90, passed 4-2-90; Am. Ord. 94-05, passed 3-7-94; Am. Ord. 97-15, passed 10-28-97; Am. Ord. 99-14, passed 7-26-99; Am. Ord. 02-05, passed 4-8-02; Am. Ord. 14-09, passed 8-12-14) Penalty, see § 70.99

CHAPTER 72: PARKING REGULATIONS

Section

- 72.01 Definitions
- 72.02 Parking regulated on public streets and rights-of-way
- 72.03 Parking prohibited at all times
- 72.04 Tow-away zones
- 72.05 Parking for customers only
- 72.06 Handicapped parking

§ 72.01 DEFINITIONS.

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

CONSTRUCTION OR MAINTENANCE VEHICLE. Any vehicle, as defined herein, that is being used for any legitimate service to a private or public facility or residence. Private contractors' vehicles,

delivery vehicles, animal assistance organization vehicles (excluding spectators) and any other vehicle with pre-authorization from the town or police, on a case-by-case basis, shall be considered CONSTRUCTION OR MAINTENANCE VEHICLES.

DAWN. A time one-half hour before sunrise.

DRIVEWAY. An area allowing ingress and egress to private residences that is not open to public vehicular traffic.

DUSK. A time one-half hour after sunset.

FIRE LANE and/or EMERGENCY VEHICLE ACCESS. Any area marked with signage and/or other markings indicating the area is restricted to emergency vehicle parking and/or access only.

PEDESTRIAN CROSSWALK. Any area marked with signage and/or other markings designed to safety allow pedestrian foot traffic to cross the roadway.

STREET or HIGHWAY. G.S. § 20-4.01(13) and (46) define a STREET and/or HIGHWAY as the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The terms HIGHWAY and STREET, and their cognates, are synonymous.

VEHICLE. Any motor conveyance as defined in G.S. § 20-4.01, including but not limited to: passenger motor vehicles, commercial motor vehicles, recreational vehicles, electric vehicles, low speed vehicles, motorcycles, utility vehicles, mopeds and golf carts.

(Ord. 14-09, passed 8-12-14)

§ 72.02 PARKING REGULATED ON PUBLIC STREETS AND RIGHTS-OF-WAY.

(A) Street intersections. It shall be unlawful for any person to park or leave standing any portion of any vehicle, whether attended or unattended, in any street right-of-way intersection or upon any public street right-of-way within 25 feet of any street intersection.

(B) Streets. It shall be unlawful for any person to park or leave standing any portion of any vehicle, whether attended or unattended, on any portion of the designated travel lane of any street.

(C) Crosswalks, sidewalks or access ways. It shall be unlawful for any person to park or leave standing any portion of any vehicle, whether attended or unattended, upon any public right-of-way so as to block any crosswalk, sidewalk or access way designated and set apart for use by pedestrians.

(D) Driveways and mailboxes. It shall be unlawful for any person to park or leave standing any portion of any vehicle, whether attended or unattended, upon any public street right-of-way so as to block any driveway or mailbox.

(E) Opposing traffic. It shall be unlawful for any person to park or leave standing any portion of any vehicle, whether attended or unattended, upon any public street right-of-way facing opposing traffic.

(F) Fire hydrants; fire lane. It shall be unlawful for any person to park or leave standing any portion of any vehicle, whether attended or unattended, upon any public street right-of-way nearer than 15 feet to any fire hydrant, or in a fire lane or emergency vehicle access.

(G) No parking zones or areas. It shall be unlawful for any person to park or leave standing any portion of any vehicle, whether attended or unattended, in any area described in 72.03 of this chapter.

(H) Handicapped. It shall be unlawful for any person to park or leave standing any portion of any vehicle, whether attended or unattended, to occupy any portion of a parking space reserved as handicapped, without the proper license plate, placard, or other evidence that a handicapped permit has been issued by the appropriate authority.

(I) Signs and markers. The Town Manager shall cause suitable signs and markers to be erected or placed at the locations designated to notify the public of the restrictions imposed by this section. No person shall install, or otherwise cause to be installed, placed or erected, any signs, markings or other objects that would restrict parking in any area not specifically restricted by this chapter or any other town ordinance.

(J) Exception. The prohibitions of § 72.03 shall not apply to construction and maintenance worker vehicles while performing legitimate services on that location, except:

- (1) No vehicle may be left parked over night (from dusk to dawn); and
- (2) All vehicles must be as far off the public street rights-of-way as possible; and
- (3) No vehicle may be left parked on any portion of any roadway; and
- (4) No vehicle may be parked on portion of the sidewalk.

All other parking regulations shall be enforced.

(K) Additional violation. It shall be a violation of this chapter to leave standing any portion of a vehicle in a lawful parking area between the hours of 2:00 a.m. and 5:00 a.m.

('85 Code, § 7-3.2) (Ord. 9-84, passed - - ; Am. Ord. 95-02, passed 2-6-95; Am. Ord. 95-11, passed 6-21-95; Am. Ord. 02-05, passed 4-8-02; Am. Ord. 14-09, passed 8-12-14; Am. Ord. 18-07, passed 4-17-18)
Penalty, see § 70.99

§ 72.03 PARKING PROHIBITED AT ALL TIMES.

(A) No person shall park a vehicle at any time upon any of the streets or parts thereof described in this chapter.

('85 Code, § 7-3.1) (Ord. 9-84, passed - - ; Am. Ord. 3-85, passed - - ; Am. Ord. 14-85, passed - -)

(B) In accordance with the provisions of division (A) of this section, no person shall park a vehicle at any time upon any of the following described streets or parts of streets. These prohibitions shall not apply to the temporary parking of emergency, governmental, public and private utility and private vehicles being used during the provision of emergency or other bona fide governmental or public or private utility service.

Name of Street Location All streets that intersect directly with Ocean Boulevard East and West from the centerline of Ocean Boulevard north and or south for 125 feet; unless specifically mentioned otherwise herein. Avenue A No parking within 25 feet of any intersection with any street Avenue B No parking within 25 feet of any intersection with any street Bendigo Street No parking within 25 feet of any intersection with any street Brunswick Avenue West No parking from Rothschild Street, west to a point at the northwestern corner of the Holden Beach Chapel parcel #232OD016. Prohibition applies to the south side of the street only. Cole Street From centerline of Ocean Boulevard West northward for 30 feet Davis Street From centerline of Ocean Boulevard West northward for 30 feet Dunescape Drive No parking within 25 feet of any intersection with any street Elizabeth Street No parking within 25 feet of any intersection with any street Ferry Road On the south side of Ocean Boulevard East, no parking within 25 feet of any intersection with any street Holden Street No parking within 25 feet of any intersection with any street McCray Street No parking:

- 1) On north side of street, from Dunescape Drive to a point 125 feet east from the centerline of Dunescape Drive at McCray Street; and
- 2) On south side of street, from the centerline of Dunescape Drive at McCray Street to the eastern terminus; and
- 3) Avenue A and the eastern terminus of Ocean Boulevard East; and
- 4) Ocean Boulevard East Extension. No parking on south side of street from Avenue A east to Dunescape Drive; and
- 5) Rothschild Street Parking, except north of Brunswick Avenue West. Ocean Boulevard East
Ocean Boulevard West

Exception: Beginning at Jordan Boulevard to its eastern terminus where state maintenance ends

Beginning at Jordan Boulevard to its western terminus, excluding the Holden Beach West gated subdivision

The southern right-of-way from a point directly across from the western right-of-way of Burlington Street, to a point directly across from the eastern right-of-way of Durham Street Ranger Street (extended southward through right-of-way of Hillside Drive) No parking within 25 feet of any intersection with any street

Exception: All parking shall be designated by signs. Rothschild Street No parking, except north of Brunswick Avenue West.

(C) No person shall park a boat trailer at any time in the municipal parking area under the bridge. This area is described as the area between Jordan Boulevard north from Carolina Avenue, and west from the easternmost point of Jordan Boulevard for a distance of 200 feet on any roadway surface or right-of-way.

('85 Code, Ch. VII, Sched. I) (Ord. 6-86, passed 4-18-86; Am. Ord. 94-08, passed 4-4-94; Am. Ord. 94-16, passed 7-20-94; Am. Ord. 95-08, passed 6-5-95; Am. Ord. 95-17, passed 9-20-95; Am. Ord. 96-04, passed 6-3-96; Am. Ord. 97-15, passed 10-28-97; Am. Ord. 00-07, passed 3-13-00; Am. Ord. 02-05, passed 4-8-

02; Am. Ord. 05-07, passed 7-25-05; Am. Ord. 14-09, passed 9-11-14; Am. Ord. 16-10, passed 6-21-16; Am. Ord. 16-13, passed 8-16-16) Penalty, see § 70.99

§ 72.04 TOW-AWAY ZONES.

Vehicles may be towed at the discretion of any law enforcement officer in accordance with all current North Carolina State Laws covered under Chapter 14, Chapter 20 or other applicable statute of the North Carolina General Statutes.

(Ord. 14-09, passed 9-11-14)

§ 72.05 PARKING FOR CUSTOMERS ONLY.

Parking shall be permitted on such streets and at such locations, as are specified in this section for customers of businesses immediately abutting such locations, and shall not impede the flow traffic.

('85 Code, § 7-3-4) (Ord. 14-09, passed 9-11-14)

§ 72.06 HANDICAPPED PARKING.

Parking for handicapped only shall be permitted as indicated by properly installed signs and/or markings in accordance with all current ADA, American Disability Act, federal guidelines and state law.

(Ord. 14-09, passed 9-11-14) Penalty, see § 70.99

TITLE IX: GENERAL REGULATIONS

Chapter

- 90. ANIMALS
- 91. FIRE PREVENTION
- 92. NUISANCES
- 93. JUNKED VEHICLES AND EQUIPMENT
- 94. BEACH REGULATIONS
- 95. STREETS
- 96. PERSONAL WATERCRAFT SAFETY

CHAPTER 90: ANIMALS

Section

General Provisions

- 90.01 Definitions
- 90.02 Bird sanctuary
- 90.03 Keeping or using livestock prohibited

90.04 Wild and exotic animals

Keeping Animals

90.20 Responsibilities of owners

90.21 Confinement of female pets in heat

90.22 Teasing or molesting animals

90.23 Abandonment of pets

90.24 Dangerous pets

90.25 Muzzling

90.26 Impoundment

90.27 Dog park regulations

90.99 Penalty

GENERAL PROVISIONS

§ 90.01 DEFINITIONS.

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

DANGEROUS DOG. Any dog deemed dangerous in accordance with G.S. Chapter 67, Article 1A - Dangerous Dogs.

DOG. Both male and female, more than three months old.

EXOTIC ANIMALS. Exotic animals are dangerous because of their vicious propensities and capabilities; the gravity of harm inflicted by their attack; and unpredictability despite attempts at domestication. The category of EXOTIC ANIMALS includes, but is not limited to: reptiles which are poisonous or constricting; nonhuman primates weighing greater than 25 pounds; members of the feline family other than domestic house cats, including, but not limited to, lions, tigers and leopards; and reptiles which are a member of the crocodile family, including, but not limited to, alligators and crocodiles.

HEAD OF HOUSEHOLD. The person who maintains the household or, if no one person maintains the house, the oldest person residing in that household.

KEEPER. One who care for an animal belonging to another.

OWNER. Any person owning, keeping, or harboring a pet, and for the purpose hereof the head of a household shall be deemed to be the OWNER in respect to any pet owned, kept, or harbored on the premises by any person residing in that household.

PET. Any domesticated animal such as dog, cat or bird.

VICIOUS OR DANGEROUS PET. Any pet which has bitten one or more persons without provocation, or one in which the propensity to attack humans exists, and such propensity is known or ought reasonably be known to the owner.

WILD ANIMALS. Any animals not normally domesticated. For the purposes of this section, WILD ANIMALS are deemed inherently dangerous. They are deemed as such because of their vicious propensities and capabilities; the likely gravity of harm inflicted by their attack; and unpredictability despite attempts at domestication. The category of WILD ANIMALS includes, but is not limited to: members of the Canidae family such as wolves, coyotes and hybrids of those breeds; members of the Urdidae family which includes any members of the bear family or hybrids thereof; and members of the Felidae family such as wild cats, cougars, mountains lions or panthers.

('85 Code, § 5-1.1) (Ord. 10.1-88, passed 8-1-88; Am. Ord. 02-08, passed 5-27-02; Am. Ord. 14-15, passed 12-9-14; Am. Ord. 16-06, passed 2-16-16)

§ 90.02 BIRD SANCTUARY.

(A) There is already enacted by § 130.01 of this code of ordinances, regulations prohibiting the discharge of firearms or hunting within the corporate limits of the town, and the G.S. § 160A-188 enables a town to create and establish a bird sanctuary within the corporate limits.

('85 Code, § 5-2.1)

(B) It shall be unlawful for any person to hunt, kill, trap, or otherwise take any birds within the town limits, except pursuant to a permit issued under G.S. § 113-127 et seq.

('85 Code, § 5-2.2)

(Ord. 10, passed -- ; Am. Ord. 93-07, passed 3-1-93) Penalty, see § 90.99

§ 90.03 KEEPING OR USING LIVESTOCK PROHIBITED.

(A) It shall be unlawful to keep or maintain any cow, horse, pony, mule, sheep, goat, pig, poultry, or other livestock on any lot or within any pen, stables, or other enclosure or building within the corporate limits.

('85 Code, § 5-3.1)

(B) It shall be unlawful to bring, transport, or cause to be transported into the town, or use, manage, or control in any manner whatsoever any cow, horse, pony, mule, sheep, goat, pig, poultry, or other livestock within the corporate limits of the town.

('85 Code, § 5-3.2) (Ord. 1, passed -- ; Am. Ord. 02-08, passed 5-27-02; Am. Ord. 11-07, passed 5-10-11) Penalty, see § 90.99

§ 90.04 WILD AND EXOTIC ANIMALS.

(A) Wild and exotic animals are dangerous to humans and property. It is unlawful to keep, harbor, breed or trade any wild or exotic animal for any purpose within the corporate limits.

(B) Any wild or exotic animal which is kept by any person in contravention of this section shall be taken up and impounded by the Animal Control Officer for the protection and health of the animal and/ or for the protection of the public.

(1) Any animal impounded pursuant to this section will be held for three days for the owner to claim it pursuant to division (B)(2) of this section, but if the animal cannot be taken up safely by the Animal Control Officer, or if proper and safe housing cannot be found for the animal, the Animal Control Officer can immediately destroy the animal.

(2) The owner or harbinger of the animal can reclaim the animal if the person can satisfy the Animal Control Officer that a safe transfer of the animal to an appropriate location out of the corporate limits has been arranged.

(3) If no owner or harbinger can be located or will claim the animal within three days after impoundment, the Animal Control Officer may sell, adopt or euthanize the animal at the discretion of the Animal Control Officer.

(4) All costs of impoundment and care of the animal will be charged to its owner or harbinger regardless of whether the animal is claimed by or returned to said owner or harbinger; and in the event the animal is reclaimed pursuant to division (B)(2) of this section such costs shall be paid in full prior to the release of the animal.

(Ord. 14-15, passed 12-9-14) Penalty, see § 90.99

KEEPING ANIMALS

§ 90.20 RESPONSIBILITIES OF OWNERS.

(A) It shall be unlawful for any owner or keeper to allow:

(1) A dog off the premises of the owner and not under the control of the owner, a member of his immediate family, or other responsible person, either by leash, cord, or chain.

(2) Any pet to be on the strand during the hours of 9:00 a.m. through 5:00 p.m. from May 20 through September 10.

(3) Any pet to injure or threaten to injure any person, another pet, or any wildlife.

(4) Any pet to damage property, including lawns, plants, shrubs, or trees.

(5) Excrement deposited by a pet to remain if the excrement is deposited on the strand, on maintained yard areas of persons other than its owner, or upon any public street, beach accessway, parking area, or campground.

(a) Any person owning, harboring, walking, in possession of or in charge of a dog, which defecates on public property, public park property, public right-of-way property or any private property, including vacant lots, without the permission of the private property owner, shall remove all feces immediately after it is deposited by the dog. All feces removed in accordance with this section shall be placed in a suitable bag or other container that closes and disposes of in a lawful manner.

(b) Any person while harboring, walking, in possession of or in charge of a dog on public property, public park property, public right-of-way or any private property, including vacant lots, without the permission of the private property owner, shall have in his or her possession bags or containers that close, which are suitable for removing feces deposited by the dog. Said person shall have a suitable quantity of bags or containers to remove all feces deposited by the dog.

(c) The provisions of this section shall not apply to blind persons using dogs as guides.

(d) Violation of this section shall be punishable as described in § 90.99.

(6) Any pet to upset or otherwise disturb garbage or trash containers.

(7) Any pet to bark, cry, or otherwise habitually or repeatedly emit its natural sounds in such a manner or to such an extent that it is a public nuisance.

('85 Code, § 5-1.2) (Ord. 10.1-88, passed 8-1-88; Am. Ord. 94-23, passed 10-3-94; Am. Ord. 07-02, passed 2-13-07)

(B) It shall be unlawful for any owner to fail to provide his pet with sufficient good and wholesome food and water, proper shelter and protection from the weather, veterinary care when needed to prevent suffering, and with humane care and treatment. It shall be unlawful for any person to beat, cruelly ill-treat, torment, overload, overwork, or otherwise abuse any pet.

('85 Code, § 5-1.10) (Ord. 10.1-88, passed 8-1-88) Penalty, see § 90.99

§ 90.21 CONFINEMENT OF FEMALE PETS IN HEAT.

The owner of any female pet shall, when such pet is in heat, confine the pet in a building or secure enclosure in such manner that she will not be in contact with another pet or create a nuisance by attracting other pets; provided, however, this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner of the animals being bred.

('85 Code, § 5-1.3) (Ord. 10.1-88, passed 8-1-88) Penalty, see § 90.99

§ 90.22 TEASING OR MOLESTING ANIMALS.

It shall be unlawful for any person to tease, molest, bait, or in any way bother any pet not belonging to such person or legally under the control of such person.

('85 Code, § 5-1.9) (Ord. 10.1-88, passed 8-1-88) Penalty, see § 90.99

§ 90.23 ABANDONMENT OF PETS.

It shall be unlawful for the owner of any pet to abandon that pet within the town.

('85 Code, § 5-1.4) (Ord. 10.1-88, passed 8-1-88) Penalty, see § 90.99

§ 90.24 DANGEROUS PETS.

(A) When in the judgement of the County Animal Control Officer or his or her agent, or by a town police officer, it is determined that any pet found at large that is dangerous, fierce, vicious or

represents a threat to the safety or health of members of the public, such pet may be slain forthwith by the Animal Control Officer, agent or police officer.

(B) It is unlawful to keep any dangerous dog for any purpose within the corporate limits of the town. Any dangerous dog which is kept by any person after said person has been afforded the due process set forth in G.S. § 67-4.1(c) shall be taken up and impounded by the Town Animal Control Officer or his or her designee for the protection and health of the animal and/ or for the protection of the public.

(1) Any animal impounded pursuant to this section will be held for three days for the owner to claim it pursuant to division (B)(2) of this section , but if the animal cannot be taken up safely by the Animal Control Officer, or if proper and safe housing cannot be found for the animal, the Animal Control Officer can immediately destroy the animal.

(2) The owner or harborer of the animal can reclaim the animal if the person can satisfy the Animal Control Officer that a safe transfer of the animal to an appropriate location out of the corporate limits has been arranged.

(3) If no owner or harborer can be located or will claim the animal within three days after impoundment, the Animal Control Officer may sell, adopt or euthanize the animal at the discretion of the Animal Control Officer.

(4) All costs of impoundment and care of the animal will be charged to its owner or harborer regardless of whether the animal is claimed by or returned to said owner or harborer; and in the event the animal is reclaimed pursuant to division (B)(2) of this section such costs shall be paid in full prior to the release of the animal.

('85 Code, § 5-1.8) (Ord. 10.1-88, passed 8-1-88; Am. Ord. 16-06, passed 2-16-16)

§ 90.25 MUZZLING.

Whenever it becomes necessary to safeguard the public from the dangers of rabies, the Mayor, if he deems it necessary, shall issue a proclamation ordering every person owning or keeping a pet to confine the pet on the owner's premises unless such pet shall have a muzzle of sufficient strength to prevent it from biting any person or another pet.

('85 Code, § 5-1.5) (Ord. 10.1-88, passed 8-1-88) Penalty, see § 90.99

§ 90.26 IMPOUNDMENT.

(A) Any pet which does not wear a current identification, is off the premises of the owner and not under the control of the owner, a member of his immediate family or other responsible person may be taken by the County Animal Control Officer or his agent. The pet then becomes the responsibility of the County and its further disposition shall be under the applicable county or state laws. ('85 Code, § 5-1.6)

(B) In addition to, or in lieu of impounding a pet, a police officer may issue to the known owner of the pet a notice of violation of this section. Such notice shall impose upon the owner of the pet a penalty of \$25. The penalty may be paid at Town Hall within 72 hours from the receipt of the notice; provided however, in the event such penalty is not paid within the time period prescribed, a criminal

warrant may be initiated against the owner and, upon conviction of a violation of this section, the owner shall be punished as provided for by law. ('85 Code, § 5-1.7)

(Ord. 10.1-88, passed 8-1-88) Penalty, see § 90.99

§ 90.27 DOG PARK REGULATIONS.

Failure to comply with the following rules may result in ejection from the facility and could result in fines, arrest or permanent banishment from the park.

(A) Dogs must be supervised by owners at all times. Dog owners must be at least 18 years of age. Children under the age of ten are not allowed inside the gates of the dog park.

(B) Small and large areas are provided. Dog owners should use the appropriate area for their dogs.

(C) Owners are required to clean up and properly dispose of fecal waste from their dogs.

(D) No smoking, food, bones or dog chews are allowed within the dog park.

(E) Puppies using the park must be at least four months old.

(F) Aggressive dogs are prohibited. A dog exhibiting aggressive behavior should be removed from the facility immediately by its owner.

(G) Dogs are allowed to roam off-leash inside the facility. However, law requires that dogs must be on a leash before leaving the facility or while entering the park.

(H) Proper vaccinations are required per Article II, Section 2A of the Brunswick County Ordinances. Dogs must wear a collar with current registration and vaccination tags at all times while using the park.

(I) All town animal laws and ordinances apply to this facility.

(J) All bites must be reported to the Brunswick County Animal Services Office.

(K) In case of an emergency, call 911 to dispatch an Animal Control Officer.

(L) Owners assume all liabilities for their dogs' actions.

(Ord. 14-07, passed 6-10-14) Penalty, see § 90.99

§ 90.99 PENALTY.

(A) Criminal. Any person who violates any provision of this chapter shall be subject to the penalty provided in § 10.99(A) of this code of ordinances.

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, with the exception of § 90.20(A)(1), the civil fine for violation of any provision of this chapter shall be \$50 per offense. The civil fine for violation of § 90.20(A)(1) shall be \$100 per offense.

('85 Code, §§ 5-1.11, 5-2.4, 5-3.3) (Ord. 1, passed -- ; Ord. 10, passed -- ; Ord. 10.1-88, passed 8-1-88; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 12-03, passed 5-8-12)

CHAPTER 91: FIRE PREVENTION

Section

Fire Prevention Code

- 91.01 Standard Fire Prevention Code adopted
- 91.02 Amendments to the Standard Code
- 91.03 Copies of Code filed with Town Clerk

Open Burning

- 91.15 Prohibited fires
- 91.16 Recreational fires

Fire Protection and Prevention

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- 91.35 Copy on file
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- 91.44 Information required with applications
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- 91.46 Additional data
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- 91.48 Revocation

- 91.49 Nontransferable
- 91.50 Fees
- 91.51 Civil penalties
- 91.52 Hazards and violations
- 91.53 How to report a hazard or violation
- 91.54 Required information for complaints
- 91.55 Records
- 91.56 Plan review fees
- 91.57 Inspection fees (new construction)
- 91.58 Inspection fees (existing buildings)

91.99 Penalty

Cross-reference:

Fireworks provisions, see §§ 130.15 through 130.17

FIRE PREVENTION CODE

§ 91.01 STANDARD FIRE PREVENTION CODE ADOPTED.

The 1991 edition of the North Carolina Fire Prevention Code (1988 Standard Fire Code with North Carolina amendments), as adopted by the North Carolina Building Code Council, and as amended, is hereby adopted by reference as fully as though set forth herein, as the fire prevention code of the town.

('85 Code, § 8-1.6) (Ord. 91-04, passed 4-8-91)

Cross-reference:

Standard codes adopted, see § 151.01

§ 91.02 AMENDMENTS TO THE STANDARD CODE.

Amendments to the Standard Fire Prevention Code adopted by reference in § 91.01 of this chapter, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time such amendments are filed with the Building Inspector as provided in § 91.03 of this chapter.

('85 Code, § 8-1.7) (Ord. 91-04, passed 4-8-91; Am .Ord. 00-15, passed 6-26-00)

§ 91.03 COPIES OF CODE FILED WITH TOWN CLERK.

An official copy of each regulatory code adopted herein, and official copies of all amendments thereto, shall be kept on file in the office of the Town Clerk and Building Inspector. Such copies shall be the official copies of the code and amendments.

('85 Code, § 8-1.8) (Ord. 91-04, passed 4-8-91)

§ 91.13 DEFINITIONS.

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

CHARCOAL BURNER. A stove that burns charcoal as fuel.

OPEN-FLAME DEVICES. Portable or non-portable flame devices fueled by flammable or combustible gases or liquids that are not enclosed or installed in such a manner as to prevent the flame from contacting combustible material.

COMBUSTIBLE CONSTRUCTION Capable of burning, generally in air under normal conditions of ambient temperature and pressure.

§ 91.15 PROHIBITED FIRES. It shall be unlawful for any person or business to set or cause to be set any fire within the town.

Exception: § 91.17 and 91.17 (A)

('85 Code, § 3-4.1) (Ord. 13-84, passed - - ; Am. Ord. 90-15, passed 10-1-90; Am. Ord. 02-08, passed 5-27-02) Penalty, see § 91.99

§ 91.16 RECREATIONAL FIRES.

Recreational fires, except those confined within containers manufactured specifically for such purpose, shall not be allowed.

('85 Code, § 3-4.3) (Ord. 13-84, passed - - ; Am. Ord. 02-08, passed 5-27-02) Penalty, see § 91.99

§ 91.17 Open-flame Devices. Charcoal burners and other open-flame devices shall not be operated on or within 10 feet (3048 mm) of combustible construction. Penalty, see § 91.99

§ 91.17 (A) Exception – Propane fueled grills.

§ 91.18 All Open and Closed Flame devices, and Cooking Devices shall not be operated or put into use in any public areas or on private dunes.

§ 91.99 PENALTY

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided, shall be subject to the penalty provided in § 10.99 of this code of ordinances.

(B) (1) Criminal. In accordance with § 10.99(A) of this code of ordinances, any person who violates any provision of §§ 91.15, 91.16 and 91.17 and 91.18 of this chapter shall be subject to a fine not to exceed \$500.

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[\(2\) Civil. In accordance with § 10.99\(B\) of this code of ordinances, any person who violates any provision of §§ 91.15, 91.16 and 91.17 and 91.18 of this chapter shall be subject to a civil fine of \\$500.](#)

OPEN BURNING

§ 91.15 PROHIBITED FIRES.

It shall be unlawful for any person or business to set or cause to be set any fire within the town.

('85 Code, § 3-4.1) (Ord. 13-84, passed -- ; Am. Ord. 90-15, passed 10-1-90; Am. Ord. 02-08, passed 5-27-02) Penalty, see § 91.99

§ 91.16 RECREATIONAL FIRES.

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('85 Code, § 3-4.3) (Ord. 13-84, passed -- ; Am. Ord. 02-08, passed 5-27-02) Penalty, see § 91.99

FIRE PROTECTION AND PREVENTION

§ 91.30 TITLE.

These regulations shall be known as the "Fire Protection and Prevention Ordinance of the Town of Holden Beach, North Carolina," and may be cited as such and referenced to herein as "the code".

(Ord. 11-01, passed 2-8-11)

§ 91.31 INTENT.

It is the intent of the code to prescribe regulations consistent with nationally recognized good practice for the safeguarding of life and property from the hazards of fire and explosion within the jurisdiction of the town. The code shall not be construed to hold the town responsible for any damage to persons or property by reason of the inspection or re-inspection authorized herein, failure to inspect or re-inspect or the permits issued or denied as herein provided, or by reason of the approval or disapproval of any equipment authorized herein.

(Ord. 11-01, passed 2-8-11)

§ 91.32 CODE AND AMENDMENTS.

For the purpose of prescribing regulations governing conditions hazardous to life and property from fire, explosion, or exposure to hazardous materials, the North Carolina Fire Prevention Code and appendices of the code, along with the North Carolina Amendments of the code are hereby adopted by reference and are set forth herein as the fire code for the town. Any Amendments to the aforementioned code, which are adopted, amended, and published by the North Carolina Building Code Commissioners, shall be effective in the town at the time such amendments are declared in effect by the North Carolina State Building Code Council.

(Ord. 11-01, passed 2-8-11)

§ 91.33 APPLICABILITY.

The provisions of this subchapter shall apply to all buildings and occupancies referenced in the North Carolina Building Code, Fire Prevention Code and any other building referenced by this subchapter. The provisions of this code shall apply equally to existing as well as new buildings.

(Ord. 11-01, passed 2-8-11)

§ 91.34 INAPPLICABILITY OF CODE.

Where the North Carolina Fire Prevention Code or its references are inapplicable to a specific occupancy of process, the appropriate NFPA (National Fire Protection Association) or other nationally recognized standard shall be used.

(Ord. 11-01, passed 2-8-11)

§ 91.35 COPY ON FILE.

A copy of the fire protection and prevention ordinance, and all technical codes and standards adopted by reference shall be available for public inspection at the Town of Holden Beach Inspections Department.

(Ord. 11-01, passed 2-8-11)

§ 91.36 JURISDICTION.

In accordance with the general statutes of the State of North Carolina and the provisions of the Town of Holden Beach Fire Protection and Prevention Ordinance, it will be the responsibility of the Town of Holden Beach Inspections Department (herein the "Department" or "Inspections Department") to issue all fire prevention permits, conduct all fire inspections for the town and enforce the provisions of the North Carolina Building Code, Fire Prevention Code and the Town Holden Beach of Fire Protection and Prevention Ordinance in the incorporated areas of the town.

(Ord. 11-01, passed 2-8-11)

§ 91.37 CONTRACTING FOR SERVICES.

When a Brunswick County municipality is legally obligated to provide fire inspection services to a specified area and cannot do so, such entity may contract with the Town of Holden Beach to provide these services. Any area contracted to the Town of Holden Beach for fire inspection services shall be bound to all the provisions of the Town of Holden Beach Fire Protection and Prevention Ordinance.

(Ord. 11-01, passed 2-8-11)

§ 91.38 DEFINITIONS AND ABBREVIATIONS.

(A) For the purpose of this subchapter, certain abbreviations, terms, phrases, words, and their derivatives shall be construed as set forth in this and following sections.

(B) Words used in the present tense include the future. Words in the masculine gender include the feminine and neuter. Words in the feminine and neuter gender include the masculine. The singular number includes the plural and the plural includes the singular.

(Ord. 11-01, passed 2-8-11)

§ 91.39 TERMS NOT DEFINED.

Where terms are not defined in this code and are defined in the International Fire Code, International Building Code, International Fuel Gas Code, National Electric Code, International Mechanical Code or International Plumbing Code, such terms shall have the meanings ascribed to them as in those codes. Where Terms are not defined through the methods authorized, such terms shall have ordinarily accepted meanings such as the context implies.

(Ord. 11-01, passed 2-8-11)

§ 91.40 FREQUENCY OF INSPECTION.

Inspection schedules of existing buildings shall be in accordance with applicable provisions of the North Carolina Fire Prevention Code. The fee for such inspections shall be as established by resolution adopted by the Town Commissioners from time to time.

(Ord. 11-01, passed 2-8-11)

§ 91.41 DEFINITION.

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

PERMIT. An official document issued by the Town of Holden Beach Inspections Department authorizing performance of a specified activity, use, operation or installation. This includes, but is not limited to the following types: use permit, special use permit, burning permit, operational permit, construction permit and permits for fire protection systems, storage tanks, and any other items needing a permit.

(Ord. 11-01, passed 2-8-11)

§ 91.42 REQUIRED PERMITS.

(A) In accordance with the detailed requirements of the town, an operational permit shall be obtained from the Inspections Department pursuant to the procedure set forth in the North Carolina Fire Prevention Code, Chapter 1, § 105, along with the North Carolina amendments and this subchapter. An operational permit must be obtained from the town's Inspections Department in the following situations:

Operational Permits

Code Section Description
105.6.1 Aerosol products
105.6.2 Amusement buildings
105.6.3 Aviation facilities
105.6.4 Carnivals and fairs

105.6.5Battery systems105.6.6Cellulose nitrate film105.6.7Combustible dust-producing operations105.6.8Combustible fibers (except agriculture)105.6.9Compressed gases105.6.10Covered mall buildings105.6.11Cryogenic fluids105.6.12Cutting and welding105.6.13Dry cleaning plants105.6.14Exhibits and trade shows105.6.15Explosives105.6.16Fire hydrants and valves105.6.17(1)Flammable and combustible liquids pipeline105.6.17(2)Flammable and combustible liquids Class I storage105.6.17(3)Flammable and combustible liquids Class II storage105.6.17(4)Flammable and combustible liquids removal105.6.17(5)Flammable and combustible liquids production, processing, transportation, storage, dispensed, used105.6.17(6)Install, alter, remove, or abandon flammable or combustible liquid tanks105.6.17 (7)Change the contents of a flammable or combustible liquid tank105.6.17 (8)Manufacture, process, blend, or refine flammable or combustible liquids105.6.17 (9)To engage in the dispensing of liquid fuels into the fuel tanks of motor vehicles at commercial, industrial, governmental, or manufacturing establishments

105.6.17(10)To utilize a site for the dispensing of liquid fuels from tank vehicles into the fuel tanks of motor vehicles at commercial, industrial, governmental, or manufacturing establishments105.6.18Floor finishing using Class I or II liquids105.6.19Fruit and crop ripening105.6.20Fumigation and thermal insecticidal fogging105.6.21Hazardous materials storage, transport, dispense, use and handling105.6.22Hazardous materials facilities105.6.23High-piled storage105.6.24Hot work105.6.25Industrial ovens105.6.26Lumber yards and woodworking plants105.6.27Liquid or gas fueled vehicles or equipment in assembly buildings105.6.28L.P. gas bulk storage105.6.29Magnesium105.6.30Miscellaneous combustible storage105.6.32Open flames and candles105.6.33Organic coatings105.6.34Operation of places of assembly105.6.35Private fire hydrants removal from service, use or operation105.6.36Pyrotechnic special effects materials105.6.37Pyroxylin plastics105.6.38Regulated refrigeration equipment105.6.39Repair garages and service stations105.6.40Rooftop heliports105.6.41Spraying or dipping operations

105.6.42Storage of scrap tires and tire byproducts105.6.43Temporary membrane structures, tents and canopies105.6.44Tire-rebuilding plants105.6.45Waste handling105.6.46Wood products* Fees for these permits shall be as established by resolution of the Town Commissioners adopted from time to time. Churches and synagogues shall be exempt from operational permitting fees.

(B) These permits will only be issued during a new construction situation. The permit will be valid for the same period as the inspection schedule in the North Carolina Fire Prevention Code § 106 and the renewal will be the payment of the inspection fee for existing buildings.

(C) An existing building may be issued an operational permit for the above situations; the permit will be included in the fee for the inspection of an existing building in accordance with § 106.

(Ord. 11-01, passed 2-8-11)

§ 91.43 RENEWAL.

All permits are valid for a period of one, two, or three years and must be renewed in accordance with the North Carolina Fire Prevention Code § 105. Renewal fees will be based on the fee schedule adopted by the Town Commissioners from time to time.

(Ord. 11-01, passed 2-8-11)

§ 91.44 INFORMATION REQUIRED WITH APPLICATIONS.

An application for a permit shall be filed with the Inspections Department on a form furnished for that purpose provided by the town and shall include the applicant's answers in full to inquiries set forth in such forms. Applications for permits shall be accompanied by appropriate fees and such data as may be required by the Inspections Department.

(Ord. 11-01, passed 2-8-11)

§ 91.45 CONTRACTOR'S LICENSE REQUIRED.

When the General Statutes require that general construction, plumbing, mechanical, electrical, fire protection, or gas work be performed by an appropriately licensed individual(s), no permit for such type work shall be issued to an unlicensed person or firm.

(Ord. 11-01, passed 2-8-11)

§ 91.46 ADDITIONAL DATA.

The Inspections Department may require details, computations, stress diagrams, professional certification and other data necessary to describe the construction or installation of a system.

(Ord. 11-01, passed 2-8-11)

§ 91.47 PLAN REVIEW.

Plan review shall apply to all buildings and occupancies as set forth in the North Carolina Building Code and the North Carolina Fire Prevention Code. This review will be for the determination of compliance with this subchapter and the Fire Code, and shall be completed within a reasonable time of receipt of plans. If the Inspections Department's review of these plans indicates the need for a fire permit, as outlined in this subchapter and the Fire Code, or if there are corrections to be made to the plans, the building permit shall not be issued until the fire permit has been applied for or until the corrections are made to the plans. This plan review shall not apply to one and two family dwellings. The following is a list of the applicable plan reviews:

PLAN REVIEW AND ~~INSPECTIONS~~[Small Inspection Small](#) plan review < 2,500 square feet

(includes 1 inspection)Basic plan review 2,500<10,000 square feet

(includes 1 inspection)Intermediate plan review 10,001 - 25,000 square feet (includes 1

inspection)Complex plan review 25,001 - 100,000 square feet (includes 2 inspections)Special plan review >100,001 square feet

(includes 2 inspections)Small and Basic re-inspection (each trip)Intermediate re-inspection (each trip)

Complex re-inspection (each trip) Special re-inspection (each trip)

(Ord. 11-01, passed 2-8-11)

§ 91.48 REVOCATION.

The Inspections Department may revoke a permit upon determination that the permit holder, or any agent or employee of the permit holder, has violated any provision of the North Carolina Building

Code, Fire Prevention Code or of this subchapter, or any stated condition of the permit. The Inspections Department shall advise the permit holder, in writing, of the reason for the revocation.

(Ord. 11-01, passed 2-8-11)

§ 91.49 NONTRANSFERABLE.

Any permits issued shall not be transferable. Permits shall be valid only as specified on the permit for the time period, use, and/or project specified. Permits shall be valid only for the individual listed on the permit application.

(Ord. 11-01, passed 2-8-11)

§ 91.50 FEES.

Inspection fees for plan review and inspections of new construction shall be as established by resolution of the Town Commissioners adopted from time to time.

(Ord. 11-01, passed 2-8-11)

§ 91.51 CIVIL PENALTIES.

(A) Any person who shall violate any of the provisions of the North Carolina Fire Prevention Code or this subchapter adopted by the Town Commissioners, or fail to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any statement of specifications or plans submitted and approved thereunder or any certificate or permit issued thereunder, shall be subject to penalties as specified below as approved by the town. These penalties shall be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalties within a period of 30 days after the issuance of the notice of violation. The notice of violation shall be in writing, signed by the Inspections Department and/or the Fire Official charged with the enforcement of the North Carolina Fire Prevention Code or this subchapter, and shall be delivered or mailed to the offender either at his or her residence or place of business or at the location where the violation occurred. Each day's continuing violation shall be a separate and distinct offense. Any action to recover such penalties may be joined in an action for appropriate equitable remedy, including injunctions and orders of abatement and including an action to recover damages by the town in abating, correcting, limiting, and otherwise dealing with the harmful effects of the offending action.

Civil Penalty ~~Schedule First~~ Schedule First offense \$100 Second offense \$300 Third and subsequent offenses \$500

(B) Violation(s) consisting of locked and/or blocked exits, impedance of the occupants to quickly evacuate a structure or premise, or conditions posing imminent danger to the occupants on or about the premises or violation(s) of occupancy limits established pursuant to the North Carolina State Building and/or Fire Code must be corrected during the time of the inspection if at all possible.

(Ord. 11-01, passed 2-8-11)

§ 91.52 HAZARDS AND VIOLATIONS.

The Inspections Department and/or Fire Department will respond to any complaint regarding a life safety hazard, illegal burning, and any other fire code violation or fire ordinance violation in the town.

(Ord. 11-01, passed 2-8-11)

§ 91.53 HOW TO REPORT A HAZARD OR VIOLATION.

A hazard or violation may be reported at any time. They may be reported directly to the Inspections Department Office or the Tri-Beach Volunteer Fire Department Inc.

(Ord. 11-01, passed 2-8-11)

§ 91.54 REQUIRED INFORMATION FOR COMPLAINTS.

All complaints will require the following information to be recorded in order for the complaint to be processed:

- (A) Name of the person filing the complaint;
- (B) Address and phone number of person filing complaint;
- (C) Location of hazard or violation; and
- (D) Type of problem, hazard or violation.

(Ord. 11-01, passed 2-8-11)

§ 91.55 RECORDS.

A written record of all complaints will be maintained in the Inspections Department. A report will be attached to the complaint stating any violations or hazards found and what actions were taken.

(Ord. 11-01, passed 2-8-11)

§ 91.56 PLAN REVIEW FEES.

Plan review fees shall be collected or arrangements made for collection prior to issuance of any building or fire permits.

(Ord. 11-01, passed 2-8-11)

§ 91.57 INSPECTION FEES (NEW CONSTRUCTION).

In the event additional fees are required to be assessed during a construction project, any and all fees must be paid in full prior to the issuance of the building's certificate of occupancy.

(Ord. 11-01, passed 2-8-11)

§ 91.58 INSPECTION FEES (EXISTING BUILDINGS).

The fee for an inspection of an existing building shall be assessed and an invoice will be supplied to the owner, occupant, or designee and shall be paid within 30 days of the date of such invoice. After 30 days, the bill will be placed in a past due status and a second invoice will be sent. After a period of 60

days of non-payment, the account will be subject to a 10% late fee and the account will be placed on hold and no additional inspections or permits will be issued. A civil action may be filed to collect the balance due after a period of 90 days.

(Ord. 11-01, passed 2-8-11)

§ 91.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided, shall be subject to the penalty provided in § 10.99 of this code of ordinances.

(B) (1) Criminal. In accordance with § 10.99(A) of this code of ordinances, any person who violates any provision of §§ 91.15 and 91.16 of this chapter shall be subject to a fine not to exceed \$500.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of §§ 91.15 and 91.16 of this chapter shall be subject to a civil fine of \$500.

('85 Code, § 3-4.5) (Ord. 13-84, passed -- ; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 02-08, passed 5-27-02)

CHAPTER 92: NUISANCES

Section

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GENERAL PROVISIONS

§ 92.01 CONDITIONS PROHIBITED AS NUISANCES.

The intent of these provisions is to control potentially dangerous conditions that could affect the general public health, welfare and/or safety of town property owners and/or visitors. Conditions identified as potentially being a public nuisance will be investigated by the town staff and then corrected by the property owner (or their representative) after appropriate notification that the condition has been so judged. Conditions, on any parcel of land or lot, that may be judged by the town as being a public nuisance involve:

(A) Accumulation of dead foliage, trees less than four inches in diameter, undergrowth, grass, weeds or similar vegetation that (by their existence) creates a fire hazard, encourages accumulation of other debris, or fosters the inhabitation of snakes, rats, mice and other vermin in numbers that might create a public health or safety hazard. Uncontrolled growth of vegetation that extends onto an adjacent property owner's land.

(B) Accumulation of household debris/trash/junk or unused items, including vehicles and trailers, or placement of mechanical equipment of any type not normally associated with a residential structure.

(C) Accumulation of standing surface water on a lot that has been caused by improper stormwater management by the property owner, or adjacent property owner, and thus facilitates the breeding of insects.

(D) Any condition which violates the rules and regulations of the County Health Department.

(E) Storm or erosion damaged structures and resulting debris. The existence of any of the following conditions associated with storm- or erosion-damaged structures or their resultant debris shall constitute a public nuisance:

(1) Damaged structure in danger of collapsing;

(2) Damaged structure or debris from damaged structures where it can reasonably be determined that there is a likelihood of personal or property injury;

(3) Any structure, regardless of condition, or any debris from a damaged structure which is located in whole or in part in a public trust area or public land.

(F) Miscellaneous. Any other condition that is specified as a nuisance in this chapter.

('85 Code, § 9-2.1) (Ord. 1-90, passed 2-5-90; Am. Ord. 94-06, passed 3-7-94; Am. Ord. 98-17, passed 8-10-98; Am. Ord. 02-08, passed 5-27-02; Am. Ord. 08-11, passed 11-25-08)

§ 92.02 COMPLAINT AND INVESTIGATION.

The Town Manager shall investigate conditions described in § 92.01 of this chapter and shall make a determination as to whether or not the noted condition constitutes a public nuisance.

('85 Code, § 9-2.2) (Ord. 1-90, passed 2-5-90; Am. Ord. 98-17, passed 8-10-98)

§ 92.03 NOTICE TO ABATE NUISANCE.

Upon a determination that such conditions constituting a public nuisance exist, the Town Manager shall notify, in writing, the owner and/or occupant or person in possession of the premises in question, of the conditions constituting such public nuisance and shall order the prompt abatement thereof within 15 days from the receipt of such written notice.

('85 Code, § 9-2.3) (Ord. 1-90, passed 2-5-90)

§ 92.04 FAILURE TO ABATE NUISANCE.

(A) If any person, after having been ordered to abate a public nuisance described in this subchapter, fails, neglects, or refuses to abate or remove the condition constituting the nuisance within 15 days from the receipt of the order, the Town Manager shall cause the condition to be removed or otherwise remedied by having employees of the town or a private contractor hired by the town go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Town Manager.

(B) Any person who has been ordered to abate a public nuisance may, within the time allowed by division (A) of this section, request the town, in writing, to remove such condition, the cost of which shall be paid by the person making such request.

('85 Code, § 9-2.4) (Ord. 1-90, passed 2-5-90; Am. Ord. 98-17, passed 8-10-98)

§ 92.05 COST INCURRED BY OWNER.

The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land and it shall be the duty of the Tax Collector to mail a statement for such charges to the owner or other person in possession of such premises with instructions that such charges are due and payable within 30 days from the receipt thereof.

('85 Code, § 9-2.5) (Ord. 1-90, passed 2-5-90)

§ 92.06 CHARGES BECOME A LIEN.

In the event charges for the removal or abatement of a public nuisance are not paid within 30 days after the receipt of a statement of charges as provided for in § 92.05 of this chapter, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G.S. § 160A-193.

('85 Code, § 9-2.6) (Ord. 1-90, passed 2-5-90)

§ 92.07 PROCEDURES IN ADDITION TO OTHER AUTHORIZED PROCEDURES.

The procedures set forth in this subchapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this subchapter shall not prevent the town from proceeding in a criminal action against any person, firm, or corporation violating the provisions of this subchapter, as provided in G.S. § 14-4.

('85 Code, § 9-2.7) (Ord. 1-90, passed 2-5-90)

NOISE CONTROL

§ 92.20 PURPOSE.

(A) The town is recognized as a quiet, family-oriented beach community, and houses in the town are situated so that they are in close proximity. Residents and visitors come to the beach community to enjoy the relative peacefulness and serenity of the place, and excessive noise from one location can disturb the peace and become a nuisance to the public.

(B) Furthermore, it is recognized that excessive and unnecessary noise:

(1) Endangers the physical and emotional health and welfare of people who reside or vacation in the residential neighborhoods and on the beach strand of the town;

(2) Interferes with legitimate family and recreational activities;

(3) Depresses property and rental values;

(4) Contributes to potentially violent confrontations among persons occupying neighboring properties or enjoying the beach strand; and

(5) Requires police and public safety resources to respond to such disturbances and confrontations.

('85 Code, § 3-3.1) (Ord. 37, passed -- ; Am. Ord. 98-17, passed 8-10-98; Am. Ord. 16-09, passed 5-17-16)

§ 92.21 UNREASONABLY LOUD NOISES PROHIBITED.

(A) It shall be unlawful for any person to create or assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing noise in the town. Noises of such character, intensity, and duration as to be detrimental to the life or health of any individual are prohibited. Unreasonably loud and disturbing noise is limited to noise that is loud, raucous and disturbing and heard upon the public streets, in any public park, in any public building or upon the grounds thereof while in use, in any church or hospital or upon the grounds thereof while in use, upon any public parking lot open to members of the public as invitees or licensees, or in any occupied residential unit which is not the source of the noise or upon the grounds thereof. Factors to consider in determining whether a violation exists include, but are not limited to:

- (1) The volume of the noise;
- (2) The intensity of the noise;
- (3) Whether the nature of the noise is usual or unusual;
- (4) Whether the origin of the noise is natural or unnatural;
- (5) The volume and intensity of the background noise, if any;
- (6) The proximity of the noise to residential sleeping facilities;
- (7) The nature and zoning of the area within which the noise emanates;
- (8) The density of the inhabitation of the area within which the noise emanates;
- (9) The time of the day or night the noise occurs;
- (10) The duration of the noise; and
- (11) Whether the noise is recurrent, intermittent, or constant.

(B) Scope. This article shall apply to all sound, vibration, and noise originating within the corporate limits of the Town. Nothing in this article shall be construed to limit or prevent the town or any person from pursuing any other legal remedies for damages or the abatement of noises in the town.

(Ord. 16-09, passed 5-17-16)

§ 92.22 DEFINITIONS.

In addition to the common meanings of words, the following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A-WEIGHTED SOUND LEVEL. The sound pressure level in decibels as measured on a sound level meter using the A-weighting network. The level so read is designated dB(A).

AMPLIFIED SOUND. Any sound or noise, including the human voice, that is increased in volume or intensity by means of electrical power.

DECIBEL (dB). A unit for describing the amplitude of sound, equal to 20 times the logarithm to base ten of the ratio of pressure of the sound measured to the reference pressure, which is 20 microneutons per square meter.

MOBILE SOUND VEHICLE. Any motorized vehicle fitted with external loudspeakers or so designed or modified as to project electronically amplified sound outside of the passenger area of the vehicle.

MOTORIZED VEHICLES. Any vehicle as defined in G.S. 20-4.01(49), including but not limited to:

- (1) Excursion passenger vehicles as defined in G.S. 20-4.01(27)a1.
- (2) Common carriers of passengers as defined in G.S. 20-4.01(27)c.
- (3) Motorcycles and mopeds as defined in G.S. 20-4.01(27)d. and d.l.
- (4) Truck tractors as defined in G.S. 20-4.01(48).
- (5) Farm tractors as defined G.S. 20-4.01(11).

NIGHTTIME HOURS. The hours between 10:00 p.m. and 7:00 a.m.

NOISE. Any sound or combination of sounds which, because of its volume or quality, tends to disturb reasonable persons of normal sensitivity or to interfere with normal human activity.

NOISE DISTURBANCE. Any unreasonably loud and raucous sound or noise which:

- (1) Endangers or injures the health or safety of humans or animals; or
- (2) Endangers or injures personal or real property; or
- (3) Disturbs a reasonable person of normal sensitivity; or
- (4) Exceeds the maximum sound pressure levels as stated in § 92.24(B).

PERSON. Any individual, association, firm, partnership or corporation.

PERSON RESPONSIBLE. An owner, occupant, employee, agent, or any other person who is or who appears to be responsible for a premises, dwelling, or a noise-producing machine or device.

SOUND. Any disturbance of the air or other medium that is detectable by the unaided human ear or which produces vibrations detectable by persons of normal sensitivity.

SOUND LEVEL. The weighted sound pressure level obtained by the use of a sound level meter and frequency weighting network, as specified by the American National Standards Institute (ANSI) standards for sound level meters. If the frequency weighting employed is not specified, the A-weighting shall apply.

SOUND LEVEL METER also DECIBEL METER. An instrument that includes a microphone, amplifier, RMS detector, integrator or time averager, output meter and averaging network used to measure sound level. Such instrument shall be certified to meet or exceed the current standards of the American National Standards Institute.

(Ord. 16-09, passed 5-17-16)

§ 92.23 PRESUMPTION IN PROSECUTION FOR NOISE VIOLATION.

The complaints of two or more persons, at least one of whom resides in a different home from the other complaining person or persons, or the complaint of one or more persons, when combined with the complaint of a duly authorized investigating person, shall be prima facie evidence that such sound is a noise disturbance.

(Ord. 16-09, passed 5-17-16)

§ 92.24 PROHIBITED NOISE.

(A) The following activities are recognized as tending to produce unreasonably loud noises and as tending to constitute a noise disturbance. No person shall engage in any of the enumerated activities so as to cause a noise disturbance on neighboring premises:

- (1) Operation of radios, televisions, or sound reproduction devices;
- (2) Playing of any amplified or non-amplified musical instrument; and
- (3) Keeping of any animal or bird that frequently or for long periods of time makes noises that tend to annoy or unreasonably disturb others.

(B) In addition to and not in limitation to the specific prohibitions outlined in § 92.24(A), no person shall operate or permit to be operated any noise source which generates a sound pressure level exceeding the limits set forth in the following tables when measured at or outside the property boundary of the noise source or at any point within any other property affected by the noise.

Maximum Sound Pressure Levels:

Zoning Districts	Non-Districts	Non-Nighttime Hours	Nighttime Hours	Residential
60 dB(A)	50 dB(A)	All other Zoning Districts	65 dB(A)	60 dB(A)

(Ord. 16-09, passed 5-17-16)

§ 92.25 MEASUREMENT OF SOUND LEVEL.

In determining sound levels pursuant to this article, the standards, instrumentation, personnel, measurement procedures, and reporting procedures shall be as specified herein; and all terminology not defined herein or in § 92.22 shall be in conformance with the American National Standards Institute (ANSI).

(A) Sound level measurement shall be made with a sound level meter using the A-weighting scale, set on slow response.

(B) Sound level meters shall be serviced, calibrated and operated as recommended by the manufacturer and in accordance with regulations prescribed by the police department. Persons using the sound level meter shall be trained in sound level measurement and the operation of sound level measuring equipment.

(C) Except as otherwise specified, sound level measurements shall be made from within the boundary line of any improved and occupied property; where this is impracticable, the measurement shall be taken at the exterior wall of the principal structure on such property. In the case of an elevated or directional sound, compliance with the prescribed limits shall be required at any elevation on the property.

(D) Except as specified in division (G) of this section, the sound measurement shall be averaged over a period of at least one minute for purposes of determining the sound level. Sound levels may not exceed the prescribed level by more than three decibels at any time during the measurement period.

(E) During measurement, the microphone shall not be positioned so as to create any unnatural enhancement of the measured sound. A windscreen shall be used when appropriate.

(F) Traffic noise and noise from other sources not connected with the sound being measured shall not be considered in taking measurements.

(G) In the case of noise that is impulsive or is not continuous, the measurement shall be taken over a period of time of at least one minute. Any such sound or noise that exceeds the prescribed level more than two times in a minute shall be deemed to exceed the prescribed sound levels.

(H) In zoning districts other than residential and only in the case of outdoor entertainment, including live or recorded speech, music, or other sound, sound level measurements shall be measured at a point 100 feet away from the source of the sound.

(Ord. 16-09, passed 5-17-16)

§ 92.26 EXCEPTIONS.

The following are exceptions from the application of this subchapter:

(A) Construction activity performed by an agency of government or equipment operated by an agency of government, provided that all equipment is operated in accordance with manufacturer's specifications and is equipped with all noise-reducing equipment in proper condition;

(B) Sound or noise emanating from street fairs, festivals, or celebrations conducted by or with the town;

(C) Sound or noise emanating from film and video production activities for which permits have been issued by the town, provided all equipment such as generators are properly muffled;

(D) Sound or noise emanating from properly equipped aircraft operated in accordance with applicable federal rules and regulations;

(E) Lawnmowers and agricultural equipment operated between the hours of 7:00 a.m. and 6:00 p.m. when operated in accordance with manufacturer's specifications and with all standard noise-reducing equipment in place and in proper condition;

(F) Musical accompaniment to parades or military ceremonies;

- (G) Sound emanating from regularly scheduled athletic events at town parks and athletic facilities;
- (H) Emergency vehicles in the course of performing their official duties;
- (I) Noncommercial speeches made from a fixed location; and
- (J) Construction, construction preparation, and building activity between the hours of 7:00 a.m. and 6:00 p.m., and any such work certified by the building inspector or Town Manager to be necessary to address an emergency situation.

(Ord. 16-09, passed 5-17-16)

§ 92.27 OWNER AND OCCUPANT RESPONSIBILITY.

Penalties for violations of this subchapter may be assessed against persons responsible for the premises or device producing or causing the noise disturbance.

(A) A violation of any of the provisions of this subchapter shall constitute a Class 3 misdemeanor punishable by a fine not to exceed \$500 or imprisonment not to exceed 30 days, unless otherwise provided herein.

(B) Any person violating any provision of the sections in this Article shall be subject to a civil penalty in the amount of \$300 for each offense. Any subsequent violation within a 12 month period of a first violation shall subject the violator to a civil penalty of \$500 for each subsequent violation. For purposes of determining subsequent violations within a 12 month period the date of the first violation shall be the anniversary date from which a new 12-month period shall begin.

(C) An owner of any premises subject to this subchapter who is not also an occupant of the premises shall be responsible for any actions by tenants, guests, or other licensees that constitute second or subsequent violations of this subchapter; provided, that no absentee owner shall be liable unless notified of first or previous violations of the article, and further provided that such first violation or previous violation shall have occurred within the previous twelve-month period. Notice of any first or previous violations pursuant to this paragraph shall be effected by registered or certified mail. No absentee owner may be subjected to criminal liability under this section, but shall be subject to all civil penalties and equitable relief.

(D) This section shall in no way relieve any other person from responsibility for violations of this subchapter.

(Ord. 16-09, passed 5-17-16)

OUTSIDE LIGHTS

§ 92.30 DEFINITIONS.

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

DECORATIVE LIGHTS. Lights used to enhance the appearance of an area rather than to provide illumination. These include Christmas lights and low voltage (less than sixty (60) volts) driveway and landscaping lights.

DOORWAY LIGHTS. Lights attached to structures or walkways used to illuminate doors and immediate areas leading to entrances; to include those installed beneath houses.

FLOOD/SPOT LIGHTS. Bare lights attached to buildings and used to illuminate a specific area (yards, driveways, walkways, and the like) normally for a limited time period. These may also be used as security lights.

SAFETY LIGHT. A light used to warn boats or vehicles of possible obstacles.

SECURITY LIGHT. A light (either automatic or manual) which remains on overnight for the protection of people or property.

YARD LIGHT. A light whose fixture is not attached to a building, ramp, or deck and is over four feet above ground level.

('85 Code, § 3-11a.) (Ord. 92-10, passed 7-22-92)

§ 92.31 PURPOSE.

It is the intent of this subchapter to permit sufficient outside lighting to provide for the safety and security of citizens while preventing undue distraction to residents or guests.

('85 Code, § 3-11) (Ord. 92-10, passed 7-22-92)

§ 92.32 UNLAWFUL LIGHTS.

It shall be unlawful for any outside light to be installed or directed:

(A) So as to interfere with the vision of the operator of any motor vehicle on any street or waterway; or

(B) That is not in compliance with the provisions of this subchapter.

('85 Code, § 3-11b.) (Ord. 92-10, passed 7-22-92; Am. Ord. 94-24, passed 10-3-94) Penalty, see § 92.99

§ 92.33 LIGHTS PERMITTED IN R-1 AND R-2 DISTRICTS.

(A) Decorative lights.

(B) Flood or spot lights provided they are directed onto the owner's property.

(C) Doorway lights of 100 watts or less per light.

(D) Safety lights.

(E) Security lights, attached to a building, and so shielded that no direct lighting is outside the owners property.

(F) Security lights, presently on poles, which do not meet the restrictions of division (G) of this section are permitted for a period of one year following enactment of this subchapter provided they are so shielded that there is no direct lighting outside the owner's property.

(G) One yard light per living unit provided:

(1) It does not exceed ten feet in height (measured from mean lot level) and does not draw in excess of 100 watts.

(2) It is of the same design and wattage as the approved town street lights and does not exceed 20 feet in height.

('85 Code, § 3-11c.) (Ord. 92-10, passed 7-22-92; Am. Ord. 94-24, passed 10-3-94; Am. Ord. 94-28, passed 12-5-94)

§ 92.34 LIGHTS PERMITTED IN C-1 COMMERCIAL DISTRICTS.

(A) Any lights permitted in R-1 or R-2 Districts are permitted.

(B) Security lights not attached in buildings and lights used to illuminate entertainment facilities provided:

(1) The light is so shielded that no direct lighting is outside the owner's property.

(2) Any pole is a minimum of ten feet from the road right-of-way.

('85 Code, § 3-11e.) (Ord. 92-10, passed 7-22-92) Penalty, see § 92.99

§ 92.35 COMPLAINTS.

Permitted lights which may be in violation of § 92.32 of this chapter will be reported in writing to the Town Manager who will make the final determination if a violation exists. The Town Manager will notify the complainant and the alleged violator of his/her findings in writing.

('85 Code, § 3-11f.) (Ord. 92-10, passed 7-22-92)

BEACH VEGETATION

§ 92.40 PURPOSE.

The plant know as Beach Vitex (*Vitex Rotundifolia*), is hereby found and is declared to be a public nuisance due to the significant negative impacts this plant will have upon the public beaches and sand dunes, loggerhead sea turtles and native vegetation such as Sea Oats, Bitter Panicum, Seashore Elder and American Beachgrass. It shall be unlawful for any person to plant or cause to be planted Beach Vitex (*Vitex Rotundifolia*) on any property located within the municipal town limits of the town.

(Ord. 06-02, passed 3-27-06)

§ 92.41 NOTICE TO ABATE NUISANCE.

In cooperation with the following organizations, said list not being exhaustive, the U.S. Fish and Wildlife Service, NC Cooperative Extension, South Carolina Beach Vitex Taskforce, North Carolina Beach Vitex Taskforce, NC State University, a program(s) will be developed to eradicate Beach Vitex from

municipal limits. Upon identification of any Beach Vitex plant, the property owner shall be ordered to eradicate the plant from his or her property pursuant to an acceptable means of removal and disposal. As eradication precedes restoration, the plant must be removed from properties before the property is restored with native plants or other appropriate plants. As Beach Vitex has the ability to generate new plants from seeds, stem and root sections, the proper disposal of plants and plant parts is important. The town shall be responsible for the collection of Beach Vitex separately from other yard waste and will treat it appropriately. Beach Vitex clippings shall not be chipped and shredded into mulch and distributed to any yard waste disposal site. The town shall cooperate with private landowners in this task to proceed with the eradication. The penalty for failure to comply with this section shall be prescribed in § 92.99.

(Ord. 06-02, passed 3-27-06) Penalty, see § 92.99

§ 92.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided, shall be subject to the penalty provided in § 10.99 of this code of ordinances.

(B) (1) Criminal. Any person who violates any provision of §§ 92.20 or 92.21 of this chapter shall be subject to the penalty provided in § 10.99(A) of this code of ordinances.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of §§ 92.20 or 92.21 of this chapter shall be subject to a civil fine of \$50 per offense.

('85 Code, § 3-3.3) (Ord. 37, passed -- ; Am. Ord. 93-11, passed 9-7-93)

(C) Violation of §§ 92.30 through 92.35 of this chapter shall be punishable by a levy of a fine in the amount of \$25 for each violation. In the case of a finding of a violation by the Town Manager the violation will be effective 24 hours following written notification if corrections are not made. Each day a violation continues will constitute a separate violation. ('85 Code, § 3-11g.) (Ord. 92-10, passed 7-22-92)

CHAPTER 93: JUNKED VEHICLES AND EQUIPMENT

Section

93.01 Public access and view

93.02 Determination of junked vehicle or equipment

93.03 Restrictions enumerated

93.04 Responsibility of property owner

93.99 Penalty

§ 93.01 PUBLIC ACCESS AND VIEW.

It is declared to be in the public interest, safety, and welfare that abandoned vehicles, boats, and other equipment not be exposed to public access and view within the town limits.

('85 Code, § 3-2.1) (Ord. 10-82, passed --)

§ 93.02 DETERMINATION OF JUNKED VEHICLE OR EQUIPMENT.

(A) Any vehicle, boat, trailer, or other equipment, the operation of which requires a license from or registration with the state or United States Government, shall be considered abandoned and classified as junk for the purposes of this chapter, if the vehicle, boat, boat trailer, or other equipment does not bear evidence of the currently valid license, current registration or documentation.

(B) Construction, materials handling, compressor, food or materials storage, display counters, furniture, and similar equipment which is not in an operable or usable condition and does not show evidence of regular care or use shall likewise be considered as abandoned and classified as junk for purposes of this chapter.

('85 Code, § 3-2.2) (Ord. 10-82, passed -- ; Am. Ord. 3-93, passed --)

§ 93.03 RESTRICTIONS ENUMERATED.

No junk vehicle, boat, boat trailer, or other equipment shall be permitted to be kept in any front or side yard area as defined in the Chapter 157, Zoning Code, nor junk boat in any waterway within the town limits, for longer than 30 days unless permitted by the Chief of Police. Special permission may be granted for periods of more than 30 days, but for not more than six months if the junk vehicle, boat, boat trailer, or other equipment is being repaired or held for sale.

('85 Code, § 3-2.3) (Ord. 10-82, passed --) Penalty, see § 93.99

§ 93.04 RESPONSIBILITY OF PROPERTY OWNER.

The responsibility for compliance with the provisions of this chapter shall rest with the property owner.

('85 Code, § 3-2.4) (Ord. 10-82, passed --)

§ 93.99 PENALTY.

(A) Criminal. Any person who violates any provision of this chapter shall be subject to the penalty provided in § 10.99(A) of this code of ordinances.

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of this chapter shall be subject to a civil fine of \$100 per offense.

('85 Code, 3-2.5) (Ord. 10-82, passed -- ; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 02-08, passed 5-27-02)

CHAPTER 94: BEACH REGULATIONS

Section

General Provisions

94.01 Official vehicles allowed on strand

94.02 Privately-owned vehicles prohibited

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94.16 Surfboard defined

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Fishing Regulations

94.30 Net fishing regulations

94.31 (Reserved)

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94.99 Penalty

GENERAL PROVISIONS

§ 94.01 OFFICIAL VEHICLES ALLOWED ON STRAND.

This chapter shall not be construed in any manner to prohibit the use of law enforcement, beach patrol, rescue squad, Fire Department or other public or official vehicles in the performance of their duties, upon the beach strand or vehicular accessways to the beach strand, or wetlands.

('85 Code, § 11-1.1) (Ord. 6-83, passed --)

§ 94.02 PRIVATELY-OWNED VEHICLES PROHIBITED.

Except as noted in § 94.01 of this chapter, no motor vehicles or other motor or engine-drive vehicles, or wind-powered wheeled vehicles, licensed or unlicensed, shall be allowed at any time upon the wetlands, beach strand, beach strand vehicular accessways, or the dunes adjoining the strand and accessways.

('85 Code, § 11-1.2) (Ord. 6-83, passed --) Penalty, see § 94.99

§ 94.03 FRONTAL DUNE POLICIES AND REGULATIONS

(A) Definition. For the purpose of this section, [towns](#) FRONTAL DUNES shall mean the dunes designated by the town's ~~local-certified CAMA designee-official~~ as the "frontal dunes"; otherwise, they are the first mounds of sand located landward of the ocean beach with sufficient vegetation, height, and configuration to offer protection from ocean storms. Considering the fact that oceanfront

property limits extend to the mean high water mark, the frontal dune may be located on private property. [The towns Designated frontal dune although similar may be different than the States CAMA designated Dune.](#)

(B) Purpose of the frontal dune. It is desirable to maintain a continuous frontal dune along the ocean-front of the island, extending from Lockwoods Folly Inlet to Shallotte Inlet. A continuous frontal dune thus maintained provides a single, ocean water surge flood control structure that serves to mitigate the effects of storms, that could by their very nature cause damage to public and private property. It is the intent of the Town that the frontal dune be maintained to standard specifications and by sand renourishment, so that the above-mentioned protection can be provided.

(C) Frontal Dune Policy and Regulations. The following policies and regulations apply: (Penalty for failure to adhere is \$500.00 per violation.)

(1) It shall be unlawful for any person or vehicle to cross the designated frontal dune, except for official Town business or emergency access, unless such crossing is over a Town approved ramp and/or stairs.

(2) Frontal Dune Policy and Restrictions:

(a) Whenever property owners elect to construct a walkway across the frontal dune on their property, to provide pedestrian access to the beach strand, the following specifications shall apply. (Note: the same criteria applies when property owners seek to apply for town approval of an encroachment agreement to construct a walkway over public property adjacent to their residence.)

1. The walkway shall be constructed only of building materials approved by the N.C. State Building Code. The walking passageway shall be no wider than four feet. The underside of the walkway across the frontal dune shall be a minimum of 18 inches and a maximum of 36 inches above the crest of the sand. Exception: Town owned CAMA accessways may utilize a 6- foot walkway.

2. The first step down to the beach strand shall be placed no farther seaward than the beginning of the downward slope of the dune, or the existing line of escarpment determined by averaging the downward slope or escarpment line for the property in question and those properties directly adjacent.

3. Steps shall be of open tread construction with a maximum riser height of 8.25 inches and a minimum tread depth of 9.00 inches, and shall meet the requirements of the N.C. State Building Code.

4. In accordance with N.C. State Division of Coastal Management's enforcement of the Coastal Area Management Act (CAMA), the walkway access to the beach strand over the frontal dune shall be conclusively presumed to entail negligible alteration of the dune. The walkway shall be raised on posts or pilings a minimum of two feet and a maximum of five feet depth into the dune. In no case shall the walkway be permitted if it will, in the opinion of the Local CAMA Permit Officer, diminish the dune's capacity as a protective barrier against flooding and erosion.

5. Except for handicap ramps, steps from the walkway to the beach strand shall be placed only perpendicular to the frontal dune line.

6. No structure other than the four-foot wide wooden walkway shall be located south of the landward toe of the frontal dune. This applies to decks, gazebos, sitting areas and other additions that a property owner may desire to make to the allowed walkway. Structures (other than the four-foot walkway) that exist when this section is adopted may remain in place temporarily; however, all such structures must be removed no later than December 31, 2003, in order to be in compliance with this section. A building permit is required if there are any repairs needed to walkway load bearing surfaces, such as supporting posts. Adding additional lengths to supporting posts shall constitute a repair. Exception: Town owned CAMA accessways may utilize a 6-foot walkway. Exception: Property owners with lots that have more than 300 feet from the seaward toe of the frontal dune to the last line of natural stable vegetation, as determined by the local CAMA officer, may install a single walkway with a maximum width of four feet; the walkway shall be a minimum of three feet high with a maximum height not to exceed four feet; and shall terminate at the last line of natural stable vegetation. Walkways shall be permitted and built in accordance with all federal, state and local building requirements. Exception: Swimming Pools maybe located south of the town's designated frontal dune, placement of pools and decking shall not extend more than 50 feet from the established seaward toe of designated frontal dune. This exception only applies when the CAMA dune is more seaward than the town's frontal dune.

~~6. No structure other than the four foot wide wooden walkway shall be located south of the landward toe of the frontal dune. This applies to decks, gazebos, sitting areas and other additions that a property owner may desire to make to the allowed walkway. Structures (other than the four foot walkway) that exist when this section is adopted may remain in place temporarily; however, all such structures must be removed no later than December 31, 2003, in order to be in compliance with this section. A building permit is required if there are any repairs needed to walkway load bearing surfaces, such as supporting posts. Adding additional lengths to supporting posts shall constitute a repair. Exception: Town owned CAMA accessways may utilize a 6 foot walkway. Exception: Property owners with lots that have more than 300 feet from the seaward toe of the frontal dune to the last line of natural stable vegetation, as determined by the local CAMA officer, may install a single walkway with a maximum width of four feet; the walkway shall be a minimum of three feet high with a maximum height not to exceed four feet; and shall terminate at the last line of natural stable vegetation. Walkways shall be permitted and built in accordance with all federal, state and local building requirements.~~

(b) Showers shall not be located on walkways over the dune south of its landward toe. Shower runoff must not drain onto any portion of the frontal dune or south of the landward toe.

(c) In those instances where a residence or other structure is located directly adjacent to the frontal dune, stormwater runoff from roofs shall be controlled by the property owner so as not to erode sand on any portion of the frontal dune.

(d) Sand fences:

1. The installation of sand fence along the oceanfront, when properly located and erected, is an effective method to control blowing sand which may lead to the formation of dunes. However, when improperly located and erected, sand fencing may interfere with emergency beach access, cause accumulation of debris, and discourage sea turtle nesting.

2. Sand fencing is defined as a fence normally constructed of untreated and unpainted wood held together with twisted wire, with the fence being nailed to a minimum of 1.5 inch by 3.5 inch (2x4) posts that are spaced at intervals not less than five feet and are embedded no more than two feet into the sand, and extending no higher than four feet above grade.

3. No sand fence shall be erected without a no-cost sand fence permit issued by the Town Inspections Department. The permit may be requested and returned by mail following completion.

4. All sand fencing shall be installed in individual lengths of ten feet or less, at an angle between 45 and 90 degrees to the shoreline, facing west. The lengths of sand fence will be spaced at least seven feet apart, parallel to each other, to allow sea turtles and pedestrians to pass through. This method of sand fencing encourages sand accretion and minimizes negative impacts to nesting sea turtles.

5. The Building Inspector shall have the authority to summarily remove, abate, or remedy a sand fence determined dangerous or prejudicial to the public safety whether by reason of its location, or its subsequent state of disrepair or damage. Any fence so removed will be delivered to its owner if known, and if not, will be disposed of by the Public Works Department in an appropriate manner.

(e) Property owners are encouraged to vegetate and fertilize the portion of the frontal dune on their property.

(f) An exception to this policy is that ocean front property owners or their agents may traverse on (or over) the specific portion of the frontal dune within the limits of their property (above the mean high water mark), so as to make minor dune repairs, plant vegetation, install sand fencing and otherwise maintain the frontal dune on their property so that it may afford the intended degree of flood protection per this section.

(Ord. 98-04, passed 4-27-98; Am. Ord. 99-04, passed 3-8-99; Am. Ord. passed 3-27-00; Am. Ord. 00- 25, passed 12-11-00; Am. Ord. 02-08, passed 5-27-02; Am. Ord. 03-09, passed 11-24-03; Am. Ord. 17-04, passed 3-21-17; Am. Ord. 17-05, passed 4-18-17)

§ 94.04 DEFINITIONS.

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

BEACH. The area between the mean low water mark of the Atlantic Ocean and the seaward toe of the frontal dune.

BEACH EQUIPMENT. Any personal items that are designed or manufactured for use, or actually used, on the beach or in the adjacent tidal waters. Examples include, without limitations: chairs,

lounges, umbrellas, cabanas, tents, horseshoes and stakes, kayaks, paddle vessels, sailboards, surfboards, fishing gear, sporting equipment, rafts, floatation devices, beach toys, baskets, bags, towels, coolers and any other personal property items. BEACH EQUIPMENT shall not include municipal trash containers, signage or structures or any items placed or permitted by a governmental agency (for example signs or protection devices for turtle nests).

SAND RENOURISHMENT. The placement and maintenance of sand onto the beach in order to nourish, renourish, protect, operate and maintain a public beach, including the right to deposit sand, alter the contour of the land, construct dunes and berms, plant vegetation on and prohibit access to the dunes and berms, to erect protective silt screens and fences, and to perform any other work necessary and incident to the maintenance of the dune system.

(Ord. 02-08, passed 5-27-02; Am. Ord. 10-08, passed 9-14-10)

§ 94.05 DIGGING OF HOLES ON BEACH STRAND.

(A) To help prevent personal injury and damage to property, it shall be unlawful for any person, firm or corporation within the corporate limits of the town to dig into the sand on any part of the beach strand greater than 12 inches deep, without having a responsible person attending the area to prevent any person or persons from walking into any existing hole and risking personal injury and to allow public safety vehicles the ability to respond to emergencies without the risk of damage to equipment or personal property.

(B) Prior to leaving the area, any hole greater than 12 inches deep shall be filled to be level with the surrounding area, leaving the area in the same general condition in which it was found.

(C) The violation of this section shall be punishable by a \$50 fine.

(Ord. 06-12, passed 10-24-06)

§ 94.06 PLACING OBSTRUCTIONS ON THE BEACH.

(A) All beach equipment must be removed from the beach by its owner or permitted user on a daily basis. All personal items and beach equipment unattended and remaining on the beach between the hours of 6:00 p.m. and 7:00 a.m. will be classified as abandoned property and shall be removed and disposed of by the town.

(B) All beach equipment shall be set at least ten feet from any sea turtle nest or dune vegetation.

(Ord. 10-08, passed 9-14-10)

SURF AND SAILING CRAFT REGULATIONS

§ 94.15 PURPOSE.

The town has determined that the safety and public needs of the persons utilizing the beach strand and adjacent waters near the fishing piers and other related structures require the regulation of certain uses of these areas. By Chapter 539, Session Laws 1973 of North Carolina, as amended, the towns of Brunswick County were conferred with the power to regulate surfing, swimming, and littering in coastal waters adjacent to town limits.

('85 Code, § 11-2.1) (Ord. 42, passed -- ; Am. Ord. 02-08, passed 5-27-02)

§ 94.16 SURFBOARD DEFINED.

This subchapter shall apply to the use of surfboards, sailboards, boogie boards, sailing craft, or other objects or things used for surfing as the term is commonly defined, and the term SURFBOARD shall hereinafter apply to all such items or things, for the purpose of this subchapter.

('85 Code, § 11-2.2) (Ord. 42, passed --)

§ 94.17 TIME PERIOD APPLICABLE.

This subchapter shall regulate the use of surfboards only during that period from March 1 to November 15 of each year.

('85 Code, § 11-2.3) (Ord. 42, passed --)

§ 94.18 SURFBOARD PROHIBITED IN CERTAIN AREAS.

(A) No surfboard shall be carried, pushed, wheeled, ridden, or otherwise used on the beach strand and/or adjacent ocean waters within 500 feet of any fishing pier located on or adjacent to property within the town limits.

('85 Code, § 11-2.4)

(B) Use of surfboards shall be permissible in all other areas of the beach strand and adjacent waters.

('85 Code, § 11-2.5) (Ord. 42, passed -- ; Am. Ord. 02-08, passed 5-27-02) Penalty, see § 94.99

FISHING REGULATIONS

§ 94.30 NET FISHING REGULATIONS.

The following regulations shall be observed whenever engaged in net fishing along the strand:

(A) Permission of property owners. Written permission shall be obtained from the property owner if using his lot and walkway for access to the beach, for anchoring net lines, for temporary shelters, or for parking.

(B) Lines not in use; restrainers. Lines, when not in use, shall be secured to permanent restrainers at the high water mark and shall be anchored along their length in such a manner as to prevent their being suspended above the sand, thereby being a tripping hazard to pedestrian use of the beach. Lines and anchors shall be removed when the approved registration expires.

(C) Reflectors. Reflectors shall be secured to each post or restrainer such that each will be clearly visible and in plain view of pedestrian and vehicular traffic.

(D) Removal of debris from the beach. All fish, crabs, or debris removed from the water when the net is pulled shall be removed from the beach and the beach left in a clean and sanitary condition.

(Ord. 95-16, passed 10-2-95) Penalty, see § 94.99

§ 94.31 (RESERVED).

§ 94.32 REGULATIONS FOR GILL NET FISHING.

Fishermen shall observe the following regulations whenever engaged in net fishing along the strand:

(A) Permission of property owners. Written permission shall be obtained from the property owner if using his lot and walkway for access to the beach, for anchoring net lines, for temporary shelters, or for parking.

(B) Lines not in use; restrainers. Lines when not in use shall be secured to permanent restrainers just below the high water mark and shall be anchored along their length in such manner as to prevent their being suspended above the sand, thereby being a tripping hazard to pedestrian use of the beach. Lines and anchors shall be removed when the approved registration expires.

(C) Unattended nets. Nets shall not be unattended for more than 12 hours. During inclement weather of such severity as to preclude pulling of the net and removal of the catch, this period may be extended with the approval of Town Hall or the Police Department.

(D) Reflectors. Reflectors shall be secured to each post or restrainer such that each will be clearly visible and in plain view of pedestrian and vehicular traffic.

(E) Removal of debris from the beach. All fish, crabs, or debris removed from the water when the net is pulled shall be removed from the beach and the beach left in a clean and sanitary condition.

('85 Code, § 11-3.3) (Ord. 93-12, passed 9-7-93) Penalty, see § 94.99

§ 94.99 PENALTY.

(A) Criminal. Any person who violates any provision of this chapter shall be subject to the penalty provided in § 10.99(A) of this code of ordinances.

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of this chapter shall be subject to a civil fine of \$50 per offense.

('85 Code, §§ 3-12.3, 11-1.3, 11-2.6, 11-3.4, 11-4.4) (Ord. 42, passed - - ; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 93-12, passed 9-7-93; Am. Ord. 95-16, passed 10-2-95)

CHAPTER 95: STREETS

Section

- 95.01 Definition
- 95.02 Minimum standards for street acceptance
- 95.03 Application to all existing streets
- 95.04 Application to new streets in subdivisions
- 95.05 Street rights-of-way

95.06 Preservation zone

95.99 Penalty

§ 95.01 DEFINITION.

For the purpose of this chapter, DEVELOPER shall mean any person either individually or serving as an officer of any corporation, or partnership which develops lots and offers them for sale within the town.

('85 Code, § 14-1.4) (Ord. 19, passed - -)

§ 95.02 MINIMUM STANDARDS FOR STREET ACCEPTANCE.

The following minimum standards for all streets shall be followed prior to the town's acceptance of any subdivision street for maintenance purposes:

(A) The minimum right-of-way width shall be 50 feet.

(B) Unpaved streets shall have a minimum travel width of not less than 20 feet and travel width and shoulders, exclusive of side ditches, of not less than 32 feet. In the case of paved roads, the minimum paved width shall not be less than 20 feet, and the shoulders added thereto shall not be less than 32 feet, exclusive of side ditches.

(C) Unpaved roads and streets shall be stabilized with a six-inch base of marl or clay. Paved streets shall have sufficient stabilizing material to properly support the asphalt. The specific stabilizing material and the amount thereof shall be in the sole discretion of the Town Manager.

(D) All streets and lots within any subdivision shall have sufficient drainage to allow surface water to be drained from the lot and to be allowed reasonable maintenance of the road free of excess water. Surface water may not be drained onto neighboring properties or into protected wetlands.

('85 Code, § 14-1.1) (Ord. 19, passed - - ; Am. Ord. 98-13, passed 6-22-98; Am. Ord. 02-08, passed 5-27-02) Penalty, see § 95.99

§ 95.03 APPLICATION TO ALL EXISTING STREETS.

The standards shall apply to all streets now in existence within the town limits which have not been accepted by and become a part of the town street system, and the town shall have no obligation of accepting any such street for maintenance purposes which does not meet these minimum criteria. However, existing and developed streets, the plats for which were recorded in the county registry on or before June 24, 1992, will be accepted on a street-by-street basis, regardless of the platted width, upon evidence of compliance with § 95.02(B) through (D) of this chapter.

('85 Code, § 14-1.2) (Ord. 19, passed - - ; Am. Ord. 92-06, passed 6-24-92) Penalty, see § 95.99

§ 95.04 APPLICATION TO NEW STREETS IN SUBDIVISIONS.

New streets constructed by a developer in a subdivision serving any lots located within the town limits shall be constructed in accordance with these minimum standards.

('85 Code, § 14-1.3) (Ord. 19, passed --) Penalty, see § 95.99

§ 95.05 STREET RIGHTS-OF-WAY.

(A) The purpose of this regulation is to establish what may be placed in street rights-of-way which are cleared by installation or repair of utilities, streets, or walkways. This regulation is not intended to remove or destroy landscaping or structures which are presently in place. Landscaping in street rights-of-way:

- (1) Must not present a safety hazard;
- (2) Must not impede traffic;
- (3) Is placed at the risk of the individual; and
- (4) Is encouraged.

('85 Code, § 14-2)

(B) The ten feet of rights-of-way nearest the pavement or road bed shall remain clear of all items with the following exceptions:

- (1) Mailboxes, newspaper boxes, post and rope not to exceed 24 inches from grade.
- (2) Grass, an approved pervious product or vegetation not to exceed one foot in height.
- (3) The properties located at 1189, 1190, 1191 and 1192 Ocean Boulevard West may install or place a fence within the right-of-way.

('85 Code, § 14-2.1)

(C) The area of the rights-of-way beyond ten feet of the pavement or road bed:

- (1) May be landscaped by the abutting property owner provided § 157.081 of the zoning code is complied with.
- (2) Shall be kept clear of all other manmade structures not used in landscaping with the exception of fences.

('85 Code, § 14-2.2)

(D) The town has no responsibility to protect any items, authorized or unauthorized, which are placed in street rights-of-way. Improvements are made at the owners risk and may be destroyed or damaged during walkway, street, and utility installation or maintenance. Items deemed to be a safety hazard or to impede traffic will be removed by the town.

(E) All existing concrete within the right-of-way that is removed for any reason cannot be replaced.

('85 Code, § 14-2.3) (Ord. 5-89, passed 5-1-89; Am. Ord. 90-17, passed 12-3-90; Am. Ord. 94-29, passed 11-7-94; Am. Ord. 95-03, passed 2-6-95; Am. Ord. 02-08, passed 5-27-02; Am. Ord. 06-13, passed 11-14-06; Am. Ord. 12-04, passed 5-8-12; Am. Ord. 18-08, passed 4-17-18) Penalty, see § 95.99

§ 95.06 PRESERVATION ZONE.

(A) The town is authorized and empowered by G.S. § 160A-296 to exercise control over its public streets and is generally authorized to pass laws to protect the health, safety, and welfare of its citizens. Hillside Drive, within the town limits, has become a hazard to the health, safety, and welfare of the citizens of the town because of the encroachment of the Atlantic Ocean onto lands immediately adjacent to and south of Hillside Drive, and onto parts of the road itself; and it has become necessary to take measures to protect the right-of-way of Hillside Drive.

('85 Code, § 14-3)

(B) All public use of the 50-foot right-of-way area of Hillside Drive shall be confined to the northern 20 feet of the right-of-way, subject to narrower areas of travel being designated by the Town Manager or eliminated altogether as necessary to establish a preservation zone within the right-of-way of Hillside Drive.

('85 Code, § 14-3.1)

(C) The southern 30 feet of the Hillside Drive right-of-way is hereby reserved for establishment of a preservation zone necessary to protect the remaining right-of-way of Hillside Drive, provided that the preservation zone may be extended northward as necessary due to existing erosion, as established by the Town Manager.

('85 Code, § 14-3.2)

(D) The Holden Road, Elizabeth Street and Bendigo Street entrances to Hillside Drive shall be closed to vehicular traffic and shall be barricaded. ('85 Code, § 14-3.3)

(E) Except as prohibited by state law, any portion of the Hillside Drive right-of-way that is not within the preservation zone is exempt from town ordinances relating to minimum width standards for town roads and shall hereafter be designated as an alley. ('85 Code, § 14-3.4)

(Ord. 94-07, passed 3-10-94) Penalty, see § 95.99

§ 95.99 PENALTY.

Any person who violates the provisions of this chapter shall, upon conviction, be liable to the penalty as stated in § 10.99 of this code of ordinances.

('85 Code, § 14-1.5) (Ord. 19, passed --)

CHAPTER 96: PERSONAL WATERCRAFT SAFETY

Section

96.01 Definition

96.02 Operator restrictions

96.03 Speed limit

96.04 Wildlife protection

96.05 Sale and lease requirements

96.06 Prohibited acts

96.99 Penalty

§ 96.01 DEFINITION.

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

PERSONAL WATERCRAFT. For the purposes of this chapter, PERSONAL WATERCRAFT shall be defined as in G.S. § 75A-13.3(a).

(Ord. 00-09, passed 5-22-00)

§ 96.02 OPERATOR RESTRICTIONS.

The restrictions for operation of a personal watercraft shall be described in G.S. § 75-13.3(b), except that only persons at least 13 years of age but under 16 years of age may operate personal watercraft pursuant to G.S. § 75-13.3(b)(1) and (2).

(Ord. 00-09, passed 5-22-00) Penalty, see § 96.99

§ 96.03 SPEED LIMIT.

In all county waters, to include Holden Beach finger canals and wetland areas affected by monthly tidal water level variations in the town limits, no person may operate a personal watercraft in excess of headway speed, which shall not exceed six miles per hour:

- (A) Within 50 feet of any posted waterbird sanctuaries or management areas.
- (B) Within 25 feet of any wetland area along the shore within the Intracoastal Waterway.
- (C) Within 300 feet of the Holden Beach Bridge.

(Ord. 00-09, passed 5-22-00) Penalty, see § 96.99

§ 96.04 WILDLIFE PROTECTION.

In accordance with G.S. § 113-291.1, it shall be unlawful for an operator of a personal watercraft in all county waters, to include Holden Beach finger canals and wetland areas affected by monthly tidal water level variations in the town limits to chase, harass, molest, or disturb any wildlife except when lawfully angling for, hunting or trapping such wildlife.

(Ord. 00-09, passed 5-22-00) Penalty, see § 96.99

§ 96.05 SALE AND LEASE REQUIREMENTS.

(A) At the time of purchase, a dealer in personal watercraft shall require the buyer of a personal watercraft to receive instruction addressing safe operation of the watercraft.

(B) A personal watercraft livery owner or the livery's agent or employee shall:

(1) Require positive identification from all renters;

(2) Post personal watercraft regulations;

(3) Require all renters to read the regulations.

(4) Require all renters to sign a rental contract, containing a clause stating that the renter has read and understood all applicable safety regulations.

(5) Instruct all renters in the safe operation of the personal watercraft.

(Ord. 00-09, passed 5-22-00) Penalty, see § 96.99

§ 96.06 PROHIBITED ACTS.

It shall be unlawful for any person to engage in or participate in the following acts or activities in the area indicated: Operation of a jet ski, power sled, or such other similar device, by whatever name such is called, while the engine or motor of such device is operating or running, in the waters of the Atlantic Ocean adjacent to the town limits while within 500 feet of the shoreline or of any fishing pier.

(Ord. 00-09, passed 5-22-00) Penalty, see § 96.99

§ 96.99 PENALTY.

Any person who shall violate the provisions of this chapter shall be guilty of a Class 3 misdemeanor punishable by a fine of not more than \$500 or imprisonment for not more than 20 days, in the discretion of the Court, as provided by G.S. § 14-4.

(Ord. 00-09, passed 5-22-00)

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GENERAL LICENSING

111. ADULT CLUBS

112. PEDDLING

113. CABLE TELEVISION

CHAPTER 110: GENERAL LICENSING

Section

110.01 Definitions; tax levied

110.02 Tax Collector; duties

- 110.03 License required
- 110.04 Exemptions
- 110.05 Special provisions
- 110.06 License; due date
- 110.07 Application for license
- 110.08 Display of license
- 110.09 Effect of license
- 110.10 Multiple businesses
- 110.11 Separate places of business
- 110.12 Change in place of business
- 110.13 Proration of tax; seasonal businesses
- 110.14 No abatement of tax
- 110.15 Collection of unpaid tax

110.99 Penalty

§ 110.01 DEFINITIONS; TAX LEVIED.

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

BUSINESS. Any trade, occupation, profession, business, franchise, or calling of any kind, subject by the provisions of this chapter to a license tax.

ENGAGED or ENGAGING IN BUSINESS WITHIN THIS TOWN. A person who engages in business activity of any type, either as owner or operator of such business:

- (a) By maintaining a business location within the town;
- (b) By soliciting business within the town; or
- (c) By picking up or delivering merchandise or performing services within

the town.

SEASONAL IN NATURE. A business when it is taxed by this chapter on an annual basis, but is operated within the town for less than six months of the year.

(B) Tax levied. A license tax which is hereby levied on the privilege of engaging business within the town except as may be exempt by law. Any person so engaged in business shall be responsible for making certain that the applicable tax is paid. The amount of tax shall be established by the schedule adopted by the Board of Commissioners, which is available in the office of the Town Clerk.

('85 Code, §§ 4-1.1, 4-1.2) (Ord. 11-83, passed -- ; Am. Ord. 99-09, passed 6-14-99; Am. Ord. 08-07, passed 6-24-08)

§ 110.02 TAX COLLECTOR; DUTIES.

(A) The Tax Collector is hereby designated as the proper town official to collect license taxes and to issue privilege licenses.

(B) The Tax Collector shall make any investigation necessary to determine the tax liability of persons engaged in business within the town. If necessary, the Tax Collector is authorized to enter upon the premises of any such business during normal business hours for the purpose of determining whether this chapter has been complied with.

('85 Code, § 4-1.3) (Ord. 11-83, passed --)

§ 110.03 LICENSE REQUIRED.

It shall be unlawful for any person to engage in a business within the town upon which a license tax is imposed by this chapter without having paid the license tax specified in § 110.01 of this chapter.

('85 Code, § 4-1.14a.) Penalty, see § 110.99

§ 110.04 EXEMPTIONS.

(A) Any person who engages in business within the town for religious, educational, or charitable purposes shall be exempt from paying any privilege license tax levied by this chapter.

(B) Any blind person engaging in business within the town shall be exempt from paying any privilege license tax levied by this chapter, to the extent provided by G.S. § 105-249, as amended.

(C) Any person serving in any branch of the armed forces of the United States or in the merchant marine, and desiring to engage in business within the town, shall be exempt from paying any privilege license tax levied by this chapter during the period of such service, to the extent provided by G.S. § 105-249.1, as amended.

('85 Code, § 4-1.13) (Ord. 11-83, passed --)

§ 110.05 SPECIAL PROVISIONS.

Housing units rented on an annual or seasonal basis are exempt from the provisions of this chapter.

('85 Code, § 4-1.16) (Ord. 11-83, passed --)

§ 110.06 LICENSE; DUE DATE.

(A) Each privilege license issued shall cover the 12-month period beginning July 1 of each calendar year and ending June 30 of the subsequent calendar year.

(B) The privilege license tax is due on July 1 of each year. If, however, a person begins a business after July 1, the tax for that year must be paid before the business is begun.

('85 Code, § 4-1.4) (Ord. 11-83, passed --)

§ 110.07 APPLICATION FOR LICENSE.

(A) Every person desiring to obtain a license for the privilege of engaging in a business within the town shall make application therefor in writing to the Tax Collector.

(B) The application, to be made on a form provided by the Tax Collector, shall contain the following information:

- (1) Name and nature of the business for which the license is sought.
- (2) The address where the business is conducted, and a mailing address for the business, if different.
- (3) The name and address of the person filling out the application, and his relationship to the business.
- (4) The gross receipts of the business for the most recently completed tax year, if applicable.
- (5) Any other information which the Tax Collector determines to be necessary.

('85 Code, § 4-1.5a.) (Ord. 11-83, passed --)

§ 110.08 DISPLAY OF LICENSE.

Each person issued a license under this chapter shall post the license in a conspicuous place in his regular place of business. If there is no regular place of business, the license shall be kept where it may be inspected at appropriate times by the Town Tax Collector. If a machine or other item of personal property is licensed, the license shall be posted at or affixed to such machine or item.

('85 Code, § 4-1.9) (Ord. 11-83, passed --) Penalty, see § 110.99

§ 110.09 EFFECT OF LICENSE.

The issuance of a license under this chapter does not authorize carrying on of a business for which additional licenses or qualifications are required by state or local law, nor does the issuance of a license prevent the town from additional regulations applicable to the licensee.

('85 Code, § 4-1.12) (Ord. 11-83, passed --)

§ 110.10 MULTIPLE BUSINESSES.

If a person is engaged in more than one business made subject to a license tax under this chapter, such person shall pay the license tax prescribed for each such business, even if the businesses are conducted at the same business location.

('85 Code, § 4-1.7) (Ord. 11-83, passed --) Penalty, see § 110.99

§ 110.11 SEPARATE PLACES OF BUSINESS.

(A) Unless otherwise provided by state law or by § 110.05 of this chapter, if a person engages in a business in two or more separate places, a separate license tax shall be required for each such place of business.

(B) For the purposes of this section, the person is liable for only one license tax, if he or she engages in the same business at two or more locations within the town, which locations:

- (1) Are contiguous;
- (2) Communicate with and open directly into each other; and
- (3) Are operated as a unit.

('85 Code, § 4-1.8) (Ord. 11-83, passed --) Penalty, see § 110.99

§ 110.12 CHANGE IN PLACE OF BUSINESS.

If a person who has obtained a license for a business taxed under this chapter desires to move from one business location to another within the town, the license which has been issued shall be valid for the remainder of the license year at this new location, and no additional tax need be paid. Within 30 days after the change in locations; however, such person shall inform the Tax Collector of the change in address.

('85 Code, § 4-1.10) (Ord. 11-83, passed -- ; Am. Ord. 5-90, passed 4-2-90) Penalty, see § 110.99

§ 110.13 PRORATION OF TAX; SEASONAL BUSINESSES.

(A) Except when a tax is based on gross receipts, if a business is begun after January 31 but before July 1, the tax shall be one-half of the amount otherwise due.

(B) Except when a tax is based on gross receipts, a person engaged in a business which is seasonal in nature is liable for one-half of the amount of tax otherwise due.

('85 Code, § 4-1.16) (Ord. 11-83, passed --)

§ 110.14 NO ABATEMENT OF TAX.

If a licensee discontinues a business before the end of the period for which the license was issued, the license tax shall not be abated nor shall a refund of any part of the license tax be made.

('85 Code, § 4-1.11) (Ord. 11-83, passed --)

§ 110.15 COLLECTION OF UNPAID TAX.

(A) If a person begins or continues to engage in a business taxed under this chapter without payment of the required privilege license tax, the Tax Collector may use either of the following methods to collect the unpaid tax:

- (1) The remedy of levy and sale or attachment and garnishment, in accordance with G.S. § 160A-207, as amended; or
- (2) The remedy of levy and sale of real and personal property of the taxpayer in accordance with G.S. § 105-109(d), as amended.

(B) Any person who begins or continues to engage in a business taxed under this chapter without payment of such tax is liable for an additional tax of 5% of the original tax due for each 30 days or portion thereof that the tax is delinquent.

('85 Code, § 4-1.15) (Ord. 11-83, passed --) Penalty, see § 110.99

§ 110.99 PENALTY.

(A) (1) Criminal. Any person who violates any provision of this chapter for which no penalty is otherwise provided shall be subject to the penalty provided in § 10.99(A) of this code of ordinances.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of this chapter for which no civil penalty is otherwise provided shall be subject to a civil fine of \$50 per offense.

(3) In addition to the penalties provided in divisions (A)(1) and (2) above, the town may seek an injunction pursuant to § 10.98 of this code of ordinances against any person engaging in business in violation of this chapter.

(4) Conviction or payment of a civil fine under this section does not relieve a person of his liability for the license tax imposed by this chapter.

('85 Code, § 4-1.14b.) (Ord. 11-83, passed -- ; Am. Ord. 5-90, passed 4-2-90; Am. Ord. 93-11, passed 9-7-93)

(B) Any person who willfully makes a false statement on a license application, as provided for in § 110.07 of this chapter, shall be liable, upon conviction, to a fine of \$25 for each occurrence, which fine shall be payable at the Town Hall. ('85 Code, § 4-1.5) (Ord. 11-83, passed --)

CHAPTER 111: ADULT CLUBS

Section

111.01 Definitions

111.02 Adult clubs prohibited

111.99 Penalty

§ 111.01 DEFINITIONS.

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

ADULT CLUB. An establishment used for any type of presentation depicting, exhibiting, or describing "specified sexual activities" or "specified anatomical areas" as defined herein, for observation of patrons therein.

SPECIFIED ANATOMICAL AREAS.

(1) Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and

(2) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Any one or more of the following:

(1) Depiction or exhibition of human genitals;

(2) Acts of human masturbation, sexual intercourse, sodomy, masochism, sadism or sado-masochism; and

(3) Fondling, exhibition, or erotic touching of human genitals, public region, buttock, or female breast.

('85 Code, § 3-13.1) (Ord. 91-06, passed 6-3-91)

§ 111.02 ADULT CLUBS PROHIBITED.

It shall be unlawful for any person or persons to engage in the specified sexual activities defined in this chapter or display the specified anatomical areas defined herein, in any public place of business, entertainment or amusement within the municipal boundaries of the town. It shall be unlawful for any person, group of persons, firm, partnership, limited partnership, or corporation to operate or cause to be operated an adult club, within the municipal boundaries of the town.

('85 Code, § 3-13.2) (Ord. 91-06, passed 6-3-91) Penalty, see § 111.99

§ 111.99 PENALTY.

(A) Criminal. Any person who violates any provision of this chapter shall be subject to the penalty provided in § 10.99(A) of this code of ordinances.

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of this chapter shall be subject to a civil fine of \$50 per offense.

('85 Code, § 3-13.3) (Ord. 91-06, passed 6-3-91; Am. Ord 93-11, passed 9-7-93)

CHAPTER 112: PEDDLERS

Section

112.01 Definition

112.02 Peddling prohibited

112.03 Exemption for charitable or religious purposes

112.99 Penalty

§ 112.01 DEFINITION.

For the purpose of this chapter, PEDDLING shall mean the selling, bartering, or exchanging or the offering for sale of any tangible personal property, including but not limited to food and ice cream, upon or along the streets, highways, or public places of the town or from private property within or

without the permission of the owner thereof, from any wagon, truck, pushcart, concession stand, or tent, or other movable receptacles of any kind.

('85 Code, § 3-8.2) (Ord. 30, passed --)

§ 112.02 PEDDLING PROHIBITED.

Pursuant to the authority granted under G.S. §§ 160A-178 and 160A-194, as amended, the activity of peddling within the limits of the town is prohibited.

('85 Code, § 3-8.1) (Ord. 30, passed --) Penalty, see § 112.99

§ 112.03 EXEMPTION FOR CHARITABLE OR RELIGIOUS PURPOSES.

This chapter shall not apply to any activities which may fall within the above definition which are engaged in for the support of any recognized organized religious or charitable purpose.

('85 Code, § 3-8.3) (Ord. 30, passed --)

§ 112.99 PENALTY.

(A) Criminal. Any person who violates any provision of this chapter shall be subject to a penalty as provided in § 10.99(A) of this code of ordinances.

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of this chapter shall be subject to a civil fine of \$50 per offense.

('85 Code, § 3-8.4) (Ord. 30 passed -- ; Am. Ord. 93-11, passed 9-7-93)

CHAPTER 113: CABLE TELEVISION

Section

113.01 Franchise required to operate cable television system

113.99 Penalty

§ 113.01 FRANCHISE REQUIRED TO OPERATE CABLE TELEVISION SYSTEM.

It is required that any individual, corporation, or other entity desiring to operate any cable television system or any facilities therefor within the boundaries of the town, first obtain a franchise to do so from the Board of Commissioners. The franchisee shall be upon reasonable terms consistent with the rules and regulations of the Federal Communications Commission.

('85 Code, § 17-1.1) (Ord. 39, passed --) Penalty, see § 113.99

§ 113.99 PENALTY.

(A) Criminal. In accordance with § 10.99(A) of this code of ordinances, any person who violates any provision of this chapter shall be subject to a fine not to exceed \$100 per offense.

(B) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of this chapter shall be subject to a civil fine of \$100 per offense.

('85 Code, § 17-1.2) (Ord. 39, passed -- ; Am. Ord. 93-11, passed 9-7-93)

TITLE XIII: GENERAL OFFENSES

Chapter

130. GENERAL OFFENSES

CHAPTER 130: GENERAL OFFENSES

Section

General Provisions

130.01 Discharge of firearms prohibited; exceptions

130.02 Hunting prohibited

130.03 Sale and consumption of alcoholic beverages prohibited

130.04 Public nudity

Fireworks Provisions

130.15 Sale or use of fireworks prohibited

130.16 Possession restricted

130.17 Supplement to state statutes

Littering Provisions

130.30 Littering prohibited

130.31 Persons causing or permitting litter

Price Gouging

130.40 Price gouging

130.99 Penalty

GENERAL PROVISIONS

§ 130.01 DISCHARGE OF FIREARMS PROHIBITED; EXCEPTIONS.

It shall be unlawful for a person to shoot or project any stone, rock, shot, or other hard substance by means of a slingshot, bean shooter, air rifle, popgun, bow, or other similar contrivance, or to fire any pistol, gun, or other firearms within the town except on archery ranges, firing ranges, or in legally-established shooting galleries or ranges, or in the discharge of duty by law enforcement officers,

provided that the use of firearms in the destruction of rodents, pigeons, squirrels, or similar animals or birds or reptiles that are considered to be a menace to public health or property may be permitted by special permission of the Chief of Police.

('85 Code, § 3-1.1) (Ord. 4, passed --) Penalty, see § 130.99

§ 130.02 HUNTING PROHIBITED.

It shall be unlawful for any person or group of persons to do any hunting of wildlife with dogs or without dogs within the town limits.

('85 Code, § 3-1.2) (Ord. 4, passed -- ; Am. Ord. 93-07, passed 3-1-93) Penalty, see § 130.99

§ 130.03 SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED.

No person shall consume, serve, or drink wine, beer, whiskey, or alcoholic beverages of any kind on or in the public streets, boulevards, alleys, parks, sidewalks, or public buildings within the town, unless otherwise approved by the Board of Commissioners.

('85 Code, § 3-5.1) (Ord. 6, passed -- ; Am. Ord. 93-07, passed 3-1-93; Am. Ord. 13-08, passed 11-12-13) Penalty, see § 130.99

§ 130.04 PUBLIC NUILITY.

(A) It shall be unlawful for any female over the age of nine to willfully expose her breasts in any public area. For the purpose of this section, the term EXPOSE HER BREASTS shall mean the revealing of the female breast with less than a fully opaque covering on any portion thereof lower than the top of any part of the areola. ('85 Code, § 3-14.1)

(B) It shall be unlawful for any person over the age of five years to appear in any public area in such a state of dress or undress so as to expose to the view of others the human male or female pubic area, pubic hair, anus, vulva, or buttocks with less than a fully opaque covering. ('85 Code, § 3-14.2)

(C) For purposes of this section, a PUBLIC AREA is any area in the town limits ordinarily open to public use, including but not limited to the beach strand, commercial premises and parking areas, public parking and access areas, town rights-of-way, public parks, and city-owned property, and any areas within town limits that are visible under normal and usual lighting conditions, to anyone making ordinary use of those areas. ('85 Code, § 3-14.3)

(Ord. 91-13, passed 8-5-91) Penalty, see § 130.99

FIREWORKS PROVISIONS

§ 130.15 SALE OR USE OF FIREWORKS PROHIBITED.

The sale or use of any fireworks including bottle rockets, roman candles, smoke bombs, or any other nonexplosive fireworks is found to be contrary to the general safety and welfare of the public interest, especially regarding fire hazards, and is prohibited, provided, however, that fireworks shall be permitted at public exhibitions with the specific approval of the Board of Commissioners and shall be under the supervision of experts in the handling and use thereof.

('85 Code, § 3-6.1) (Ord. 14-82, passed -- ; Ord. 8-86, passed 6-2-86; Am. Ord. 00-06, passed 3-13-00)
Penalty, see § 130.99

§ 130.16 POSSESSION RESTRICTED.

Possession of fireworks by any person, for any purpose other than as may be permitted by state law, shall be prima facie evidence of violation of this subchapter.

('85 Code, 3-6.2) (Ord. 14-82, passed --) Penalty, see § 130.99

§ 130.17 SUPPLEMENT TO STATE STATUTES.

This subchapter is supplementary to G.S. §§ 14-410 through 14-415.

('85 Code, § 3-6.3) (Ord. 14-82, passed --)

LITTERING PROVISIONS

§ 130.30 LITTERING PROHIBITED.

No person shall throw or deposit, or cause to be thrown or deposited, any glassware, cans, cups, containers, nor other products of glass, plastic, foam, aluminum, or other material, nor any other garbage, waste, or refuse of any kind on:

(A) The public beaches along the Atlantic Ocean, Lockwood's Folly Inlet, Shallotte Inlet, Atlantic Intracoastal Waterway, or any other waters or waterways in or adjacent to the town limits or the shore, marshlands, or other beaches adjacent to or within the town limits.

(B) Any street, road, roadway, public-way, or other right-of-way within the town limits.

(C) Any public property within the town limits.

(D) Any private property not owned by or controlled by the person, or where litter will or may leave that property onto another's property, either public or private.

(E) All persons transporting waste material, construction materials, or any manner of loose materials over the public or private roadways within the town shall insure that such materials are not lost or scattered on or along the rights-of-way of such roadways. Those materials shall be securely covered during transit in such manner as to prevent the loss thereof from the transporting vehicle.

('85 Code, §§ 3-7.1, 8-5.3) (Ord. 10-90, passed 5-15-90; Am. Ord. 92-03, passed 3-18-92; Am. Ord. 02-10, passed 7-8-02)

('85 Code, § 3-7.1) Penalty, see § 130.99

Cross-reference:

Regulation of garbage and refuse, see Ch. 50

Regulation of construction litter, see § 151.40

§ 130.31 PERSONS CAUSING OR PERMITTING LITTER.

For the purposes of this subchapter or relevant companion sections, the person who causes or permits littering as defined in § 130.30 above, is defined as follows:

(A) Litter from boats. The owner of the boat, or the operator of the boat if the owner of the boat is not aboard.

(B) Litter from passenger vehicles, trucks, or other types of wheeled devices whether mechanical, wind- or human-powered. The owner of the vehicle or the operator of the vehicle if the owner is not in or on the vehicle.

(C) Litter on construction sites. The general contractor, or owner if there is no general contractor.

(D) Litter adjacent to garbage racks, cans, or other garbage or refuse containers. The owner, or the renter, guest, or user of the property containing the items.

('85 Code, § 3-7.2)

PRICE GOUGING

§ 130.40 PRICE GOUGING.

(A) The town has a responsibility for the health, safety and general welfare of the community, and the activity of price gouging during and following circumstances warranting the declaration of a state of emergency threatens the health, safety and general welfare of the community.

(B) Price gouging is prohibited in the town as follows:

(1) At any time within 30 days of any declaration of a state of emergency, no person, merchant or business within the town shall sell any goods at a price that is greater than 150% of the amount charged prior to the state of emergency, except as provided below.

(2) Sales of goods above pre-disaster levels shall be allowed only if the merchant can document by receipt or other form of verifiable paper-writing the increase in price to the merchant of the item in question. Nonresident merchants or vendors not doing business in the town prior to the declaration of the state of emergency need to document by receipt or other form of verifiable paper-writing the elevation price levels if the price charged by a particular item exceeds the general market value charged by resident merchants by 150%.

(Ord. 05-03, passed 4-11-05) Penalty, see § 130.99

§ 130.99 PENALTY.

(A) (1) Criminal. Any person who violates any provision of this chapter for which no penalty is otherwise provided, shall be subject to the penalty provided in § 10.99(A) of this code of ordinances.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of this chapter for which no civil penalty is otherwise provided shall be subject to a civil fine of \$50 per offense.

('85 Code, §§ 3-5.2, 3-6.4, 3-7.3, 3-14.4) (Ord. 6, passed -- ; Am. Ord. 91-13, passed 8-5-91; Am. Ord. 93-07, passed 3-1-93; Am. Ord. 93-11, passed 9-7-93)

(B) (1) Criminal. In accordance with § 10.99(A) of this code of ordinances, any person who violates any provision of §§ 130.01 or 130.02 of this chapter shall be subject to a fine not to exceed \$100 per offense.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of §§ 130.01 or 130.02 of this chapter shall be subject to a civil fine of \$100 per offense.

('85 Code, § 3-1.3) (Ord. 4, passed -- ; Am. Ord. 93-11, passed 9-7-93)

(C) Pursuant to G.S. 75-15.2, when a violation of § 130.40 occurs, the court may, in its discretion, impose a civil penalty against the defendant of up to \$5,000 for each violation.

('85 Code, §3-1.3) (Ord. 4, passed -- ; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 05-03, passed 4-11-05)

TITLE XV: LAND USAGE

Chapter

- 150. ENVIRONMENTAL IMPACT
- 151. BUILDING AND HOUSING REGULATIONS
- 151A. MINIMUM HOUSING CODE
- 152. MOBILE HOMES
- 153. COASTAL AREA MANAGEMENT
- 154. FLOOD DAMAGE PREVENTION
- 155. PLANNING
- 156. SUBDIVISION REGULATIONS
- 157. ZONING CODE
- 158. STORMWATER MANAGEMENT

CHAPTER 150: ENVIRONMENTAL IMPACT

Section

General Provisions

- 150.01 Purpose
- 150.02 Definition
- 150.03 Environmental impact statement required
- 150.04 Enforcement

Abandoned Structures

- 150.30 Findings; intent
- 150.31 Duties of Building Inspector
- 150.32 Powers of Building Inspector
- 150.33 Conditions deemed in violation
- 150.34 Enforcement
- 150.35 Service of complaints
- 150.36 Removal or destruction by town; placarding
- 150.37 Creation of lien
- 150.38 Alternative remedies

GENERAL PROVISIONS

§ 150.01 PURPOSE.

The North Carolina General Assembly has authorized the governing bodies of all cities, counties and towns acting individually, or collectively, to require any special purpose unit of government or private developer of a major development project to submit detailed statements reflecting the environmental impact on such projects.

('85 Code, § 12-1) (Ord. 11, passed - -)

§ 150.02 DEFINITION.

For the purpose of this chapter, MAJOR DEVELOPMENT PROJECT shall mean and include shopping centers, subdivisions, and other housing developments, industrial and commercial projects, and projects involving dredging or filling, and any project which involves any change (by bulldozing, cutting of trees or vegetation, or otherwise) of more than 50% of the surface area of any proposed project, but shall not include any projects of less than two contiguous acres in extent. Any project significantly affecting the quality of the environment includes (without limitation) projects that may have a detrimental impact on air or water quality or on ambient noise levels for adjoining areas; that involve a possibility of contamination of a public or domestic water supply system or source; or will affect fish, wildlife, ground water, flooding, erosion, or sedimentation.

('85 Code, § 12-3) (Ord. 11, passed - -)

§ 150.03 ENVIRONMENTAL IMPACT STATEMENT REQUIRED.

(A) The Board of Commissioners of the town hereby establishes pursuant to G.S. Chapters 113A, and 113B that any special purpose unit of government or developer of any major development project significantly affecting the quality of the environment of this state shall submit a detailed statement setting forth the following:

- (1) The environmental impact of the proposed action.

(2) Any significant adverse environmental effects which cannot be avoided should the proposal be implemented.

(3) Mitigation measures proposed to minimize the impact.

(4) Alternatives to the proposed action known to the person submitting the statement, including:

(a) Alternative uses of the land in question; and

(b) Alternative ways (involving other lands) to achieve the purposes of the proposed project.

(5) The relationship between the short-term uses of the environment involved in the proposed action and the maintenance and enhancement of long-term productivity.

(6) Any irreversible and irretrievable environment changes which would be involved in the proposed action, should it be implemented.

(B) At least ten copies of the environmental impact statement shall be filed with the Town Clerk for action by the Board of Commissioners and transmittal to affected state and federal agencies. One copy shall be placed in a file at the office of the Town Clerk and shall be made available for inspection by the public.

(C) Guidelines relating to the preparation of environmental statements under G.S. § 113A-4 shall apply in the preparation of the statement required by this section.

('85 Code, § 12-2) (Ord. 11, passed --)

§ 150.04 ENFORCEMENT.

Construction of any major development project shall not be commenced until the Board of Commissioners has held two regular meetings subsequent to the filing of the Environmental Impact Statement. During this period, the Board of Commissioners shall hold a ~~public hearing~~ legislative hearing on the Impact Statement. Notice of the hearing shall be published in a newspaper of general circulation within the area no less than one week prior to the date of the hearing. The Building Inspector shall not issue any building permit or Certificate of Occupancy or compliance for any structure within a major development project except upon a finding by the Board of Commissioners that the requirements of this chapter have been met. Nor shall any approval, permit, license, certificate, or filing provided for by any zoning ordinance, subdivision control ordinance, or other land control use ordinance be granted or allowed the Board of Commissioners, Building Inspector or any other town official or body except upon a finding by the Board of Commissioners that the requirements of this chapter have been met.

('85 Code, § 12-4) (Ord. 11, passed --)

ABANDONED STRUCTURES

§ 150.30 FINDINGS; INTENT.

(A) If there exists within the town abandoned structures that the Building Inspector finds to be hazardous to the health, safety and welfare of the residents of the town, due to the attraction of

insects or rodents; conditions creating a fire hazard; dangerous conditions constituting a threat to children; or frequent use by vagrants as living quarters in the absence of sanitary facilities, the town may exercise its police power to abate the nuisance. Therefore, pursuant to the authority granted by G.S. [160A-441.160D-1201](#) et seq., the contents of which are incorporated herein as if set out in full, it is the intent of this subchapter to provide for the repair, closing or demolition of any such abandoned structures in accordance with the same provisions and procedures as are set forth by law for the repair, closing, or demolition of dwellings unfit for human habitation.

(B) When a local inspector finds any defects in a building, or finds the building has not been constructed in accordance with applicable state and local laws; or that a building, because of its condition, is dangerous or contains fire hazardous conditions; it shall be the inspector's duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he owns.

(C) Defective conditions may include the following (without limiting the generality of this section):

- (1) Defects increasing the hazards of fire, accident, or other calamities;
- (2) Lack of adequate ventilation, light, or sanitary facilities;
- (3) Dilapidation, disrepair, structural defects, or uncleanness.

(Ord. 96-14, passed 9-3-96; Am. Ord. 02-10, passed 7-8-02)

§ 150.31 DUTIES OF BUILDING INSPECTOR.

(A) The Building Inspector is hereby designated as the officer to enforce the provisions of this subchapter.

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

- (1) Locate abandoned and unsafe structures within the town and determine which structures are in violation of this subchapter;
- (2) Take such action pursuant to this subchapter as may be necessary to provide for the repair, closing, and demolition of the structures, including but not limited to, the authorization to disconnect water, power and other utilities;
- (3) Keep an accurate record of all enforcement proceedings begun pursuant to the provisions of this subchapter;
- (4) Affix notice of the dangerous character of the structure to a conspicuous place on the exterior wall of such building; and
- (5) Perform such other duties as may be prescribed in this subchapter or assigned to him by the Board of Commissioners.

(Ord. 96-14, passed 9-3-96; Am. Ord. 02-10, passed 7-8-02)

§ 150.32 POWERS OF THE BUILDING INSPECTOR.

(A) The Building Inspector is authorized to exercise such powers as may be necessary to carry out the intent and the provisions of this subchapter.

(B) The Building Inspector shall have the following powers, in addition to others herein granted:

(1) Investigate the condition of the buildings within the town in order to determine which structures are abandoned or in violation of this subchapter;

(2) Enter upon premises for the purpose of making inspections;

(3) Administer oaths and affirmations, examine witnesses and receive evidence;

and

(4) Designate such other officers, agents and employees of the town as he deems necessary to carry out the provisions of this subchapter.

(Ord. 96-14, passed 9-3-96)

§ 150.33 CONDITIONS DEEMED IN VIOLATION.

(A) Every structure within the town shall be deemed in violation of this subchapter whenever the structure constitutes a hazard to the health, safety, or welfare of the town citizens as a result of any of the following:

(1) The attraction of insects or rodents;

(2) Conditions which are dangerous or contain a fire hazard situation;

(3) Dangerous conditions constituting a threat to children;

(4) Frequent use by vagrants as living quarters in the absence of sanitary facilities;

or

(5) Construction of the building without compliance with applicable state and local

laws.

(B) In making a preliminary determination of whether or not a structure is in violation of this subchapter, the Building Inspector may, by way of illustration and not limitation, consider the presence or absence of the following conditions:

(1) Holes or cracks in the structure's floors, walls, ceilings, or roof, which might attract rodents and insects, or become breeding places for rodents and insects;

(2) The collection of garbage or rubbish in or near the structure which might attract rodents and insects, or become breeding places for rodents and insects;

(3) Violations of the state building code; the state electricity code; or the fire prevention code, which constitutes a fire hazard in the structure;

(4) The collection of garbage, rubbish, or combustible material which constitutes a fire hazard in the structure;

(5) The use of the structure or nearby grounds or facilities by children as a play area;

(6) Violations of the state building code which might result in danger to children using the structure or nearby grounds or facilities as a play area;

(7) Repeated use of the structure by transients and vagrants, in the absence of sanitary facilities for living, sleeping, cooking, or eating; or

(8) Overloaded floors, defective construction, unsafe wiring or heating system, inadequate means of egress or other causes.

(Ord. 96-14, passed 9-3-96)

§ 150.34 ENFORCEMENT.

(A) Preliminary investigation; notice; hearing. Whenever a petition is filed with the Building Inspector by at least five residents of the town, charging that any structure exists in violation of this subchapter; or whenever it appears to the Building Inspector, upon inspection, that any structure exists in violation of this subchapter; the Building Inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such structure, a complaint stating the charges and containing a notice that a hearing will be held before the inspector at a place therein fixed, not less than ten, nor more than 30 days after the service of the complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. The complaint shall be served either personally or by certified mail. Notice of hearing shall also be given to at least one of the persons signing a petition relating to the structure. Any person desiring to do so may attend the hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Building Inspector. If the name or whereabouts of the owner cannot, after due diligence, be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing, and a notice of hearing is published in a newspaper having general circulation in the town at least once not later than one week prior to the hearing.

(B) Procedure for hearing. After the notice and hearing, the Building Inspector shall state in writing the determination as to whether the structure violates this subchapter. If the Building Inspector determines that the dwelling is in violation, he shall state in writing his findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter, and improve the structure; or else to remove, close, vacate, or demolish the structure; within a specified period of time, not to exceed 90 days.

(C) Appeal. Any owner who has received an order under division (B) of this section may appeal from the order to the Board of Commissioners, by giving notice of appeal in writing to the Building Inspector and to the Town Clerk within ten days following the issuance of the order. The Board

shall hear an appeal within a reasonable time and may affirm, modify, or revoke the order. The provisions of G.S. ~~160D-305A-446~~, as may be amended from time to time, shall be followed.

(D) Failure to comply with order.

(1) In personam remedy. If the owner of any structure fails to comply with an order of the Building Inspector within the time specified therein, the Building Inspector may submit to the Board of Commissioners, at its next regular meeting, a resolution directing the Town Attorney to petition the superior court for an order directing the owner to comply with the order of the Building Inspector, as authorized by G.S. ~~160A-446160D-1208.(e)-~~

(2) In rem remedy. After failure of an owner to comply with an order of the Building Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in division (D)(1) above, the Building Inspector shall submit to the Board of Commissioners an ordinance ordering the Building Inspector to cause the structure to be removed or demolished, as provided in the original order of the Building Inspector, and pending the removal or demolition, to placard such dwelling as provided by G.S. ~~160D-1208160A-443~~.

(E) Petition to Superior Court by owner. Any person aggrieved by an order issued by the Building Inspector shall have the right, within 30 days after issuance of the order, to petition the Superior Court for a temporary injunction restraining the Building Inspector, pending a final disposition of the cause, as provided by G.S. ~~160A-446160D-1208~~.

(Ord. 96-14, passed 9-3-96)

§ 150.35 SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Building Inspector pursuant to this subchapter shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Building Inspector in the exercise of reasonable diligence, the Building Inspector shall make an affidavit to that effect, and the serving of the complaint or order upon such person may be made by publication once at least ten days prior to the date of the hearing in a newspaper having general circulation in the town. If the name or whereabouts of the owner cannot after due diligence be discovered, the complaints or orders shall be considered properly and adequately served if a copy thereof is posted in a conspicuous place on the outside of the building or structure affected by the complaint or order.

Statutory reference:

Similar provisions, see G.S. ~~160A-445160D-12069(a),(b)1129(h)~~

§ 150.36 REMOVAL OR DESTRUCTION BY TOWN; PLACARDING.

(A) After failure of an owner of a structure to comply with an order of the Building Inspector issued pursuant to the provisions of this subchapter, and upon adoption by the Board of Commissioners of an ordinance authorizing and directing him to do so, as provided by G.S. ~~160A-443160D-1203~~(5) and § 150.34, the Building Inspector shall proceed to cause the structure to be removed or demolished, as directed by the ordinance of the Board, and shall cause to be posted on the main entrance of the

structure a placard prohibiting the use or occupation of the structure. Use or occupation of a building so posted shall constitute a misdemeanor.

(B) Each ordinance shall be recorded in the office of the register of deeds of the county, and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. 160A-443(5) and 160A-443(5)(a).

(Ord. 96-14, passed 9-3-96) Penalty, see § 10.99

§ 150.37 CREATION OF LIEN.

As provided by G.S. ~~160A-443~~160D(71129)(i)6(a), the amount of the cost of any repairs, alterations, removal or improvements, or vacating and closing, or removal or demolition or demolition caused to be made or done by the Building Inspector pursuant to this subchapter shall be a lien against the real property upon which the cost was incurred. The lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Ch. 160A, Art. 10.

(Ord. 96-14, passed 9-3-96)

§ 150.38 ALTERNATIVE REMEDIES.

Neither this subchapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this subchapter by criminal process; and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Ord. 96-14, passed 9-3-96)

CHAPTER 151: BUILDING AND

HOUSING REGULATIONS

Section

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151.18 Plans for construction, alteration, or repair

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- 151.40 Construction litter
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- 151.55 New or replacement electrical service
- 151.56 Existing overhead electrical service

Cross-reference:

Abandoned structures, see §§ 150.30 - 150.38

GENERAL PROVISIONS

§ 151.01 STANDARD CODES ADOPTED.

(A) Building Code adopted. The North Carolina State Building Code, Volume I, General Construction, as adopted by the North Carolina Building Code Council, and as amended, is hereby adopted by reference, as fully as though set forth herein, as the building code of the town to the extent such code is applicable for safe and stable design, methods, and construction, minimum standards, and use of materials in buildings or structures hereafter erected, enlarged, altered, repaired, or otherwise constructed or reconstructed.

('85 Code, § 8-1.1)

(B) Residential Building Code adopted.

(1) Residential Building Code. The North Carolina Uniform Residential Building Code, as adopted by the North Carolina Building Code Council, and as amended, is hereby adopted by reference, as fully as though set forth herein, as the residential building code for one- and two-family residential buildings in the town.

('85 Code, § 8-1.2)

(2) Swimming pools, spas and hot tubs. The appendix of the Residential Building Code regarding swimming pools, spas and hot tubs, as amended by the North Carolina Building Code Council, is hereby adopted by reference, as fully as though set forth therein, as the code for swimming pools, spas and hot tubs in the town.

(C) Electrical Code Adopted. The North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical), as adopted by the North Carolina Building Code Council, and as amended, is hereby adopted by reference, as fully as though set forth herein, as the electrical code for the town.

('85 Code, § 8-1.3)

(D) Heating Code adopted. The North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating) as adopted by the North Carolina Building Code Council, and as amended, is hereby adopted by reference, as fully as though set forth herein, as the heating code for the town.

('85 Code, § 8-1.4)

(E) Plumbing Code adopted. The 1968 edition of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing), as adopted by the North Carolina Building Code Council, and as amended, is hereby adopted by reference, as fully as though set forth herein, as the plumbing code of the town.

('85 Code, § 8-1.5) (Am. Ord. 07-12, passed 9-25-07)

Cross-reference:

Standard Fire Prevention Code adopted, see § 91.01

§ 151.02 AMENDMENTS TO CODES.

Amendments to the regulatory codes adopted by reference herein, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time such amendments are filed with the Building Inspector as provided in § 151.03 of this chapter.

('85 Code, § 8-1.7) (Ord. 91-04, passed 4-8-91; Am. Ord. 00-15, passed 6-26-00)

§ 151.03 COPIES OF CODES FILED WITH TOWN CLERK.

An official copy of each regulatory code adopted herein, and official copies of all amendments thereto, shall be kept on file in the office of the Town Clerk and Building Inspector. Such copies shall be the official copies of the code and amendments.

('85 Code, § 8-1.8) (Ord. 91-04, passed 4-8-91)

BUILDING PERMITS

§ 151.15 DEFINITIONS.

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

MAINTENANCE. The recurrent day-to-day, periodic, or scheduled work upon the constituent nonstructural parts of a building required to preserve or restore the building to such condition that it may be effectively used for its intended purpose. Includes work undertaken to prevent damage to a building which otherwise would be more costly to restore. Examples: Painting and re-roofing without change in size.

REPAIR. The restoration of a building to such condition that it may be effectively used for its intended purposes by overhaul, reprocessing, or replacement of its constituent structural parts or materials that have deteriorated by action of the elements or usage and which have not been corrected through maintenance. Examples: Replacement or relocation of piling, joists, flooring, trusses, and bearing walls.

('85 Code, § 8-2.1c.) (Ord. 8, passed -- ; Am. Ord. 02-10, passed 7-8-02)

§ 151.16 BUILDING PERMITS REQUIRED.

(A) No person shall commence or proceed with the construction, alteration, repair, removal, or demolition of any building or other structure, or part thereof, without a written permit therefor from the Building Inspector.

(B) Work started in violation of G.S. § ~~160A-417~~160D-1110, shall be subject to a fine of up to and not exceeding five times the permit fee.

(C) Any fines levied under § 151.16(B) may be appealed to the Town Manager by written request within ten days.

('85 Code, § 8-2.1a., b.) (Ord. 8, passed -- ; Am. Ord. 14-03, passed 3-11-14)

§ 151.17 APPLICATION FOR PERMITS.

(A) Applications for permits required by this subchapter shall be made in writing on forms provided by the town. Application shall be made by the owner of the building or structure affected, or by his authorized representative.

(B) In addition, to such other information as may be required by the Building Inspector to enable him to determine whether the permit applied for should be issued, the application shall furnish the following information:

- (1) Name and address of owner;
- (2) Name and address of authorized representative, if any;
- (3) Name and address of general contractor, if any;
- (4) Location of premises; proposed use of premises; and
- (5) Estimated cost of work.

('85 Code, § 8-2.2) (Ord. 8, passed --)

§ 151.18 PLANS FOR CONSTRUCTION, ALTERATION, OR REPAIR.

With every application for the construction, alteration, or repair of any building or structure there shall be furnished to the Building Inspector a set of plans covering the work proposed to be done. This requirement may be waived when in the opinion of the Inspector such plans are not necessary in order to determine if all ordinances of the town are to be complied with.

('85 Code, § 8-2.3) (Ord. 8, passed --)

§ 151.19 APPROVAL OF APPLICATION.

All complete applications for permits required by this section shall be approved or disapproved by the Building Inspector within a period of not exceeding two weeks from the date of filing thereof. Such applications shall be approved if the work proposed to be done conforms to the requirements of all codes and ordinances of the town applicable thereto.

('85 Code, § 8-2.4) (Ord. 8, passed -- ; Am. Ord. 02-10, passed 7-8-02)

§ 151.20 ISSUANCE.

Upon approval by the Building Inspector of any application for a permit, and upon payment of fees prescribed by §§ 151.21 and 151.22 of this sub-chapter, a proper permit shall be issued to the applicant. A copy of the permit and application shall be kept on file in the office of the Building Inspector.

('85 Code, § 8-2.5) (Ord. 8, passed -- ; Am. Ord. 93-13, passed 9-22-93)

§ 151.21 PERMIT FEES.

Fees for permits shall be based upon a schedule adopted by the Board of Commissioners, which shall be available at the office of the Town Clerk and the Building Inspector.

('85 Code, § 8-2.6a., d., e.) (Ord. 8, passed -- ; Am. Ord. 92-02, passed 1-6-92; Am. Ord. 94-20, passed 9-21-94; Am. Ord. 95-12, passed 10-2-95; Am. Ord. 97-08, passed 6-2-97; Am. Ord. 99-08, passed 6-28-99; Am. Ord. 03-06, passed 7-28-03; Am. Ord. 06-08, passed 6-12-06; Am. Ord. 14-03, passed 3-11-14)

§ 151.22 PAYMENT OF FEES; REIMBURSEMENT.

(A) Payment of fees. All fees become due and shall be paid prior to the issuance of the building permit.

(B) Reimbursement of fees. If a project is cancelled or for any reason is abandoned within 30 days of the day the building permit is issued, the Building Inspection Department must be notified, and the fees will be reimbursed to the person who paid the building permit fees.

('85 Code, § 8-2.6b., c.) (Ord. 8, passed -- ; Am. Ord. 12-85, passed -- ; Am. Ord. 90-16, passed 11-5-90; Am. Ord. 92-02, passed 1-6-92; Am. Ord. 02-10, passed 7-8-02)

§ 151.23 NOTICE TO BUILDING INSPECTOR.

~~The Building Inspector shall be notified 24 hours before the beginning of the construction, alteration, repair, or removal of any building for which a permit is required. He shall be notified not less than 48 hours before the beginning of the demolition of any building.~~

('85 Code, § 8-2.7) (Ord. 8, passed -- ; Am. Ord. 02-10, passed 7-8-02)

§ 151.24 PERMIT AND PLANS TO BE KEPT ON PREMISES.

A copy of the permit and a copy of the approved plans, where required, shall be kept on the premises at all times while any work authorized by a permit issued under the provisions of this section is being done. Permit card shall be posted on the premises.

('85 Code, § 8-2.8) (Ord. 8, passed -- ; Am. Ord. 02-10, passed 7-8-02)

§ 151.25 WORK TO CONFORM TO PERMIT AND PLANS.

All work done under any permit issued hereunder shall be done in strict conformity with the provisions of such permit, and in conformity with the approved plans where required; and no change in the work authorized shall be made except by amendment to the permit issued by the Building Inspector.

[160D-1112](#)

('85 Code, § 8-2.9) (Ord. 8, passed --)

§ 151.26 EXPIRATION OF PERMITS.

Permits issued for the removal, or demolition, construction, alteration, or repair of any building shall expire by limitation six months after the date thereof if the work authorized by the permit has not been commenced. If, after the commencement of such work, the same is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit which has expired shall thereafter be done until a new permit therefor has been issued. [160D-1111](#)

('85 Code, § 8-2.10) (Ord. 8, passed --)

§ 151.27 REVOCATION.

The Building Inspector shall revoke any permit issued hereunder if the work done under such permit departs materially from the approved plan or terms of the permit, or if it develops that any material false statement or representation was made in securing the permit. [160D-1115](#)

('85 Code, § 8-2.11) (Ord. 8, passed --)

CONSTRUCTION PROVISIONS

§ 151.40 CONSTRUCTION LITTER.

(A) Removal of construction debris required. The general contractor, or owner if there is no general contractor, shall, for any dwelling or other structure under construction or repair be responsible for the overall general cleanliness of the site and shall comply with the following:

(1) Prevent excessive accumulation of debris such as but not limited to construction materials, cartons, boxes, and fastenings thereof.

(2) Remove all construction debris and clean the premises prior to requesting a final inspection preliminary to issuance of a Certificate of Compliance.

(3) Prevent the placement or scattering of construction debris onto adjacent property, public streets or canals. Where debris becomes scattered beyond the immediate construction site, such debris shall be picked up at the conclusion of the work day and returned to appropriate placement on the construction site.

(4) The Building Inspector shall be responsible for the administration of this division (A), and the Building Inspector shall make the determinations necessary for the enforcement of the provisions hereof. He shall have authority to issue a stop work order and to withhold issuance of the Certificate of Compliance whenever, in his judgement, violations exist.

('85 Code, § 8-5.1)

(B) Hazard removal by owner. When structures are removed from the Ocean Hazard AEC, all concrete, pilings, septic tanks, walkways, decks, and any erosion control structures including sandbags/bulkheads shall be removed, if located within the CAMA setback (30 times the annual erosion rate), by the owner within 30 days of official notification by the town. The disturbed area shall be reconstituted with a sand dune at least of equal size and protection as to that which existed prior to the above work being done or to a condition that makes it comparable to the adjoining dunes, whichever is appropriate. The area also shall be grassed or seeded to prevent loss of soil or sand from winds.

('85 Code, § 8-5.2) (Ord. 10-90, passed 5-15-90; Am. Ord. 92-03, passed 3-18-92; Am. Ord. 93-08, passed 6-7-93; Am. Ord. 02-10, passed 7-8-02)

Cross-reference:

Solid waste, see Ch. 50

Littering provisions, see §§ 130.30 and 130.31

§ 151.41 LAND FILLING.

(A) No land fill may be placed on canal property within 40 feet of mean high water or within 20 feet of mean high water of Intracoastal Waterway property unless a bulkhead has been constructed in accordance with the North Carolina Building Code using either concrete, stone, or treated wood.

('85 Code, § 8-6.1)

(B) Oyster shells shall not be used as landfill. Use of oyster shells in driveways and roadways is permitted.

('85 Code, § 8-6.2) (Ord. 5-86, passed -- ; Am. Ord. 93-03, passed 2-17-93)

ELECTRICAL SERVICE; UNDERGROUND

§ 151.55 NEW OR REPLACEMENT ELECTRICAL SERVICE.

All new or replacement electrical service connections necessitated by construction, repair, or other improvement to property shall be required to be installed using an underground electrical service connection.

('85 Code, § 8-7.1) (Ord. 14-90, passed 8-6-90)

§ 151.56 EXISTING OVERHEAD ELECTRICAL SERVICE.

Wherever the electric utility main feeder line has been converted in an underground installation as of the date of passage of this section, all individual overhead electrical service connections to property abutting the underground main feeder line shall be converted to underground service connections, within 30 days from the date of passage of this section. Where the abutting main feeder line is still overhead on the date of passage of this section, each then existing individual overhead electrical service connection shall be converted to an underground electrical service, within 30 days from the date the main feeder line is converted to an underground installation.

('85 Code, § 8-7.2) (Ord. 14-90, passed 8-6-90)

CHAPTER 151A: MINIMUM HOUSING CODE

Section

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151A.19	Town Board of Adjustment
151A.20	Conflict with other provisions

151A.99 Penalty

Statutory References:

Minimum Housing Code, G.S. §§ ~~160A-441~~160A-1201 et seq.

§ 151A.01 FINDING; PURPOSE.

(A) Pursuant to G.S. § ~~160A-441~~160D-1201, it is hereby found and declared ~~that in the town there is that there exists the existence and occupation of in the town~~ dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and other conditions rendering such dwellings unsafe or unsanitary, dangerous and detrimental to the health and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. Chapter 160A, Article 19, Part 6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160D-1205A-444.

(Ord. 10-04, passed 2-9-10)

§ 151A.02 DEFINITIONS.

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

DETERIORATED. A dwelling is unfit for human habitation and can be repaired, altered, or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

DILAPIDATED. A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

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, ~~except that it does.~~The term does not include any manufactured home, ~~or~~ mobile home, or recreational vehicle, if which is used solely for a seasonal vacation purpose.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by any other recognized and legal pest elimination methods approved by the Inspector.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GOVERNING BODY. The council, board of commissioners, or other legislative body charged with governing a city or county.

HABITABLE ROOM. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers, or communicating corridors, closets and storage spaces.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or the public.

INSPECTOR. An Inspector of the Town of Holden Beach. An INSPECTOR shall be considered a "public officer" as defined hereinafter.

MANUFACTURED HOME or MOBILE HOME. A structure as defined in G.S. § 143-145(7).

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person who alone or jointly or severally with others:

(a) Shall have fee simple title to any dwelling or dwelling unit, and every mortgagee and owner and holder of a deed of trust and the trustee therein of record; with or without accompanying actual possession of said dwelling or dwelling unit; or

(b) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

PARTIES IN INTEREST. All individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

PLUMBING. Means and includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. Any housing authority or any officer who is in charge of any department or branch of the government of the city, county, or state relating to health, fire, building regulations, or other activities concerning dwellings in the town.

PUBLIC OFFICER. The officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by the ordinances and by this chapter.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RUBBISH. Combustible and noncombustible waste materials, except garbage and ashes, and the term shall include, but not be limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery, and dust.

SUPPLIED. Paid for, furnished, or provided by, or under the control of, the owner or operator.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than 30 consecutive days.

UNFIT FOR HUMAN HABITATION. That conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this chapter.

(B) Meaning of certain words. Whenever the words "dwelling", "dwelling unit", "rooming house", "rooming unit" or "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. 10-04, passed 2-9-10)

§ 151A.03 MINIMUM STANDARDS OF FITNESS FOR DWELLINGS AND DWELLING UNITS.

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 151A.04 through 151A.11 of this chapter. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of §§ 151A.04 through 151A.11 of this chapter.

(Ord. 10-04, passed 2-9-10) Penalty, see § 151A.99

§ 151A.04 MINIMUM STANDARDS FOR STRUCTURAL CONDITION.

(A) Walls or partitions or supporting members, sills, joists, rafters or other structural members shall not excessively list, lean or buckle and shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged so as to dangerously reduce their intended load bearing characteristics.

(D) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof, flashings, exterior walls, basement walls, floors, and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

(H) There shall be no chimneys or parts thereof which are in danger of falling, or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors, or wood floors on the ground.

(Ord. 10-04, passed 2-9-10) Penalty, see § 151A.99

§ 151A.05 BASIC EQUIPMENT AND FACILITIES.

(A) Plumbing system.

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and adequate supply of both cold and hot water. All water shall be supplied through an approved pipe distribution system connected to an approved potable water supply.

(3) All plumbing fixtures shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

(B) Heating system. Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either division (B)(1) or (2) below.

(1) Central and electric heating systems. Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 68°F measured at a point three feet above the floor and two feet from exterior walls during ordinary winter conditions.

(2) Other heating facilities. Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 68°F measured three feet above the floor and two feet from exterior walls during ordinary winter conditions.

(c) Electrical system.

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall-type electric convenience receptacles, connected in such manner as determined by the National Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling, or wall-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, without hazard to property or person.

(Ord. 10-04, passed 2-9-10) Penalty, see § 151A.99

§ 151A.06 VENTILATION.

(A) General. Every habitable room shall have at least one window or skylight facing directly to the outdoors for adequate ventilation. At least one window in every habitable room shall be of such size and location to allow egress by an average adult in the event of fire or other emergency.

(B) Habitable rooms. Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight type window size as required by the North Carolina Residential Code or other applicable sections of such Code or shall have other approved equivalent ventilation.

(C) Bathroom and water closet rooms. Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system as required by the North Carolina Residential Code.

(Ord. 10-04, passed 2-9-10) Penalty, see § 151A.99

Statutory Reference:

North Carolina Residential Code, § 310.1.1.

§ 151A.07 SPACE, USE, AND LOCATION.

(A) Room sizes. Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the current version of the North Carolina State Building Code or the

building code in effect at the time of the construction, whichever is least restrictive. Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) Ceiling height. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet.

(C) Floor area calculation. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

(Ord. 10-04, passed 2-9-10) Penalty, see § 151A.99

§ 151A.08 SAFE AND SANITARY MAINTENANCE.

(A) Exterior foundation, walls, and roofs. Every foundation wall, exterior wall, and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) Interior floors, walls, and ceilings. Every floor, interior wall, and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) Windows and doors. Every window, exterior door, basement or cellar door, and hatchway shall be substantially weather tight, watertight, and rodent proof; and shall be kept in sound working condition and good repair.

(D) Stairs, porches, and appurtenances. Every outside and inside stair, porch, and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

(E) Bathroom floors, toilet, bath and shower spaces. Bathtub and shower floors and walls above bathtubs with installed shower heads and in shower compartments shall be finished with a non-absorbent surface. Such non-absorbent surfaces must extend at least six feet above the floor. Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to permit such floor to be easily kept in a clean and sanitary condition.

(F) Supplied facilities. Every supplied facility, piece of equipment, or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively, and shall be maintained in satisfactory working condition.

(G) Drainage. Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(H) Noxious weeds. Every yard and all exterior property areas shall be kept free of species of weeds or plant growth which are noxious or detrimental to health.

(I) Egress. Every dwelling unit shall be provided with adequate means of egress as required by the current version of the North Carolina State Residential Building Code or the building code in effect at the time of construction, whichever is the least restrictive. All interior egress doors and a minimum of one exterior egress door shall be readily openable from the side from which egress is to be made without the use of a key or special knowledge or effort.

(J) Smoke alarms. Every dwelling and dwelling unit shall have smoke alarms installed and maintained according to the North Carolina State Residential Building Code.

(Ord. 10-04, passed 2-9-10) Penalty, see § 151A.99

§ 151A.09 CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) Rodent control. Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

(B) Infestation. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent-proof or reasonably insect-proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(C) Rubbish storage and disposal. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by town or county ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(D) Garbage storage and disposal. Every dwelling and every dwelling unit shall be supplied with an approved outside garbage can as required by town ordinances.

(Ord. 10-04, passed 2-9-10) Penalty, see § 151A.99

§ 151A.10 MINIMUM STANDARDS APPLICABLE TO ROOMING HOUSES; EXCEPTIONS.

All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter, shall be applicable to rooming houses, and to every person who operates a rooming house, or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following divisions.

(A) Water closet, hand lavatory, and bath facilities. At least one water closet, lavatory basin, and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar or uninhabitable basement.

(B) Minimum floor area for sleeping purposes. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(C) Sanitary conditions. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors, and ceilings, and for the sanitary maintenance of every other part of the rooming house; and he shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained is leased or occupied by the operator.

(D) Sanitary facilities. Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (A) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

(Ord. 10-04, passed 2-9-10) Penalty, see § 151A.99

§ 151A.11 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(A) Public areas. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) Cleanliness. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit, and premises thereof which he or she occupies and controls.

(C) Rubbish and garbage. Every occupant of a dwelling or dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) Supplied plumbing fixtures. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(Ord. 10-04, passed 2-9-10) Penalty, see § 151A.99

§ 151A.12 DUTIES OF BUILDING INSPECTOR.

The director of the town inspections department that enforces the North Carolina State Residential Building Code, or his or her designee, is hereby designated as the officer to enforce the provisions of this chapter and to exercise the duties and powers herein prescribed. It shall be the duty of this officer or his or her agents:

- (A) To investigate the dwelling conditions, and to inspect dwellings and dwelling units located in the town, in order to determine which dwellings and dwelling units are unfit for human habitation, and for the purpose of carrying out the objectives of this chapter with respect to such dwellings or dwelling units;
- (B) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;
- (C) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed; and
- (D) To perform such other duties as may be herein prescribed.

(Ord. 10-04, passed 2-9-10)

§ 151A.13 POWERS OF BUILDING INSPECTOR.

The Building Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to other herein granted:

- (A) To continually investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;
- (B) To administer oaths and affirmations, examine witnesses and receive evidence;
- (C) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in accordance with law and in such manner as to cause the least possible inconvenience to the persons in possession; and
- (D) To appoint and fix the duties of such officers, agents, and employees as he deems necessary to carry out the purposes of this chapter.

(Ord. 10-04, passed 2-9-10)

§ 151A.14 ADMINISTRATIVE PROCEDURE.

(A) Preliminary investigation; notice; hearing. Whenever a petition is filed with the Inspector by a public authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling or dwelling unit a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Inspector (or his or her designated agent) at a

place within the county in which the property is located, not less than ten days nor more than 30 days after the serving of said complaint; that the owner and any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the time and place fixed in the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling.

(B) Procedure after hearing.

(1) After such notice and hearing, the Inspector shall state in writing his or her determination whether such dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated. If the Inspector determines that the dwelling or dwelling unit is deteriorated, he or she shall state in writing his or her findings of fact in support of such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter, and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a reasonable specified period of time. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations, and improvements have been made. Upon completion of required improvements, a new certificate of occupancy must be issued prior to subsequent leasing or, sale of dwelling to a third party.

(2) If the inspector determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support such determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to remove or demolish the same within a reasonable specified period of time.

(C) Failure to comply with order.

(1) If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter, or improve or to vacate and close the dwelling within the time specified therein, or if the owner of a dilapidated dwelling shall fail to comply with an order of the Inspector to remove or demolish the dwelling within the time specified therein, the Inspector shall submit to town council of the town at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. § ~~160A-446~~(160D-1203.(4)).

(2) After failure of an owner of a deteriorated dwelling or dwelling unit, or of a dilapidated dwelling, to comply with an order of the Inspector to remove or demolish the dwelling within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in the preceding division (C)(1), the Inspector shall submit to the governing body an ordinance ordering the inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, or vacated and closed and removed or demolished, as provided in the original order of the inspector, and pending such removal or demolition, to placard such dwelling as provided by G.S. § ~~160A-443~~160D-1203.(5) and § 151A.16 of this chapter. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into code conformity.

(3) If any occupant fails to comply with an order to vacate a dwelling, the Inspector may file a civil action in the name of the town to remove such occupant. The procedures to be followed by the Inspector in such case shall be as specified in G.S. § ~~160A-443~~160D-1203(87).

(4) If the governing body shall have adopted an ordinance, or the Inspector shall have issued an order, ordering a dwelling to be repaired or vacated and closed, as provided herein, and if the owner has vacated and closed such dwelling and kept such dwelling vacated and closed for a period of one year pursuant to the ordinance or order, the governing body shall have the authority as set forth in G.S. § ~~160A-443(5)~~160D-1203(6).

(D) Appeals from orders of Inspector. An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the town. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order, and shall be taken by filing with the Inspector and with the Town Board of Adjustment, hereinafter referred to as "Board", a written notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the paper constituting the record upon which the decision appealed from was made. When appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him, that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of this requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a ~~restraining~~restraining order, which may be granted for due cause shown upon not less than one days written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. § ~~160A-446(f)~~160D-1208(fa) and division (E) of this section. The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or modify the decision or order appealed from, and may make any decision and order as in its opinion ought to be made in the matter, and to that end it shall have the powers of the Inspector, but the concurring vote of four-fifths of the members of the Board shall be necessary to reverse or modify any decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(E) Decision subject to review. Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise, as provided in G.S. § ~~160A-446(e)~~160D-1208(c). In addition, any person aggrieved by an order issued by the inspector or a decision rendered by the Board may also petition the superior court for an injunction restraining the public officer from carrying out the order or decision and the court may, upon such petition, issue a temporary injunction restraining the public officer pending a final disposition of the case. shall also have the right. The petition shall be filed within 30 days after issuance of the order or rendering of the decision, ~~to petition the superior court for a temporary injunction restraining the~~

~~inspector pending a final disposition of the cause, as provided by H~~hearings shall be had by the court on a petition within 20 days and shall be given preference over other matters on the courts calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection. G.S. § ~~160A-446(f)~~160D-1208(j).

(Ord. 10-04, passed 2-9-10)

§ 151A.15 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspector shall be served in accordance with the provisions of G.S. § ~~160DA-445~~1206.

(Ord. 10-04, passed 2-9-10)

§ 151A.16 IN REM ACTION BY INSPECTOR; PLACARDING.

After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this chapter, and upon adoption by the Town Council of an ordinance authorizing and directing him or her to do so, as provided by G.S. § ~~160A-443~~160D-1203.(5)(5) and § 151A.14(C) of this chapter, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered, or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(Ord. 10-04, passed 2-9-10)

§ 151A.17 COSTS, A LIEN ON PREMISES.

As provided by G.S. § ~~160A-443~~160D-1203.(7)(6), the amount of the cost of any repairs, alterations, or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to § 151A.16 of this chapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority and be enforced and the costs collected as provided by Article 10 of Chapter G.S. § 160A-443(6)~~160D-1203.(7)(a)~~160A of the General Statutes.

(Ord. 10-04, passed 2-9-10)

§ 151A.18 ALTERNATIVE REMEDIES.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S. § 14-4 and § 151A.99 of this chapter, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.

(Ord. 10-04, passed 2-9-10)

§ 151A.19 TOWN BOARD OF ADJUSTMENT.

The Town Board of Adjustment shall perform the duties prescribed by § 151A.14 and shall keep an accurate record of all its proceedings.

(Ord. 10-04, passed 2-9-10)

§ 151A.20 CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard, or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.

(Ord. 10-04, passed 2-9-10)

§ 151A.99 PENALTY.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect, or refuse to repair, alter, or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect, or refusal to comply with such order continues shall constitute a separate and distinct offense.

(B) It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to § 151A.14 of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(C) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by G.S. § 14-4 and G.S. § 160D-1203(4). In addition to the remedy specified in this and in other sections of this chapter, the provisions of this chapter may also be enforced by the town by injunction and order or abatement or by any other equitable remedy issuing from a court of competent jurisdiction, as specified in G.S. § ~~160A-450~~160D-1212 ; G.S. § 160D-404. ~~and G.S. § 160A-175~~; or G.S. § 153A-123 ~~3.65-????~~ Contact Noel Provisions don't matchup

(Ord. 10-04, passed 2-9-10)

CHAPTER 152: MOBILE HOMES

Section

152.01 Purpose

152.02 Uniform Standards Code

152.03 Set-up regulations

152.04 Enforcement authority

152.05 Electricity; Certificate of Compliance required

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§ 152.01 PURPOSE.

Incorrectly set-up mobile homes on inadequate foundations and unanchored to the foundation causes great danger to the safety of the residents of the town. These conditions are, therefore, dangerous and prejudicial to the public safety, and the Board of Commissioners is authorized by G.S. § 160A-174 to adopt ordinances for the protection of the public's safety.

('85 Code, § 13-1) (Ord. 24, passed - -)

§ 152.02 UNIFORM STANDARDS CODE.

With respect to all mobile homes located within the town, manufactured or sold in North Carolina prior to September 1, 1971, the Uniform Standards Code for mobile homes and the rules and regulations promulgated thereunder are hereby adopted in all respects and in addition to the specific regulation on "Anchorage to Foundation" all such mobile homes shall have as additional anchorage, a tie or strap over the top of the mobile home and attached to the ground anchors at each end of the mobile home, and two such straps located across the top along the body of the home as nearly equally-spaced as possible, taking into consideration door and window spacing and anchor points on the home and foundation. Such tie straps shall be stainless steel metal.

('85 Code, § 13-2) (Ord. 24, passed - -)

§ 152.03 SET-UP REGULATIONS.

With respect to all mobile homes located or so located in the future within the town limits, the following specific set-up regulations shall apply:

(A) Excavation. Depth of excavation of trenches for walls and piers shall be carried below the frost line but in no case less than six inches into undisturbed soil. Bearings for footings or foundations may be permitted on controlled fills (95% compaction).

(B) Footings. The area of footings shall be sufficient to distribute the superimposed loads uniformly and shall bear on undisturbed earth. The concrete for footings shall have a minimum strength of 2,500 pounds per square inch and be a minimum of six inches thick. The footings shall project at least three inches from the face of a load-bearing wall and a minimum of two and one-half square feet is required under each pier.

(C) Foundations, walls and piers. Foundation walls shall be not less than eight inches in thickness except that four-inch curtain walls bonded into piers may be used. Foundation walls and piers shall be bonded with type M or type S mortar. Piers shall be of sufficient strength and size to resist overturning and sliding due to lateral wind forces on the structure but in no case less than the following:

- (1) Solid masonry - 8 inches x 12 inches;
- (2) Hollow masonry - 8 inches x 16 inches;
- (3) Poured concrete - 8 inches x 12 inches or 10 inches in diameter;

(4) Piers - In lieu of the above, doubled stacked 8 x 8 x 16-inch masonry block crisscrossed each course, may be accepted without mortar joints. Where the pier is not more than three

blocks high and the pier rests on a concrete footing or concrete slab, a single 8 x 8 x 16-inch block pier is acceptable without mortar joints.

(D) Anchorage to foundation. Each mobile home must be tied to the foundation at not more than eight-foot intervals by a one-half-inch diameter anchor or equivalent running from the frame of the structure to the footing. All such mobile homes shall have as additional anchorage, a tie or strap over the top of the mobile home and attached to the ground anchors at each end of the mobile home, and two such straps located across the top along the body of the home as nearly equally spaced as possible, taking into consideration door and window spacing and anchor points on the home and foundation. Such tie straps shall be stainless steel metal. The manufacturer should make provisions for all installations of these bolts at the point of manufacture. Other methods of tying the structure into the foundation as designed by a registered architect or registered engineer will be acceptable, provided they are fully detailed and noted on drawings filed with the Inspection Department.

('85 Code, § 13-3) (Ord. 24, passed --) Penalty, see § 10.99

§ 152.04 ENFORCEMENT AUTHORITY.

The Building Inspector is hereby designated to enforce these regulations and may initiate any appropriate action or proceeding to prevent, restrain, or correct any violation of this chapter.

('85 Code, § 13-4) (Ord. 24, passed --)

§ 152.05 ELECTRICITY; CERTIFICATE OF COMPLIANCE REQUIRED.

No electricity shall be supplied to any mobile home placed inside the town limits without first having obtained a Certificate of Compliance from the Building Inspector.

('85 Code, § 13-5) (Ord. 24, passed --)

CHAPTER 153: COASTAL AREA MANAGEMENT

Section

General Provisions

153.01 Purpose

153.02 Designated local official

Minor Development Permits

153.10 Application

153.11 Return of application

153.12 Procedural considerations

153.13 Disposition

153.14 Grant

153.15 Conditioned grant

153.16 Passive grant

Implementation and Enforcement

153.25 Implementation of the CAMA minor development permit

153.26 Appeal to Commission

153.27 Injunctive relief; notice

153.28 Amendment of the Implementation and Enforcement Program

153.29 Failure to properly enforce and administer a program

153.99 Penalty

GENERAL PROVISIONS

§ 153.01 PURPOSE.

The purposes of the Implementation and Enforcement Plan are to establish:

(A) Procedures to be followed in issuing minor development permits in AECs within the town, including methods of coordinating with other local permits.

(B) Scope and coverage of the programs, including the geographic extent of jurisdiction of the town management program.

(C) Requirements of permit-letting agencies, including a description of the criteria to be used in choosing the Permit Officer.

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

(E) Procedures to ensure that the program is consistent with the approved land use plan for the town.

('85 Code, § 8-3.1) (Ord. 28, passed - -)

§ 153.02 DESIGNATED LOCAL OFFICIAL.

(A) Creation of the position. The designated local official of the Coastal Area Management Act permit management plan shall be the Building Inspector or the Assistant Building Inspector.

(B) Qualifications.

(1) The Local CAMA Permit Officer shall have at least a high school diploma or equivalent and some experience with construction in a coastal area.

(2) Within one year after appointment to the position, the Local CAMA Permit Officer shall successfully complete the training course offered by the Coastal Resources Commission and the Department of Natural and Economic Resources.

(C) Appointment. There shall be designated a Local CAMA Permit Officer.

(D) Duties; general.

(1) The Permit Officer shall administer and enforce in duly designated areas of environmental concern the Coastal Area Management Act, the minor development permit process as herein established, all applicable local ordinances, and all other guidelines and standards established by the Commission and the Town Board of Commissioners pursuant to the Coastal Area Management Act. The Permit Officer shall be available both in an advisory capacity and as a liaison between major permit applicants and the Commission for the purpose of facilitating efficient disposition of major permit applications. The Permit Officer shall assist in identifying and assessing projects of greater than local concern (for example, projects of regional, state, and national concern). The Permit Officer shall also be responsible for implementing any procedures recommended by the Board of Commissioners of the town for the purpose of coordinating the Coastal Area Management Act minor development permit with other locally required permits. Such locally required permits and approvals include but are not limited to plumbing permits, mechanical permits, electrical permits, building permits, septic tank permits, zoning permits, and flood insurance.

(2) (Reserved)

(3) The Permit Officer shall immediately notify the Town Attorney and Town Manager of any suit filed against the town because of minor development permit disposition or other functions of the CAMA program. The Town Manager shall notify the Board of Commissioners immediately.

(4) The Permit Officer shall inform the Board of his intent to initiate any suit arising out of the Coastal Area Management Act management program. The initiation of any suit requires Board of Commissioners approval.

(5) The Permit Officer shall use his knowledge of the Coastal Area Management Act program and consultation with other permitting agencies to assess the regional or national impact of certain projects and to so inform the Town Board of Commissioners and the Coastal Resources Commission.

(E) Records.

(1) The Local CAMA Permit Officer shall prepare and forward to the Commission and the Secretary a quarterly summary of all permit applications and dispositions.

(2) (Reserved)

(3) He shall keep correct and comprehensive records of all transactions related to minor development permit disposition and shall maintain such records so long as any part of the structure or entity to which it relates remains in existence; or, in the case of denials, for a period of ten years.

(4) The applications shall be numbered consecutively according to a two-part number: a two-digit part noting the year separated from the four digit counting part by a hyphen

(Example - the first application in 1978 would be 78-0001). A permit issued shall bear the number of the application.

(F) Availability. Records shall be available at Town Hall.

(G) Support. The Permit Officer shall share a full-time secretary who will maintain the office during regular business hours.

('85 Code, § 8-3.3) (Ord. 28, passed - -; Am. Ord. 00-15, passed 6-26-00; Am. Ord. 02-10, passed 7-8-02)

MINOR DEVELOPMENT PERMITS

§ 153.10 APPLICATION.

An application for a permit for minor development shall consist of filing with the Secretary of the Department of Natural and Economic Resources and the permit office:

(A) A completed application using the applicable form adopted and approved by the Commission.

(B) A single check or money order payable to the permit-letting agency in the amount listed on the fee schedule adopted by the Board of Commissioners, which shall be available at the office of the Town Clerk. Monies so collected shall only be used in the administration of the permit program, specifically including the cost of the required public notices and hearings.

('85 Code, § 8-3.4) (Ord. 28, passed - - ; Am. Ord. 00-15, passed 6-26-00; Am. Ord. 02-10, passed 7-8-02; Am. Ord. 08-07, passed 6-24-08)

§ 153.11 RETURN OF APPLICATION.

(A) The Permit Officer shall return incomplete, insufficient, or unauthorized applications within seven working days. The 25-day period for consideration of the application shall begin to run upon receipt. The time period will continue to run in the case of an incomplete or insufficient application until the Permit Officer returns it or places the application on hold, with reasons for the rejection or hold provided in writing to the applicant for the correction of the deficiencies. The time period will begin to run when a corrected application or the required documents are returned to the Permit Officer.

(B) Any application received requesting a permit for an activity which constitutes major development shall be returned by the Permit Officer with appropriate instructions for submitting the application to the Commission.

('85 Code, § 8-3.4) (Ord. 28, passed - - ; Am. Ord. 00-15, passed 6-26-00; Am. Ord. 02-10, passed 7-8-02)

§ 153.12 PROCEDURAL CONSIDERATIONS.

(A) The Permit Officer shall refer the file of all denials based on town ordinances to the Town Board of Adjustment. If this Board agrees with the Permit Officer, the permit stands denied. If the Board of Adjustment disagrees with the Permit Officer, the matter may, at his discretion, be referred to the Board of Commissioners for final disposition.

(B) The Permit Officer shall also submit proposals he deems appropriate for conditioned grant to the Board of Adjustment. He shall make available to the Board of Adjustment the file, his recommendations, and any other relevant information. The conditions approved or suggested by the Board of Adjustment shall be attached to the grant.

(C) Whenever it is appropriate, the Permit Officer shall confer with the County Health Department, the Department of Natural and Economic Resources, Corps of Engineers and other appropriate permitting agencies before making a decision.

(D) The procedures and requirements of this chapter shall be conducted in a manner consistent with the expeditious disposition of minor development permits required by the Coastal Area Management Act. The procedures shall take place within the time limitations and extension stated in the Act.

('85 Code, § 8-3.4) (Ord. 28, passed - - ; Am. Ord. 02-10, passed 7-8-02)

§ 153.13 DISPOSITION.

(A) Disposition of the applications must take place within 25 days unless the Permit Officer gives written notice by registered mail of one additional 25-day extension as necessary for proper evaluation of the application.

(B) Statutory grounds upon which the Permit Officer bases the denial, conditioned grant, or return of application must be set out in writing. One copy must be maintained by the Permit Officer, and one copy must be given to the applicant, either in person or by registered mail.

('85 Code, § 8-3.4) (Ord. 28, passed - - ; Am. Ord. 02-10, passed 7-8-02)

§ 153.14 GRANT.

The grant of a minor development permit shall be made only if consideration of the application results in none of the appropriate finds listed in G.S. §§ 113A-120(a)(1) through (10) and shall be displayed on the premises while the permitted activities are being accomplished.

('85 Code, § 8-3.4) (Ord. 28, passed - -) Penalty, see § 153.99

§ 153.15 CONDITIONED GRANT.

The grant of a minor development permit may be conditioned upon the acceptance by the applicant of certain reasonable conditions as set out by the Permit Officer to protect the public interest with respect to the appropriate factors enumerated in G.S. §§ 113A-120(a)(1) through (10). The applicant must sign the conditioned grant as an acceptance of the amendments of the proposed project plans in a manner consistent with the conditions set out by the Permit Officer before the permit shall become effective.

('85 Code, § 8-3.4) (Ord. 28, passed - -)

§ 153.16 PASSIVE GRANT.

Failure of the Permit Officer to approve or deny a properly completed filed application, or to give notice of an extension beyond the initial 30-day disposition period shall result in a passive grant. A passive grant shall have the full force and effect of a grant.

('85 Code, § 8-3.4) (Ord. 28, passed - -)

IMPLEMENTATION AND ENFORCEMENT

§ 153.25 IMPLEMENTATION OF THE CAMA MINOR DEVELOPMENT PERMIT.

(A) Changeover date. The system to implement Coastal Area Management Act (CAMA) minor development permits shall begin on the date designated by the Secretary of the Department of Natural and Economic Resources as the changeover date.

(B) Existing permits.

(1) All other local permits and inspections required prior to the institution of Coastal Area Management Act minor development permits shall continue to be required and shall be issued and considered in coordination with Coastal Area Management Act permits. Such existing permits include, but are not limited to, plumbing permits, electrical permits, mechanical permits, building permits, septic tank permits, zoning permits, and flood insurance.

(2) Whenever other local permits are required, the Permit Officer shall consult with the agencies responsible for such permits and comments of this consultation shall be noted in the record.

('85 Code, § 8-3.5) (Ord. 28, passed - - ; Am. Ord. 02-10, passed 7-8-02)

§ 153.26 APPEAL TO COMMISSION.

(A) Any person directly affected by the decision of the Permit Officer, including the Secretary of the Department of Natural and Economic Resources, may within 20 days after notice of the Permit Officer's final disposition request a hearing or a variance before the Coastal Resources Commission. The hearing before the Commission shall be a quasi-judicial hearing conducted in accordance with the requirements of the Coastal Area Management Act, any applicable rules and regulations adopted by the Commission, and any other state laws applicable to such procedures.

(B) Upon receiving notice from the Commission of such an appeal, the Permit Officer shall promptly forward to the Commission the entire record compiled in relation to the minor permit disposition that is the subject to the appeal.

(C) Upon receipt of notice of appeal from the Commission, the Permit Officer shall give notice to the Town Board of Commissioners, the Town Manager and the Town Attorney and forward to that Board a copy of the record as submitted to the Commission and any other relevant information.

(D) No action for which a minor development permit is required shall be taken while appeal of the Permit Officer's final disposition of that permit is pending.

('85 Code, § 8-3.6) (Ord. 28, passed - - ; Am. Ord. 02-10, passed 7-8-02)

§ 153.27 INJUNCTIVE RELIEF; NOTICE.

(A) Upon violation of the provisions adopted by the local government pursuant to the Coastal Area Management Act relating to the issuance of minor development permits, the Permit Officer may, either before or after the institution of proceedings for the collection of any penalty imposed by the Coastal Area Management Act for such violation, institute a civil action in the General Court of Justice in the name of the affected local government upon the relation of the Permit Officer for injunctive relief to restrain the violation and for such other or further relief in the premises as the court shall deem proper. Neither the institution of the action nor any of the proceedings thereon shall relieve any party to such proceedings from any penalty prescribed by the Coastal Area Management Act for any violation of same.

(B) The Permit Officer shall notify the Secretary of Natural and Economic Resources of any civil action undertaken by or against such officer under the Coastal Area Management Act.

('85 Code, § 8-3.7a., c.) (Ord. 28, passed - -)

§ 153.28 AMENDMENT OF THE IMPLEMENTATION AND ENFORCEMENT PROGRAM.

(A) Notice and ~~public hearing~~[legislative hearing](#) Amendment of the Implementation and Enforcement Program shall be in accordance with the notice and ~~public hearing~~[legislative hearing](#) requirement set forth in the Coastal Area Management Act and the Commission's "Criteria for Local Implementation and Enforcement Plans" pertaining to the adoption of the original program.

(B) Request to waive formal amendment requirements. Whenever a proposed amendment is deemed sufficiently insignificant by the Board of Commissioners, that body may petition the Commission for a waiver of formal hearing and notice requirements.

(C) Commission approval. Upon local acceptance of any amendment, the amendment shall be submitted to the Commission for approval. Upon Commission approval, such amendment shall be adopted as a part of the ordinances implementing this plan.

(D) The Permit Officer shall bring to the Board of Commissioner's attention annually or more frequently recommendations for modifications or amendments to the Coastal Area Management Act management plan.

('85 Code, § 8-3.8) (Ord. 28, passed - -)

§ 153.29 FAILURE TO PROPERLY ENFORCE AND ADMINISTER A PROGRAM.

(A) Procedure. Upon receipt of notification from the Commission of deficiencies in administration and enforcement of the local Implementation and Enforcement Plan, the Permit Officer and a committee appointed by the Board of Commissioners shall conduct an investigation and prepare an appropriate response to the alleged deficiencies set forth in the Commission's notice.

(B) Notification to the Commission.

(1) If the Commission's charges are found to be valid, within 30 days of notification by the Commission the Board of Commissioners and Permit Officer shall inform the Commission of the findings of the investigation, shall assert the willingness and ability to modify the situation resulting in the violation and shall state the means by which the Permit Officer and Board of Commissioners intend to avoid similar violations in the future.

(2) If the Board and Permit Officer find the Commission's charges to be without grounds, they shall so inform the Commission. If the Coastal Resources Commission disagrees with that finding, the Board may at that time request a hearing before the Commission or take other appropriate action within 90 days after receipt of the Commission's notification of the violation to come to some mutually acceptable solution with the Commission. If no such mutually acceptable solution has been achieved within the 90-day period, the Board of Commissioners and Permit Officer shall automatically relinquish authority to issue permits for minor development.

('85 Code, § 8-3.9) (Ord. 28, passed --)

§ 153.99 PENALTY.

(A) Any person who violates any provision of this chapter for which no penalty is otherwise provided shall be subject to the penalty provided in § 10.99 of this code of ordinances.

(B) Any person adjudged guilty of knowingly and willfully undertaking any development requiring a minor development permit without acquiring such a permit, or of conduct exceeding the authority of a permit granted, or of failure to observe the agreed modifications of a conditioned grant, or of violation of any other applicable regulations adopted by a local government or the Commission pursuant to the Coastal Area Management Act shall be guilty of a misdemeanor, and for each violation shall be liable for a penalty of not less than \$100 nor more than \$1,000, or shall be imprisoned for not more than 60 days, or both. In addition, if any person continues or further commits any of the above violations after written notice from the Permit Officer, the court may determine that each day during which the violation continues or is repeated constitutes a separate violation subject to the foregoing penalties. ('85 Code, § 8-3.7b.) (Ord. 28, passed --)

CHAPTER 154: FLOOD DAMAGE PREVENTION

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GENERAL PROVISIONS

§ 154.01 STATUTORY AUTHORIZATION; FINDINGS OF FACT.

(A) The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners of the Town of Holden Beach, does ordain as follows:

(B) The flood prone areas within the jurisdiction of the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(C) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

('85 Code, § 8-4.1) (Ord. 28, passed - - ; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.02 PURPOSE; OBJECTIVES.

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

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

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

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

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

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

(B) The objectives of this chapter are:

(1) To protect human life and health;

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

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

(4) To minimize prolonged business losses and interruptions;

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

(6) Minimize damage to private and public property due to flooding;

(7) Make flood insurance available to the community through the National Flood Insurance Program;

(8) Maintain the natural and beneficial functions of floodplains;

(9) To help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(10) To ensure that potential buyers are aware that property is in a special flood hazard area.

('85 Code, § 8-4.1) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.03 DEFINITIONS.

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

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

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

ALTERATION OF A WATERCOURSE. A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

APPEAL. A request for a review of the floodplain administrator's interpretation of any provision of this chapter.

AREA OF SPECIAL FLOOD HAZARD. See SPECIAL FLOOD HAZARD AREA (SFHA).

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

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

BASE FLOOD ELEVATION (BFE). A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal or state or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

BUILDING. See STRUCTURE.

CAMA. North Carolina's Coastal Area Management Act. This act, along with the Dredge and Fill Law and the federal Coastal Zone Management Act, is managed through North Carolina Department of Environment and Natural Resources' (NCDENR's) Division of Coastal Management (DCM).

CBRS. Coastal Barrier Resources System.

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

COASTAL AREA MANAGEMENT ACT (CAMA). North Carolina's Coastal Area Management Act, this act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).

COASTAL A ZONE (CAZ). An area within a special flood hazard area, landward of a V zone or land-ward of an open coast without mapped V zones; in a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (See Limit of Moderate Wave Action (LimWA)).

COASTAL BARRIER RESOURCES SYSTEM (CBRS). Consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (Cobra) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by federal or state governments or private conservation organizations identified as otherwise protected areas (OPA).

COASTAL HIGH HAZARD AREA. A special flood hazard area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in § 154.05, as Zone VE.

DESIGN FLOOD ELEVATION (DFE). The base flood elevation, plus two feet.

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

DEVELOPMENT ACTIVITY. Any activity defined as development which will necessitate a floodplain development permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

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

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

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

EXISTING BUILDING and EXISTING STRUCTURE. Any building and/or structure for which the “start of construction” commenced before May 26, 1972.

EXISTING MANUFACTURED HOME PARK or MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

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

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

source.

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

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

FLOOD PRONE AREA. See FLOODPLAIN.

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

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

FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

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

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes

federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

FLOOD RESISTANT MATERIALS. Any building product (material, component or system) capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

FLOODWAY. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOODWAY ENCROACHMENT ANALYSIS. An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

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

FREEBOARD. The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation.

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

HAZARDOUS WASTE FACILITY. As defined in G.S. Ch. 130, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

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

HISTORIC STRUCTURE. Any structure that is:

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

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or

(4) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program". Certified Local Government (CLG) Programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

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

(1) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, a portion of a property, or structure is not located in a special flood hazard area.

(2) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other plan metric features.

(3) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.

(4) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

LIGHT DUTY TRUCK. Any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle;

- (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (3) Available with special features enabling off- street or off-highway operation and use.

LIMIT OF MODERATE WAVE ACTION (LIMWA). The boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

LOWEST ADJACENT GRADE (LAG). The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

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

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MAP REPOSITORY. The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carry the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the Flood NC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

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

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

NON-ENCROACHMENT AREA. The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

OPA. An otherwise protected area.

POST-FIRM. Construction or other development for which the start of construction occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

PRE-FIRM. Construction or other development for which the start of construction occurred before the effective date of the initial Flood Insurance Rate Map for the area.

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

PRINCIPALLY ABOVE GROUND. At least 51% of the actual cash value of the structure is above ground.

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

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

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use; and
- (5) Is fully licensed and ready for highway use.

REFERENCE LEVEL. The bottom of the lowest horizontal structural member of the lowest floor for structures within special flood hazard, or coastal high hazard areas designated as Zone AE or VE.

REGULATORY FLOOD PROTECTION ELEVATION. The base flood elevation plus the freeboard. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard.

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

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

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

SAND DUNES. Means naturally occurring accumulation of sand in ridges or mounds landward of the beach.

SHEAR WALL. Walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls) shear walls are parallel or nearly parallel to the flow of water.

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

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 154.05.

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

STRUCTURE. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

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

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

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

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

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET.

(1) A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at § 60.3. The bulletins and fact sheets are intended for use primarily by state and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

(2) It should be noted that technical bulletins and technical fact sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive state or local regulations apply to the building or site in question. All applicable standards of the state or local building code must also be met for any building in a flood hazard area.

TEMPERATURE CONTROLLED. Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

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

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 154.20 et seq. and §§ 154.35 et seq. is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION (WSE). The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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

WINDBORNE DEBRIS REGION. Areas within hurricane-prone regions within one mile of the coastal mean high water line where the basic wind speed is 110 miles per hour or greater, or where the basic wind speed is equal to or greater than 120 miles per hour or Hawaii.

('85 Code, § 8-4.2) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 09-05, passed 3-10-09; Am. Ord. 15-01, passed 1-13-15; Am. Ord. 18-13, passed 8-6-18)

§ 154.04 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJs) if applicable, of the town and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

('85 Code, § 8-4.3a.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.05 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated August 28, 2018 for Brunswick County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this chapter. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the town are also adopted by reference and declared a part of this chapter. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within three months.

('85 Code, § 8-4.3b.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 00-15, passed 6-26-00; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.06 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with § 154.05.

('85 Code, § 8-4.3c.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18) Penalty, see § 154.99

§ 154.07 COMPLIANCE.

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

('85 Code, § 8-4.3d.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18) Penalty, see § 154.99

§ 154.08 ABROGATION AND GREATER RESTRICTIONS.

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

('85 Code, § 8-4.3e.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.09 INTERPRETATION.

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

- (A) Considered as minimum requirements;

- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under state statutes.

('85 Code, § 8-4.3f.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.10 WARNING AND DISCLAIMER OF LIABILITY.

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

('85 Code, § 8-4.3g.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

FLOOD HAZARD REDUCTION

§ 154.20 GENERAL STANDARDS.

In all special flood hazard areas the following provisions are required:

- (A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

~~(D)~~—

~~(D) All New and Substantially improved properties shall meet Both A and V zone standards for construction. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches. Electrical Switches and outlets branch circuits located below RFPE, shall be protected at the source not at the device. There shall be a minimum number of outlets and switches allowed below the RFPE~~

~~Exception: Meter bases with one main disconnect, with no other circuits. All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These~~

~~include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.~~

(1) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

(2) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

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

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

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

(H) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(I) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, and are not subject by variance without exception. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to § 154.36(C).

(J) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(K) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(M) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(N) Windows in buildings located in windborne debris regions, as defined by this chapter, shall have glazed openings protected from windborne debris in accordance with § R301.2.1.2 of the North Carolina Residential Code or § 1609.1.4 of the North Carolina Building Code. Nothing in this section shall have any effect on any provisions or exemptions set forth in the North Carolina Existing Building Code or the North Carolina Rehabilitation Code.

(‘85 Code, § 8-4.5a.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 09-05, passed 3-10-09; Am. Ord. 18-13, passed 8-6-18) Penalty, see § 154.99

§ 154.21 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in § 154.05 or § 154.37(K) and (L), the following provisions, in addition to § 154.20, are required:

(A) Residential construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 154.03.

(B) Non-residential construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 154.03. Structures located in A, AE and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with this chapter. A registered professional engineer or architect shall certify that the standards of this division are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 154.36(C), along with the operational and maintenance plans.

(C) Manufactured homes.

(1) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 154.03.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes, adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15 or a certified engineered foundation. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of division (D) of this section.

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local emergency management coordinator.

(D) Elevated buildings. Fully enclosed areas of new construction and substantially improved structures, which are below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or ~~partitioned~~partitioned into separate rooms, except to enclose storage areas;

Exception: Elevators and accessible interior stairs may be finished if approved flood proof materials are used below the RFPE

(2) Shall be constructed entirely of flood resistant materials, up to the regulatory flood protection elevation;

(3) Shall include, in Zone AE, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

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

(4) Shall allow, in Coastal High Hazard Areas (Zone VE), breakaway walls, open wood latticework or insect screening, provided it is not part of the structural support of the building and is designed so as to breakaway, under abnormally high tides or wave action, without causing damage to the structural integrity of the building, provided the following design specifications are met:

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

(b) Breakaway walls shall meet the following design specifications:

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

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

(E) Additions/improvements.

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

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

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

(2) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

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

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

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

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

(5) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a two year period, the cumulative cost of which equals or exceeds 50% of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the two

year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this chapter. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a ten- year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions; or

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

(F) Recreational vehicles. Recreational vehicles shall either:

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

(2) Permanent placement. Recreational vehicles that do not meet the limitations of temporary placement shall meet all the requirements for new construction.

(G) Temporary non-residential structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified should not exceed three months, renewable up to one year;

(2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(H) Accessory structures.

(1) When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (b) Accessory structures shall not be temperature-controlled;
- (c) Accessory structures shall be designed to have low flood damage potential;
- (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (e) Accessory structures shall be firmly anchored in accordance with § 154.20;
- (f) All service facilities such as electrical shall be installed in accordance with § 154.20; and
- (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with division (D) of this section.

(2) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 154.36(C).

(3) Tanks. When gas and liquid storage tanks are to be placed within a special flood hazard area, the following criteria shall be met:

- (a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
- (b) Above-ground tanks, elevated. Above ground tanks in flood hazard areas shall be elevated to or above the regular flood protection elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
- (c) Above ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of § 154.23 shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood- related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- (d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

1. At or above the regulatory flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(4) Other development.

(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of § 154.23.

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of § 154.23.

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low- water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of § 154.23.

('85 Code, § 8-4.5b.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18) Penalty, see § 154.99

§154.22 STANDARDS FOR SUBDIVISION PROPOSALS.

(A) All subdivision proposals shall be consistent with the need to minimize flood damage.

(B) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(C) All subdivisions proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(D) Base flood elevation data should be provided for subdivision proposals and other proposed development which is greater than the lesser of 50 lots of five acres.

('85 Code, § 8-4.5c.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18) Penalty, see § 154.99

§ 154.23 COASTAL HIGH HAZARD AREAS (ZONES VE).

Coastal high hazard areas are special flood hazard areas established in § 154.05, and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, in addition to meeting all requirements of this chapter with the exception of floodway and non-encroachment area provisions, the following provisions shall apply:

(A) All development shall:

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

(B) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in coastal high hazard areas to satisfy the regulatory flood protection elevation requirements.

(C) All new construction and substantial improvements shall have the space below the lowest floor free of obstruction so as not to impede the flow of flood waters, with the following exceptions:

(1) Open wood latticework or insect screening may be permitted below the regulatory flood protection elevation for aesthetic purposes only and must be designed to wash away in the event of abnormal wave action and in accordance with § 154.21(D). Design plans shall be submitted in accordance with § 154.36(A)(4); or

(2) Breakaway walls may be permitted provided they meet the criteria set forth in § 154.21(D). Design plans shall be submitted in accordance with § 154.36(A)(4).

(D) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structures attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

(1) Water loading values used shall be those associated with the base flood.

(2) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.

(E) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:

(1) Shall be structurally independent of the primary structural foundation system of the structure and not adversely affect structures through redirection of floodwaters or debris; and

(2) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure (the installation of concrete in small segments, (approximately four feet by four feet), that will easily break up during the base flood event, or score concrete in four by four feet maximum segments acceptable to meet the standard): and

(a) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concrete pads being a source of debris; and

(b) Pad thickness shall not exceed four inches; or

(c) Provide a design professional's certification stating the design and method of construction to be used to meet the applicable criteria of this section.

(F) For swimming pools and spas, the following is required:

- (1) Be designed to withstand all flood-related loads and load combinations.
- (2) Be elevated so that the lowest horizontal structural member is elevated above the RFPE;
- (3) Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
- (4) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
- (5) Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
- (6) Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.

(G) All elevators, vertical platform lifts, chair lifts, etc., the following is required:

- (1) Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
- (2) Utility equipment in coastal high hazard areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
- (3) The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.
- (4) Elevator shafts/enclosures that extend below the RFPE shall be constructed ~~with breakaway walls and flood vents installed, of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage.~~ Drainage must foundation must be provided for the elevator pit.
- (5) Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting of door frames and sills is recommended.
- (6) If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.

(H) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in divisions (C),

(D) and (F) of this section and § 154.36 on the current version of the North Carolina “National Flood Insurance Program V-Zone Certification” form.

(I) Fill shall not be used for structural support. Limited non-compacted and non-stabilized fill may be used around the perimeter of a building for landscaping/aesthetic purposes provided it is demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the base flood elevation and not cause any adverse impacts by wave ramping and deflection to the subject structure or adjacent properties.

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

(K) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this section have been satisfied.

(L) Recreational vehicles may be permitted in coastal high hazard areas provided that they meet the recreational vehicle criteria of § 154.21(F) and the temporary structure provisions of § 154.21(G).

(Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

ADMINISTRATION

§ 154.35 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Building Inspector and Assistant Building Inspector, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this chapter. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this chapter, the Floodplain Administrator shall be responsible for the coordination and community’s overall compliance with the National Flood Insurance Program and the provisions of this chapter.

(’85 Code, § 8-4.4a.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.36 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(A) Application requirements. Application for a floodplain development permit shall be made to the floodplain administrator prior to any development activities located within special flood hazard areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

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

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

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 154.05, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 154.05;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 154.05;

(e) The base flood elevation (BFE) where provided as set forth in §§ 154.05 and 154.37(K) and (L);

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

(g) The boundary and designation date of the coastal barrier resource system (CBRS) area or otherwise protected areas (OPA), if applicable; and

(h) Certification of the plot plan by a registered land surveyor.

(2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:

(a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE will be flood-proofed; and

(c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed;

(3) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

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

(a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

(b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with § 154.21(D), when solid foundation perimeter walls are used in Zone AE;

(c) The following, in coastal high hazard areas, in accordance with §§ 154.21(D) and 154.23:

1. V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; in addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction. (Optional);

2. Plans for open wood latticework or insect screening, if applicable; and

3. Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the base flood elevation or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.

(5) Usage details of any enclosed areas below the regulatory flood protection elevation.

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

(7) Copies of all other local, state and federal permits required prior to floodplain development permit issuance (wetlands, endangered species, erosion and sedimentation control, CAMA, riparian buffers, mining, etc.)

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure § 154.21(F) and (G) are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) Permit requirements. The floodplain development permit shall include, but not be limited to:

(1) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

(2) The special flood hazard area determination for the proposed development per available data specified in § 154.05.

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

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

(5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of § 154.23 have been met.

(7) The flood openings requirements, if in Zones AE.

(8) Limitations of use of the enclosures below the lowest floor are parking, building access and limited storage only.

(9) A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.

(10) A statement, if in Zone VE, that there shall be no fill used for structural support.

(11) A statement that all materials below BFE/RFPE must be flood resistant materials. (Optional).

(C) Certification requirements.

(1) Elevation certificates.

(a) An elevation certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificated data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) An elevation certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(c) A final as-built elevation certificate (FEMA Form 086-0-33) is required after construction is completed and prior to certificate of compliance/ occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/ occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction.

Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(2) Floodproofing certificate.

(a) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a certificate of compliance/occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to certificate of occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to deny a certificate of compliance/occupancy.

(3) If a manufactured home is placed within Zone AE and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per § 154.21.

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) Certification exemptions. The following structures, if located within Zone AE are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- (a) Recreational vehicles meeting requirements of § 154.21;
- (b) Temporary structures meeting requirements of § 154.21; and

(c) Accessory structures less than 150 square feet meeting requirements of § 154.21.

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

(E) Determinations for existing buildings and structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this chapter is required.

('85 Code, § 8-4.4b.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.37 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The floodplain administrator shall perform, but not be limited to, the following duties:

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

(B) Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, CAMA, riparian buffers, mining, etc.) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

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

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of this chapter are met.

(F) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with § 154.36(C).

(G) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with § 154.36(C).

(H) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with § 154.36(C).

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with §§ 154.21 and 154.36(C).

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

(K) When base flood elevation (BFE) data has not been provided in accordance with § 154.05, obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to this chapter, in order to administer the provisions of this chapter.

(L) When base flood elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with § 154.05, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.

(M) When the lowest ground elevation of a parcel or structure in a special flood hazard area is above the base flood elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

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

(O) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the

work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

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

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

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

(S) Follow through with corrective procedures of this chapter.

(T) Review, provide input, and make recommendations for variance requests.

(U) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with § 154.05, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify state and FEMA of mapping needs.

(V) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

('85 Code, § 8-4.4c.) (Ord. 31, passed - - ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.38 VARIANCE PROCEDURES.

(A) The Board of Adjustment as established by the town, hereinafter referred to as the "appeal board," shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(2) Functionally ~~dependant~~dependent facilities if determined to meet the definition as stated in § 154.03, provided provisions of this chapter have been satisfied, and such facilities are protected by methods that minimize flood damages.

(3) Any other type of development provided it meets the requirements stated in this section.

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

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under § 154.03 as a functionally ~~dependant~~dependent facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

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

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

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the base flood elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

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

(I) Conditions for variances:

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

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

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

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

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

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

(6) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met:

(a) The use serves a critical need in the community;

(b) No feasible location exists for the use outside the special flood hazard area; and

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

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

(8) The town has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

('85 Code, § 8-4.4e.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 02-12, passed 10-14-02; Am. Ord. 03-01, passed 2-24-03; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.39 INSPECTIONS OF THE WORK IN PROGRESS.

As the work pursuant to a permit progresses, the local Building Inspector and Assistant Building Inspector shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this chapter and the terms of the permit. In exercising this power, the Building Inspector and Assistant Building Inspector has a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction at any reasonable hour for the purposes of inspection or other enforcement action.

('85 Code, § 8-4.4d.1.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.40 STOP ORDERS.

Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Building Inspector or Assistant Building Inspector may order the work to be immediately stopped. The stop order shall be in writing and directed to the person doing the work. The stop order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop order constitutes a misdemeanor.

('85 Code, § 8-4.4d.2.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18) Penalty, see § 154.99

§ 154.41 REVOCATION OF PERMITS.

The local Building Inspector and Assistant Building Inspector may revoke and require the return of the development permit by notifying the permit-holder in writing stating the reason for revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

('85 Code, § 8-4.4d.3.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.42 PERIODIC INSPECTIONS.

The local Building Inspector and each member of his or her Inspections Department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

('85 Code, § 8-4.4d.4.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.43 VIOLATIONS TO BE CORRECTED.

When the local Building Inspector or Assistant Building Inspector finds violations of applicable state and local laws, it shall be his or her duty to notify the owner of the building of the violation. The owner shall immediately remedy the violations of law.

('85 Code, § 8-4.4d.5.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18) Penalty, see § 154.99

§ 154.44 FAILURE TO TAKE CORRECTIVE ACTION.

If the owner of a building or property shall fail to take prompt corrective action, the Building Inspector or Assistant Building Inspector shall give him or her written notice, by certified or registered mail to his or her last known address or by personal service:

(A) That the building or property is in violation of this chapter.

(B) That a hearing will be held before the local Building Inspector or Assistant Building Inspector at a designated place or time, no later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by council and to present arguments and evidence pertaining to the matter.

(C) That following the hearing, the local Building Inspector or Assistant Building Inspector may issue such order to alter, vacate, or demolish the building, or to remove fill as appears appropriate.

('85 Code, § 8-4.4d.6.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18) Penalty, see § 154.99

§ 154.45 ORDER TO TAKE CORRECTIVE ACTION.

If, upon a hearing held pursuant to the notice prescribed in § 154.44, the Building Inspector or Assistant Building Inspector shall find that the building or development is in violation of this chapter, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, as the Building Inspector or Assistant Building Inspector may prescribe; provided, that where the Building Inspector or Assistant Building Inspector finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

('85 Code, § 8-4.4d.7.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.46 APPEAL.

The owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the Building Inspector and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Building Inspector shall be final. The Board of Commissioners shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

('85 Code, § 8-4.4d.8.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

§ 154.47 FAILURE TO COMPLY WITH ORDER.

If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Board of Commissioners following an appeal, he or she shall be guilty of a Class 1 misdemeanor pursuant to G.S. § 143-215.58 and shall be punished at the discretion of the court.

('85 Code, § 8-4.4d.9.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18) Penalty, see § 154.99

§ 154.48 LEGAL STATUS PROVISIONS.

(A) Effect on rights and liabilities under the existing flood damage prevention ordinance.

(1) This chapter in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted November 14, 1976, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the town enacted November 14, 1976 as amended, which are not re-enacted herein are repealed.

(2) The date of the initial Flood Damage Prevention Ordinance for Brunswick County is April 1, 1985.

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

(Ord. 18-13, passed 8-6-18)

§ 154.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants or variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to G.S. § 143-215.58. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation.

('85 Code, § 8-4.3h.) (Ord. 31, passed -- ; Am. Ord. 5-87, passed 3-24-87; Am. Ord. 06-06, passed 5-22-06; Am. Ord. 18-13, passed 8-6-18)

CHAPTER 155: PLANNING

Section

Comprehensive Plan

155.01 Purpose

Planning and Zoning Board

155.10 Organization

155.11 Membership and vacancies

155.12 Officers; rules; meetings

155.13 Powers and duties

155.14 Funds

155.15 Community advisory committees

COMPREHENSIVE PLAN

§ 155.01 PURPOSE.

The Comprehensive Plan, Five-Year Land Use Plan, and any ordinances or other measures to effectuate it, shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town and its environs which will, in accordance with present and future needs, best promote health, safety, morals, and the general welfare, as well as efficiency and economy in the process of development; including among other things, adequate provisions for traffic, the promotion of safety from fire and other dangers, the promotion of good civic design and arrangement, wise and efficient expenditure of public funds, and the adequate provision of public utilities, services, and other public requirements.

('85 Code, § 15A-6) (Ord. 2-89, passed 2-6-89)

[§ 155.02 DEFINITION.](#)

[PLANNING BOARD, Any board or commission established pursuant to G.S. 160D-301.](#)

PLANNING AND ZONING BOARD

[§ 155.02 DEFINITION, PLANNING BOARD, Any board or commission established pursuant to G.S. 160D-301.](#)

§ 155.10 ORGANIZATION.

Pursuant to authority contained in G.S. § ~~160A-361~~[160D-301](#), the Planning and Zoning Board shall be organized to perform the functions and duties herein prescribed.

('85 Code, § 15A-1) (Ord. 2-89, passed 2-6-89)

§ 155.11 MEMBERSHIP AND VACANCIES.

The Planning and Zoning Board shall consist of five regular members and two alternate members. All members shall be residents of the town. Appointments shall normally be made as of July 1 of each year. Regular members shall be appointed for staggered terms of three years, alternate members for one year, provided that vacancies occurring for reasons other than expiration of term shall be filled as they occur for the unexpired remainder of the term. No regular member shall serve for more than two consecutive terms, and a member having served two consecutive terms shall not be eligible for reappointment until after remaining off the Board for one year. For this purpose, a regular member appointed to fill a vacancy for more than one-half of a term shall be considered as having served a full term. Faithful attendance at meetings of the Board shall be considered a prerequisite to continued membership. Any member missing three consecutive meetings unexcused or six meetings in any calendar year shall be removed.

('85 Code, § 15A-2) (Ord. 2-89, passed 2-6-89; Am. Ord. 91-05, passed 5-6-91)

§ 155.12 OFFICERS; RULES; MEETINGS.

The Planning and Zoning Board shall elect a Chairperson and Vice-Chairperson, normally at the July meeting, from among the members appointed by the governing body, whose terms of office shall be one year with eligibility for re-election. The Board shall adopt rules for transaction of its business. The Planning and Zoning Board shall also elect a Secretary, from among the members appointed by the governing body, whose term of office shall be one year with eligibility for reelection, and who shall be responsible for providing notices and keeping minutes for the Planning and Zoning Board. The Director of Planning and Inspections, and his or her designee, shall be responsible for providing all necessary technical, clerical and logistical support to the Planning and Zoning Board, the Secretary of the Planning and Zoning Board and any committees established by the Planning and Zoning Board. The Board should hold at least one meeting monthly, unless there is no business to transact. All meetings shall be open to the public. The agendas and minutes of all meetings, and all documents or materials presented at any meeting shall be made available to the public. An audio or audio and video recording of all meetings shall be kept and shall be made available to the public. There shall be a quorum of four members for the purposes of taking an official action.

('85 Code, § 15A-3) (Ord. 2-89, passed 2-6-89; Am. Ord. 97-14, passed 9-16-97; Am. Ord. 14-02, passed 3-11-14; Am. Ord. 15-15, passed 12-16-15)

§ 155.13 POWERS AND DUTIES.

(A) It shall be the duty of the Planning and Zoning Board in general:

(1) To acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in those conditions.

(2) To prepare and recommend to the governing body any changes believed necessary for the timely revision and amendment of the comprehensive plan for the physical development of the town.

(3) To prepare and recommend to the governing body ordinances promoting orderly development along the lines indicated in the comprehensive plan.

(4) To determine whether specific proposed developments conform it to the principles and requirements of the comprehensive plan for the growth of the town.

(5) To keep the governing body and general public advised as to these matters.

(6) To initiate, from time to time, proposals for amendment of the Chapter 157, Zoning Code of this code of ordinances. In addition, it shall review and make recommendations to the governing body concerning all proposed amendments to the zoning code as provided for therein.

(7) To initiate, from time to time, proposals for amendment of Chapter 156, Subdivision Regulations of this code of ordinances. The Board shall review and make recommendations to the governing body concerning all proposed new or amended plats of land subdivision.

(8) To perform any other duties which may lawfully be assigned to it.

(9) To advise the Governing Board Concerning the implementation of plan, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.

(B) The Planning and Zoning Board may conduct such ~~public hearings~~ Evidentiary hearing as may be required to gather information necessary for the performance of any of its duties prescribed in this chapter or elsewhere in this code of ordinances.

(C) The Planning and Zoning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ such other means of publicity and education as it may determine.

(D) Members of the Planning and Zoning Board may attend planning conferences or meetings of planning institutes or hearings upon pending planning legislation, and the Board may, upon formal and affirmative vote, pay, within the Board's budget, the reasonable expenses incident to such attendance.

('85 Code, § 15A-6) (Ord. 2-89, passed 2-6-89)

§ 155.14 FUNDS.

The Planning and Zoning Board is authorized to make such expenditures, as it may see fit, subject to limitations of funds provided for the Board in the annual budget. The Board shall submit to the Town Manager in April of each year for budget consideration its request for funds needed for operation during the ensuing year.

('85 Code, § 15A-5) (Ord. 2-89, passed 2-6-89)

§ 155.15 COMMUNITY ADVISORY COMMITTEES.

(A) At the direction of the BOC, the Planning and Zoning Board shall establish subordinate committees to be known as Community Advisory Committees, only as provided for in this section. Without the express direction of the BOC, the Planning and Zoning Board shall not establish any committee, subcommittee, working or similar group comprised of regular or alternate members, members of the public or any combination thereof, that is not a Community Advisory Committee established pursuant to this section.

(B) Except as otherwise directed by the BOC, any Community Advisory Committee shall be comprised of (1) three members of the public, each of whom shall be residents or owners of residential property located in the town, and (2) two regular or alternate members of the Planning and Zoning Board, all of whom shall be appointed by the Planning and Zoning Board by vote taken at a meeting of the Planning and Zoning Board, and each shall serve at the pleasure of the BOC. One of the regular or alternate members shall be appointed as the Chairman and one shall be appointed as the Secretary of the Community Advisory Committee by the Planning and Zoning Board. There shall be a quorum of four members of the Community Advisory Committee for the purposes of taking an official action.

(C) Unless a Community Advisory Committee is designated as a standing committee by the BOC, the term of existence of a Community Advisory Board shall be no more than three months, unless that term is extended by the BOC. Each Community Advisory Board shall make a report to the Planning and Zoning Board at each regular meeting thereof. Unless otherwise directed by the BOC, (1) no Community Advisory Committee nor any member thereof shall make any report to the BOC, (2) only the Chairman or Vice Chairman of the Planning and Zoning Board shall deliver any report or recommendation based on the work of any Community Advisory Committee to the BOC, and (3) no such report or recommendation shall be delivered unless it has been adopted by the Planning and Zoning Board. Unless otherwise directed by the BOC, a Community Advisory Committee and the Planning and Zoning Board shall present any recommendation as a range of alternatives, and not as a single recommendation.

(D) In directing the establishment of a Community Advisory Committee, the BOC shall clearly describe the subject matter, scope and function of the Community Advisory Committee.

(E) The agendas and minutes of all meetings, and all documents or materials presented at any meeting of a Community Advisory Committee shall be made available to the public. An audio or audio and video recording of all meetings shall be kept and shall be made available to the public.

(Ord. 15-16, passed 12-16-15)

CHAPTER 156: SUBDIVISION REGULATIONS

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- 156.02 Purpose
- 156.03 Storm water ordinance
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Maps

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156.99 Penalty

GENERAL PROVISIONS

§ 156.01 TITLE.

This chapter shall be known and may be referred to as the Subdivision Regulations for Holden Beach, North Carolina, and may be referred to as the Subdivision Regulations.

(Ord. 98-19, passed 9-28-98)

§ 156.02 PURPOSE.

The purpose of this chapter is to support and guide the proper subdivision of land within the jurisdiction of the town in order to promote the public health, safety, and general welfare of the citizens. The chapter is designed to promote the orderly development of the town; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and other public facilities, for the dedication or reservation of rights-of-way or easements for street and utility purposes; and the distribution of population and traffic, which shall avoid congestion and overcrowding and which will create conditions essential to public health, safety and the general welfare. This chapter is designed to further facilitate adequate provisions for water, sewerage, parks, and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

(Ord. 98-19, passed 9-28-98)

§ 156.03 STORM WATER ORDINANCE.

Any new subdivision must be designed pursuant to the provisions for stormwater management as outlined in Chapter 52 of this Code of Ordinances.

(Ord. 98-19, passed 9-28-98)

§ 156.04 AUTHORITY.

This chapter is adopted under the authority of G.S. § ~~160A-374~~[160D-801](#) et seq.

(Ord. 98-19, passed 9-28-98)

§ 156.05 JURISDICTION.

The regulations contained herein as provided in G.S. § ~~160A-360D~~[160D-201](#) et seq. shall govern each and every subdivision within the jurisdiction of the town, as directed in Holden Beach Incorporation Ordinance, adopted May 1969.

(Ord. 98-19, passed 9-28-98)

§ 156.06 ENACTMENT.

This chapter shall become effective upon its adoption. The original subdivision regulations were adopted September 1, 1975. Subdivision regulations revisions were adopted September 28, 1998.

(Ord. 98-19, passed 9-28-98)

§ 156.07 SUBDIVISION DEFINED.

For the purposes of this chapter, the term SUBDIVISION shall mean all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale, or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets, but the following shall not be included within this definition nor be subject to the regulations established herein (G.S. § ~~160A-376~~[160D-802](#)):

(A) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the municipality as shown in its subdivision regulations.

(B) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.

(C) The public acquisition by purchase of strips of land for the widening or opening of streets, beach access, and location of town utilities.

(D) The division of a tract into single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in this chapter.

(E) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession of G.S. Ch. 29.

(Ord. 98-19, passed 9-28-98; Am. Ord. 01-02, passed 2-26-01)

§ 156.08 ADDITIONAL DEFINITIONS.

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

ALLEY. A minor right-of-way privately or publicly owned, primarily for service access to the back or side of properties.

BUILDING SETBACK LINE. A line parallel to the front property line in front of which no structure shall be erected.

DEDICATION. A gift, by the owner, of his property to another party without any consideration being given for the transfer. Since a transfer of property is involved, the dedication is made by written instrument and is completed with an acceptance.

DOUBLE FRONTAGE LOT. A continuous (through) lot which is accessible from both streets upon which it fronts.

EASEMENT. A grant by the property owner of a strip of land for a ~~specified purposes~~[specified purpose](#) and use by the public, a corporation, or a person.

LOT. A portion of a subdivision, or any other parcel of land for a specified purpose for transfer of ownership or for development or both.

OFFICIAL MAPS OR PLANS. Any maps or plans officially adopted by the Board of Commissioners as a guide to the development of Holden Beach.

OPEN SPACE. An area (land and/or water) generally lacking in man-made structures and reserved for enjoyment in its unaltered state.

PLAT. A map or plan of a parcel of land which is to be or has been subdivided.

PRIVATE DRIVEWAY. A roadway serving two or fewer lots, building sites or other divisions of land and not intended to be public ingress or egress.

PUBLIC SEWAGE DISPOSAL SYSTEM. A system serving two or more dwelling units and approved by the Brunswick County Health Department and the North Carolina Department of Natural and Economic Resources, Environmental Management Division.

PUBLIC WATER SUPPLY. Any water supply furnishing potable water to ten or more residences or businesses, or combination of residences or businesses. Approval by the Sanitary Engineering Section, Health Service Division and Department of Human Resources is required.

RECREATION AREA OR PARK. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

RESERVATION. A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated [period of time](#).

SINGLE-TIER LOT. A lot which backs upon a limited access highway, a physical barrier, or another type of land use and to which access from the rear is usually prohibited.

STREET. A dedicated and accepted public right-of-way for vehicular traffic. The following classifications shall apply for urban streets:

(1) **Minor thoroughfares.** Minor thoroughfares are important streets in the town system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating a minor through-traffic movement and may also serve abutting property.

(2) **Local street.** A local street is any link not a higher order urban system and serves primarily to provide direct access to abutting land and access to higher systems. It offers the lowest level of mobility, and through traffic is usually deliberately terminated and a vehicular turn around provided.

(3) **Cul-de-sac.** A cul-de-sac is a short street having but one end open to traffic and the other end being permanently terminated and a vehicular turn around provided.

(4) **Frontage road.** A frontage road is a local street or road that is parallel to a full or partial [access-controlled](#) facility and functions to provide access to adjacent land.

(5) **Alley.** A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

[SUBDIVISION REGULATION, A subdivision regulation authorized by Chapter. §160D-801, Article 8](#)

(Ord. 98-19, passed 9-28-98)

§ 156.09 COMPLIANCE WITH OFFICIAL PLANS.

Where a proposed subdivision includes any part of thoroughfare which has been designated as such upon the officially adopted Town Thoroughfare Plan, such part of such thoroughfare shall be platted by the subdivider in the location shown on the plan at the width specified in this chapter. Similarly, proposed subdivisions must comply in all respects with the requirements of the Zoning Ordinance in effect in the area to be subdivided, and any other officially adopted plans.

(Ord. 98-19, passed 9-28-98) Penalty, see § 156.99

IMPROVEMENTS REQUIRED AND
MINIMUM STANDARDS OF DESIGN

§ 156.20 GENERAL.

Each subdivision shall contain the improvements specified in this subchapter, which shall be installed in accordance with the requirements of this chapter and paid for by the subdivider, unless other means of financing is specifically stated in this chapter. Each subdivision shall adhere to the minimum standards of design established by this subchapter.

(Ord. 98-19, passed 9-28-98)

§ 156.21 SUITABILITY OF LAND.

(A) Danger to life and property. Land which has been determined by the Town Board of Commissioners on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.

(B) Prevention of flood damage. Lands subject to flooding from rivers or storms as defined and mapped by the Federal Insurance Administration shall be so identified on the preliminary plat. Development of any of these areas so identified and any deed restrictions shall be in accordance with the Code of Federal Regulations, Title 24, Chapter X, Federal Insurance Administration, § 1910.3. Appropriate deed restrictions shall be filed for those lands subject to flooding, prohibiting their development for dwellings, or other use unless the sites are flood-proofed as follows:

(1) No structure or fill shall be placed in the floodway which would interfere with the natural water course.

(2) Streets and utility lines and structures may be placed within the flood plain only if their elevation is raised above maximum flood heights or they are otherwise floodproofed.

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

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

(C) CAMA requirements. All lots, structures and utilities shall comply with the applicable Areas of Environmental Concern (AEC) Standards, as amended, in accordance with the State Guidelines for AECs (15 NCAC 7H) pursuant to the Coastal Area Management Act of 1974.

(Ord. 98-19, passed 9-28-98)

§ 156.22 NAME DUPLICATION.

The name of a subdivision shall not duplicate or closely approximate the name of an existing subdivision within the jurisdiction of the town.

(Ord. 98-19, passed 9-28-98)

§ 156.23 SUBDIVISION DESIGN.

(A) Design standards for blocks.

(1) The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

(2) Blocks shall not be less than 400 feet or more than 1320 feet in length.

(3) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential developments from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.

(4) Sidewalks, if provided, shall be constructed to a minimum width of four feet, and shall consist of a minimum thickness of four inches of reinforced concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a Planned Unit or Group Development. Where deemed necessary by the Planning and Zoning Board, a pedestrian crosswalk at least five feet in width may be required to provide convenient public access to a public area such as a park, water, or to such as shopping centers, religious or transportation facilities.

(5) Block numbers shall conform to the town street numbering system.

(B) Design standards of lots. All lot size, width, depth, shape and orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(1) All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of the Zoning Ordinance. It is not sufficient merely for the average lot to meet zoning requirements.

(2) Lots shall meet any applicable Brunswick County Health Department requirements.

(3) Double frontage lots shall be avoided wherever possible.

(4) Side lot lines shall be substantially at right angles to or radial to street lines.

(5) Platted residential lot area shall be a minimum of 7500 square feet.

(6) Residential lot width shall be 60 feet at the building line and shall be fifty feet at the street line. Corner lots shall have an extra width of ten feet to permit adequate setback from side streets.

(7) Platted residential lot depth shall be at least 100 feet. Single-tier lots shall have an average depth of at least 100 feet.

(8) Residential building setback lines. The minimum building setback distance from property lines shall be as follows:

(a) Distance from front property line on arterial street: 25 feet.

(b) Distance from property line on all other streets: 25 feet.

(c) Distance from side property line: 10 feet.

(d) Distance from rear property line: 20 feet. You may encroach up to four feet into the ten foot house side setback to allow for an air conditioning platform.

(9) Orientation of residential lot lines. Side lot lines shall be substantially at right angles or radial to street lines. All lots shall front upon a public street. Double-frontage lots shall be avoided wherever possible, except as allowed by private driveways fronting two lots or less.

(C) Easements and other miscellaneous requirements. Easements shall be provided as follows:

(1) Utility easements. Easements for underground and above ground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least ten feet wide for water lines and as required by the companies involved, for telephone and power lines.

(2) Drainage easements. Where a subdivision is traversed by a drainage way, an easement shall be provided conforming with the lines of such drainage way of sufficient width as will be adequate for the purpose.

(3) Buffer strips. A buffer strip at least 50 feet in width may be required by the Planning and Zoning Board adjacent to a commercial development. This strip shall be in addition to the normally required lot dimension, shall be part of the platted lot, and shall be reserved for the planting of trees and shrubs by the owner.

(4) Natural assets. In any subdivision, due consideration will be given to preserving natural features such as trees, ponds, streams, dunes, rivers, lakes and for any historical sites which are of value not only to the subdivision but the county as a whole.

(Ord. 98-19, passed 9-28-98) Penalty, see § 156.99

§ 156.24 STREETS.

(A) Type of street required. All non-private subdivision lots shall abut on a public street. All public streets shall be dedicated to the town after construction and acceptance by the town. All streets shall be built and maintained to NC DOT standards.

(1) Private subdivisions operated by a bona fide homeowners' association may choose to have private streets. Such streets must meet the standards of this chapter.

(a) Street pavement shall be located in the center of the right-of-way.

(b) A public turn-around shall be provided at the entry to a private subdivision.

(B) Subdivision street disclosure statement. Such a statement must be shown on the plat along with a showing of all streets and designated in accordance with G.S. § 136-102.6 and public or private designation. Where streets are designated as public but not accepted into the municipal or state system before lots are sold, a statement explaining the status of the streets shall be included with the final plat.

(C) Marginal access streets. When a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

(D) Access to adjacent properties. Where, in the opinion of the Planning and Zoning Board, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication of the boundary of such property and a temporary turn-around shall be provided. No land will be left land-locked within or outside the subdivision by the creation of the subdivision.

(E) Coordination and continuation of streets. The proposed street layout within a subdivision shall be coordinated with the existing street system to the surrounding area and, where possible, existing principal streets shall be extended.

(F) Street names. Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Planning and Zoning Board, as outlined above.

(G) Collector and minor streets. Collector and minor streets shall be so laid out that their use by the through traffic will be discouraged. Streets shall be designated or walkways dedicated to assure convenient access to the Atlantic Ocean, Intracoastal Waterway, parks, playgrounds, and other places of public assembly.

(H) Design standards. The design of all streets and roads within the jurisdiction of this chapter shall be in accordance with the accepted policies of the State Department of Transportation, Division of Highways, and taken or modified from the American Association of State Highway Officials (AASHO) manuals. The NC DOT, Subdivision Roads Minimum Construction Standards, July 1, 1985, as amended, shall apply for any items not included in this chapter or where stricter than this chapter.

(1) Right-of-way widths. Right-of-way widths shall be not less than the following and shall apply except in those cases where right-of-way requirements have been specifically set out in the Town Thoroughfare Plan:

- (a) Minor thoroughfare: 60 feet.
- (b) Local street: 60 feet.
- (c) Cul-de-sac: 100 foot diameter for turn around.

(2) Pavement widths. Pavement widths or graded widths shall be as follows:

(a) Streets with curb and gutter (measured face-to-face of curb):

Minor thoroughfare: 34 feet

Local road: 24 feet

Marginal access (frontage): 24 feet

Cul-de-sac: 24 feet

Cul-de-sac turnaround: 80 feet in diameter

(b) Streets without curb and gutter:

Minor thoroughfare: 30 feet

Local road: 20 feet

Marginal access (frontage): 20 feet

Cul-de-sac: 20 feet

Cul-de-sac turnaround: 80 feet in diameter

(3) Roads and street surfaces. All subdivision streets and roads shall be constructed to meet the current requirements of the State Department of Transportation, Division of Highway's secondary roads plan of state maintenance.

(4) Tangents. A tangent of at least 100 feet shall be provided between reverse curves on all streets.

(5) Street intersections. Street intersections shall be laid out as follows:

(a) All streets shall intersect as nearly as possible at right angles and no street shall intersect at less than 60°.

(b) Intersections with a major street shall be at least 1,000 feet apart measured from centerline to centerline.

(c) Where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 125 feet.

(d) Property lines at street intersections shall be rounded with a minimum radius of 20 feet. At an angle of intersection of less than 90°, a greater radius may be required.

(e) Proper sight lines shall be maintained at all intersections of streets. There shall be a clear sight distance of 150 feet for major streets and 75 feet for all other streets from the point of intersection as measured along the centerline. No building or obstruction shall be permitted in this area.

(6) Half streets. The dedication of half streets of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impracticable, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the subdivider. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development. However, a partial width right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property that is owned or controlled by the subdivider; provided that the width or a partial dedication will permit the installation of such facilities as may be necessary to serve abutting lots. When the said adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

(7) Cul-de-sacs. All dead-end streets shall not exceed 500 feet in length unless necessitated by topography and shall be provided with a turn-around having the dimensions stated above.

(8) Alleys. An alley may be provided to the rear of all lots used for other than residential purposes. Alleys are prohibited in residential blocks unless approved by the Planning and Zoning Board. All alleys shall be designed in accordance with the Department of Transportation, Division of Highways' specifications and standards and shall meet the following requirements:

Right-of-way width: 20 feet

Property line radius at alley intersections: 15 feet

Minimum centerline radius when deflection angle of more than 10° occurs: 35 feet

Minimum turn-around diameter of dead-end alley (right-of-way width): 80 feet

(9) Geometric characteristics. The standards outlined below shall apply to all subdivision streets proposed for addition to the State Highway System or Municipal Street System. In cases where a subdivision is sought adjacent to a proposed thoroughfare corridor, the requirements of dedication and reservation discussed under Right-of-Way shall apply.

(a) Design speed. The design speeds for subdivision-type streets shall be:

Urban - minor thoroughfares: 45/35 desirable (35 minimum)

Urban - local streets: 25 desirable

(10) Grades. The minimum grade in no case shall be less than 0.5%. Grades for 100 feet each way from intersections should not exceed 5%.

(11) Minimum sight distances. In the interest of public safety, the minimum sight distance applicable shall be in every instance set by state standards.

(Ord. 98-19, passed 9-28-98) Penalty, see § 156.99

§ 156.25 UTILITIES.

(A) Storm water drainage system. The subdivider shall provide a surface water drainage system, designed by a registered engineer and constructed to town standards and to the standards of the NC DOT, as reflected in Handbook for the Design of Highway Surface Drainage Structure, 1973, as amended, subject to review by the Town Building Inspector.

(1) No surface water shall be channeled or directed into a septic system.

(2) Where feasible, the subdivider shall connect to an existing storm drainage system.

(3) Where existing storm drainage system can not feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.

(4) Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the NC Sedimentation Pollution Control Act, G.S. § 113A-50 et seq. and the NC Administrative Code Title 15, Chapter 4, and any locally adopted erosion and sedimentation control ordinances.

(5) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each 200 feet of horizontal distance.

(6) Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the NC Sedimentation Pollution Control Act, G.S. § 113A-50 et seq. and the NC Administrative Code Title 5, Chapter 4.

(B) Underground wiring. All subdivisions shall have underground wiring. Such underground wiring shall be installed in accordance with the standards of the Brunswick Electric Corporation, Atlantic Telephone Company, and the cable company currently under contract to the town.

(C) Design standards for water access areas. All subdivisions adjoining water areas shall provide for public access to the water. Such access shall include a five-foot easement every 1,320 feet (¼ mile) along the ocean shoreline adjacent to the subdivision. The purpose of these facilities is to serve properties within the subdivision. Such facilities shall be approved and dedicated to the town and shall be directly accessible to a state or town maintained street or road. Where a public boat dock or launching ramp is provided by the state, county, or any other agency within or contiguous to the area to be subdivided, such facility may count toward meeting the requirements of this section.

(Ord. 98-19, passed 9-28-98) Penalty, see § 156.99

§ 156.26 BUFFERING.

Whenever a residential subdivision is located adjacent to an office or commercial use which does not have a buffer, or property zoned for these uses, and a buffer is not required between these and the subdivision, a subdivider shall provide a buffer as defined in § 156.23(C)(3). The buffer shall become part of the lot on which it is located or, in the case of commonly-owned property, shall be deeded to the homeowners' association.

(Ord. 98-19, passed 9-28-98) Penalty, see § 156.99

§ 156.27 OTHER REQUIREMENTS.

(A) Placement of monuments. Unless otherwise specified by this chapter, the Manual of Practice for Land Surveying as adopted by the NC State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the NC Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corners ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

(B) Construction procedures. No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved and all plans and specifications have been approved by the appropriate authorities.

(1) Permits. No building or other permits shall be issued for erection of a structure on any lot not on record at the time of adoption of this chapter until all the requirements of this chapter have been met.

(2) Access. The administrator of the chapter shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this chapter.

(3) Inspection. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the administrator of this chapter to provide for adequate inspection. The approving authorities having full jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties.

(4) Erosion control. The subdivider shall cause all grading, excavations, open cuts, side slopes, and other land surface disturbances to be so mulched, seeded, sodded or otherwise protected to comply with the provisions of § 156.21.

(5) Existing flora. The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails. Such trees are to be protected and preserved during construction in accordance with sound conservation practices recommended by the U.S. Department of Agriculture in Agricultural Information Bulletin No. 285, Protecting Trees Against Damage from Construction Work, U.S. Government Printing Office, 1964. Such

trees are to be preserved by well islands or retaining walls whenever abutting grades are altered. Temporary vegetation and mulching shall be used to protect critical areas, and permanent vegetation shall be installed as soon as practical.

(6) Construction. Construction at any given time shall be confined to the smallest practical area and for the shortest practical period of time.

(C) Oversized improvements. The town may require installation of certain oversized facilities such as water mains in excess of 8" diameter, when it is in the interest of future development. The town shall pay for that portion of the improvement which exceeds the standards set forth in this chapter.

(Ord. 98-19, passed 9-28-98) Penalty, see § 156.99

INFRASTRUCTURE AND SERVICES

§ 156.30 INFRASTRUCTURE AND SERVICES.

No street shall be maintained by the town nor street dedication accepted for ownership and maintenance, no construction permits shall be issued, nor shall water, sewer or other town facilities or services be extended to or connected with any subdivision for which a plat is required to be approved unless and until such final plat has been approved by the town.

(Ord. 98-19, passed 9-28-98)

SUBDIVISION PLATS

§ 156.40 GENERAL.

No final plat of a subdivision within the town jurisdiction as established in §§ 156.04 through 156.06 shall be recorded by the County Register of Deeds until it has been approved by the Board of Commissioners as provided herein. To secure such approval of a final plat, the subdivider shall follow the procedures established in this section.

(Ord. 98-19, passed 9-28-98)

§ 156.41 SKETCH DESIGN PLAN.

Prior to the filing of an application for the approval of a preliminary plat, the subdivider may submit a sketch plan prior to submitting a preliminary plat. Sketch plans shall conform to the following requirements:

(A) Number of copies and graphic media. A minimum of eight copies of a sketch design plan shall be submitted 14 days prior to the next Planning and Zoning Board meeting. No specific graphic media must be employed.

(B) Size of plan and scale. No specific size requirements apply to sketch design plans. It is suggested that the requirements applicable to preliminary and final plats be utilized.

(C) Administrative fees. No administrative fees are charged in connection with the submission of sketch design plans.

(D) Certification required. No certificates must be provided in connection with the submission of sketch design plans.

(E) Contents required. The sketch design plan shall depict or contain the following information:

(1) A sketch vicinity map showing the location of the subdivision in relation to the neighboring tracts, subdivisions, roads, and waterways;

(2) The boundaries of the tract and the portion of the tract to be subdivided, including subdivision name;

(3) The total acreage to be subdivided;

(4) The existing and proposed uses of the land within the subdivision and adjoining it;

(5) The proposed street layout with approximate pavement and right-of-way width and approximate size of lots;

(6) The name, address and telephone number of the owner;

(7) Streets and lots of adjacent developed, undeveloped, platted or non-platted properties;

(8) The zoning classification(s) of the tract and of adjacent properties.

(F) Review procedure. The Planning and Zoning Board shall review the sketch design plan for general compliance with the requirements of this chapter and the Zoning Ordinance. Within 14 days of the last scheduled Planning and Zoning Board meeting, at which time the sketch plan was reviewed, the Planning and Zoning Board shall advise, in writing, the subdivider or his authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats. This review shall in no way be construed as constituting an official action of approval for recording of the subdivision by the Planning and Zoning Board or Board of Commissioners as required by this chapter.

(G) Disposition of copies. One copy shall be retained as a part of the minutes of the Planning and Zoning Board with one copy being returned to the subdivider of his authorized agent.

(Ord. 98-19, passed 9-28-98)

§ 156.42 PRELIMINARY PLAT.

A preliminary plat shall be submitted to the Planning and Zoning Board at least 14 days before the next Planning and Zoning Board meeting, for every subdivision of land which is located within the territorial jurisdiction established by § 156.05. This will allow 10 days for review of the preliminary plat before the regularly scheduled meeting.

(A) Number of copies and graphic media. 12 copies of the preliminary plat shall be submitted. No specific graphic media must be employed. Three copies shall be disposed of as provided

under subdivision (G) of this section; other copies shall be distributed for review as provided in subdivision (F) of this section.

(B) Size of plat and scale. No specific size requirements apply to preliminary plats. Preliminary plats may be prepared at a scale of 1" = 100', or greater.

(C) Administrative fees. No administrative fees shall be charged in connection with the submission of preliminary plats.

(D) Certification required. No certifications must be provided in connection with the submission of preliminary plats. (See § 156.25 regarding approval of utilities.)

(E) Contents required. The preliminary plat shall depict or contain the following information. Plats not illustrating or containing the following data shall be returned to the subdivider or his authorized agent for completion and resubmission.

- (1) The proposed name of the subdivision;
- (2) A sketch vicinity map showing the relationship between the proposed subdivision and the surrounding area at a scale of one inch equals 400 feet;
- (3) The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented, with all bearings and distances shown;
- (4) Scale denoted both graphically and numerically;
- (5) North arrow and declination;
- (6) The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service, illustrating connections to existing systems. Plans for water supply and/or sewage disposal must be accompanied by letters of preliminary approval by the appropriate county and state authorities (see Appendix I). Plans must show line sizes, the location of fire hydrants, blow-offs, manholes, pumps, force mains, and gate valves, and shall include profiles based upon Mean Sea Level datum for sanitary sewers and storm sewers;
- (7) Proposed street names;
- (8) The zoning classification(s) of the tract to be subdivided and adjoining properties;
- (9) Proposed location and size of parks, or other recreational or open spaces, if any, and their future ownership (dedication for public use to governmental body, for owners to duly constituted homeowners or community association, or for tenants in subdivider's ownership);
- (10) Site calculations, including:
 - (a) Acreage in total tract to be subdivided;
 - (b) Acreage in parks and other nonresidential use;
 - (c) Total number of parcels created;

(d) Linear feet in streets.

(11) Proposed minimum building setback lines;

(12) The names of any adjoining subdivisions of record (or proposed and under review);

(13) Any proposed riding trails, natural buffers, pedestrian, bicycle, or other rights-of-way, utility or other easements, their location, width, and purposes;

(14) Proposed streets, existing and platted streets on adjoining properties and in the proposed subdivision, rights-of-way, pavement widths, approximate grades, design engineering data for all corners and curves, and typical street cross sections. If any street is proposed to intersect with a state maintained road, the plat shall be accompanied by an application for driveway approval as required by the Department of Transportation, Division of Highways' Manual on Driveway Regulations;

(15) Existing and proposed property lines, both on the tract to be subdivided and on adjoining properties, buildings, or other structures, water courses, bridges, culverts, storm drains, both on the land to be subdivided and on the land immediately adjoining; corporate limits, township boundaries, and county lines;

(16) Proposed lot lines, block letters and lot numbers, and approximate dimensions;

(17) The location of all marshes, water, water courses, ditches, drainage channels, and sub-surface drainage structures, and the proposed method of disposing of all runoff from the proposed subdivision, and the location and size of all drainage easements and structures relating thereto, whether they are located within or outside the proposed plat.

(18) The preliminary plat shall be accompanied by a copy of any proposed deed restrictions or similar covenants (mandatory when private recreation areas are established);

(19) Date of plat preparation;

(20) The name(s) of the township(s), county and state in which the subdivision is located;

(21) The name(s), address(es), and telephone number(s) of the owner(s), registered surveyor(s), and land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision.

(22) Environmental impact statement. Pursuant to G.S. Chapter 113A and the Town Ordinance Requiring Environmental Impact Statement adopted July 11, 1972, the Planning and Zoning Board shall require the subdivider to submit an environmental impact statement with his preliminary plat if:

(a) The development exceeds two acres in area; and

(b) If the Board deems it necessary due to the nature of the land to be subdivided or peculiarities in the proposed layout;

(23) Any other information considered by either the subdivider or the Planning and Zoning Board to be pertinent to the review of the preliminary plat; i.e., topographic map showing vertical contours every two feet.

(24) Lands subject to flooding from rivers or storms as defined and mapped by the Federal Insurance Administration shall be so identified on the preliminary plat.

(F) Review procedure. The Planning and Zoning Board shall review and take action on each preliminary plat within 35 days after first consideration by the Planning and Zoning Board. First consideration shall be at the next regularly scheduled meeting of the Planning and Zoning Board that follows at least 14 days after the plat is submitted.

(G) Disposition of copies.

(1) If the plat is approved, approval shall be noted on at least three copies of the plat by the Planning and Zoning Board Secretary. One copy shall be transmitted to the Town Clerk who shall retain it for public examination, one copy shall be returned to the subdivider and one copy shall be retained by the Planning and Zoning Board.

(2) If the preliminary plat is disapproved, the Planning and Zoning Board shall specify the reasons for such action in writing. One copy of such reasons shall be retained by the Planning and Zoning Board, one copy shall be given to the subdivider, and one copy shall be transmitted to the Town Clerk. If the preliminary plat is disapproved, the subdivision may make the recommended changes and submit a revised preliminary plat or appeal the decision to the Board of Commissioners.

(Ord. 98-19, passed 9-28-98) Penalty, see § 156.99

§ 156.43 FINAL PLAT.

(A) Improvements installation or guarantee. Upon approval of the preliminary plat by the Planning and Zoning Board, the subdivider may proceed with the preparation of the final plat and the installation or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this chapter. Prior to the approval of a final plat, the subdivider shall have installed improvements specified in this chapter or guaranteed their installation as provided.

(B) Performance guarantee. In lieu of prior construction of the improvements required by this chapter, the town shall, for the purpose of approving a final plat, accept a guarantee from the subdivider that such improvements will be carried out according to the town's specifications at his expense. Such a guarantee may be in the form of:

(1) A surety bond made by a surety company licensed to do business in North Carolina;

(2) Certified check or cash deposited in a joint savings account with the Town Clerk. As a percentage of the project is completed, a proportionate amount may be withdrawn by the developer provided the Board of Commissioners approves.

(3) A "Letter of Credit" from a lending institution that specifies a limit of credit which will be extended to a developer upon request. Such guarantee shall be in an amount of not less than 110% nor more than 125% of the estimated cost of the construction of the required improvements.

This amount shall be determined by the Board of Commissioners. (Performance guarantees shall run until this phase is accepted by the town.)

(C) Final plat review contingent upon execution of guarantees. No final plat will be reviewed by the Planning and Zoning Board unless accompanied by written notice from the Town Manager acknowledging compliance with the guaranteed provision of this chapter.

(D) The final plat. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at the time. Such portion shall conform to all requirements of this chapter. No final plat shall be approved unless and until the subdivider shall have installed in that area represented on the final plat all improvements required by this chapter or shall have guaranteed their installation as provided for in subsections (A) and (B) of this section.

(E) Plat submitted. The subdivider shall submit the final plat to the Chairman of the Planning and Zoning Board or his designee not less than 21 days prior to the Planning and Zoning Board meeting, at which it will be considered for approval. Further, the plat shall be submitted not more than 12 months after the date on which the preliminary plat was approved. Otherwise, such approval shall be null and void unless a written extension of this time limit is granted by the Planning and Zoning Board on or before the one-year anniversary of the approval.

(F) Plat prepared. The final plat, as defined in subsection (D) of this section, shall be prepared by a surveyor or professional engineer licensed to practice in the state. The final plat shall substantially conform to the preliminary plat as it was approved. The final plat shall conform to the provisions of G.S. § 47-30.

(G) Number of copies and graphic media. 12 copies of the final plat shall be submitted. Three of these shall be drawn in ink or on film suitable for reproduction. Nine shall be black or blue line paper prints.

(H) Size of plat and scale. Final plats may have an outside marginal size of not more than 21" x 30" nor less than 8½" x 11", including 1½" border on each of the other sides. Where size of land areas or suitable scale to assure legibility require, maps may be placed on two or more sheets with appropriate match lines. Final plats shall be drawn at a scale on 1" = 200', or greater.

(I) Administrative fees. Submission of the final plat must be accompanied by a filing fee as established in the fee schedule adopted by the Board of Commissioners, which shall be available at the office of the Town Clerk.

(J) Certification required. The following signed certificates shall appear on all copies of the final plat which are submitted to the Planning and Zoning Board by the subdivider:

(1) Certificate of ownership and dedication.

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Holden Beach, and that I hereby adopt this plan of subdivision with my free consent, established minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer and water lines to the Town of Holden Beach.

Date Owner(s)

(2) Certificate of survey and accuracy.

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book ____, Page ____, Book ____, Page ____, etc.) (Other); that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____, Page ____; that this map was prepared in accordance with G.S. § 74-30 as amended. Witness my hand and seal this ____ day of _____, A.D., 19__.

Registered Surveyor or Professional Engineer

(3) Certificate or approval of the design and installation of streets, utilities, and other required improvements.

I hereby certify that all streets, utilities and other required improvements have been installed in an acceptable manner and according to Town of Holden Beach specifications and standards in the _____ Subdivision or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Holden Beach has been received and that the filing fee for this plat, in the amount of \$20, has been paid.

(Code Enforcement Officer)

(K) Contents required. The final plat shall depict or contain the following information. A plat not illustrating or containing the following information shall be returned to the subdivider or his authorized agent for completion and resubmission.

(1) The name of the subdivision;

(2) The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings, and the location of intersecting boundary lines of adjoining lands;

(3) Scale denoted both graphically and numerically;

(4) The plans for utility layouts shall be on a sketch separate from the final plat and shall include storm sewers, water distribution lines, telephone and electric service, illustrating connections to existing systems or plans for individual water supply systems and/or sewage disposal systems. Plans must show line sizes, the location of fire hydrants, blowoffs, manholes, pumps, force mains, and gate valves. If actual installations vary from plans submitted, an "as built" drawing must be submitted to the Town Manager showing the variance;

(5) Street names;

(6) The location, purpose, and dimensions of areas to be used for purposes other than residential;

(7) Minimum building setback lines;

(8) The name of owners of adjoining properties and any adjoining subdivisions of record (or proposed and under review);

(9) The location and dimensions of all rights-of-way, utility or other easements, riding trails, natural buffers, pedestrian or bicycle paths, and areas to be dedicated to public use with the purpose of each stated;

(10) Right-of-way lines, and pavement widths of all streets and the location and width of all adjacent streets and easement;

(11) Property lines, buildings or other structures, water courses, bridges, culverts, storm drains, both on the land to be subdivided and on the land immediately adjoining corporate limits, township boundaries, and county lines;

(12) Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and set back line, including dimensions, bearings, or deflection angles, radii, central angles, and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest 0.1 foot and all angles to the nearest minute;

(13) The accurate locations and descriptions of all monuments, markers, and control points;

(14) The blocks will be lettered consecutively throughout the entire subdivision and the lots will be numbered consecutively throughout each block with appropriate street number identification for each lot;

(15) The deed restriction and any other covenants proposed for the subdivision;

(16) The date of the survey and plat preparation;

(17) North arrow and declination;

(18) All certifications as required by subsection (J) of this section;

(19) The name(s) of the township(s), county(ies), and state in which the subdivision is located;

(20) The name(s), address(es), and telephone number(s) of the owner(s), registered surveyor(s), land planner(s), architect(s), landscape architect(s), and professional engineer(s) responsible for the subdivision and the registration number(s) and seal(s) of the professional engineer(s) and registered surveyor(s);

(21) Any other information considered by either the subdivider or the Planning and Zoning Board to be pertinent to the review of the final plat.

(Ord. 98-19, passed 9-28-98; Am. Ord. 08-07, passed 6-24-08) Penalty, see § 156.99

§ 156.44 REVIEW PROCEDURE AND APPROVAL.

Final plats shall be reviewed according to the following procedure:

(A) Planning and Zoning Board review. The Planning and Zoning Board shall approve or disapprove the final plat with 35 days of its first consideration. During its review of the final plat, the Planning and Zoning Board may appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, in the opinion of the Planning and Zoning Board, the costs shall be charged to the subdivider and the plat shall not be approved until such errors have been corrected. If the Planning and Zoning Board approves the final plat, such approval shall be indicated on each copy of the plat by the following signed certificate.

(B) Certification of approval by the Planning and Zoning Board.

The Holden Beach Planning and Zoning Board hereby approves the final plat for the Subdivision.

Date Chairman, Holden Beach Planning & Zoning Board

(1) If the Planning and Zoning Board disapproves the final plat, the Planning and Zoning Board shall state in writing its reasons for such action, specifying the provisions of this chapter with which the plat does not comply. One copy of this statement shall be transmitted to the subdivider within 15 days of disapproval; one copy shall be retained by the Planning and Zoning Board as a part of its proceedings, and one copy shall be sent to the Town Clerk. If the final plat is disapproved, the subdivider may make such changes as will bring the plat into compliance with the provisions of this chapter and resubmit same for reconsideration by the Planning and Zoning Board.

(2) If the Planning and Zoning Board fails to approve or disapprove the final plat within 35 days after first consideration, as previously defined in § 156.42(F), such failure shall be deemed approval and shall constitute grounds for the subdivider to apply for final approval by the Board of Commissioners.

(3) For any re-platting or re-subdivision of land, the same procedures, rules and regulations shall apply as prescribed in this chapter for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that:

(a) No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan;

(b) Drainage, easements or right-of-way shall not be changed;

(c) Street alignment and block sizes shall not be changed;

(d) The property line between the back of the lots shall not be changed;

(e) The rear portion of lots shall not be subdivided from the front part;

(f) The character of the area shall be maintained.

(C) Board of Commissioners review. The Board of Commissioners shall review the final plat within 35 days of the Planning and Zoning approval. If approved by the Board of Commissioners, a certificate of approval shall be shown on each copy of the plat by the following signed certificate.

Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations for Holden Beach, North Carolina, and that this plat has been approved by the Board of Commissioners for recording in the Office of the Register of Deeds of Brunswick County.

Date Town Clerk

If the final plat is disapproved by the Board of Commissioners, the reasons for such disapproval shall be stated in writing, specifying the provision(s) of this chapter with which the final plat does not comply. One copy of such reasons shall be retained by the Board of Commissioners as a part of its proceedings, one copy shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make such changes as will bring the final plat into compliance with this chapter and resubmit same for reconsideration by the Planning and Zoning Board.

(D) Effect of plat approval on dedication. The approval of a final plat shall be deemed to constitute or effect the acceptance by the town of the dedication of streets, or right-of-way, public utility line, or other public facility provided the improvements are constructed in accordance with policies, standards, and guidelines listed in this chapter or adopted elsewhere by the Board of Commissioners.

(E) Disposition of copies. If the final plat is approved by the Board of Commissioners, the original tracing and one print of the plat shall be returned to the subdivider. One reproducible tracing and one print shall be filed with the Building Inspector; one shall be retained by the Planning and Zoning Board.

(F) Recording of the final plat. The subdivider shall file the approved final plat with the Register of Deeds of Brunswick County for recording within 90 days after the date of the Board of Commissioners' approval. Otherwise, such approval shall be null and void.

(G) Resubdivision procedures.

(1) For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed in this chapter for an original subdivision. Lot sizes may, however, be varied on an approved plan after recording, provided that:

(a) No lot or tract of land shall be created or sold that is smaller than the size shown on the approved plan;

(b) Drainage, easements or right-of-way shall not be changed;

- (c) Street alignment and block sizes shall not be changed;
- (d) The property line between the back of the lots shall not be changed;
- (e) The rear portion of lots shall not be subdivided from the front part;
- (f) The character of the area shall be maintained.

(2) Upon town approval of any recombination of lots and upon the completion of the sale of such a recombination, a copy of the deed from the buyer and the seller must be filed in the office of the Town Building Inspector within 30 days of the recording in the office of the County Register of Deeds.

(Ord. 98-19, passed 9-28-98; Am. Ord. 00-19, passed 8-28-00) Penalty, see § 156.99

LEGAL PROVISIONS

§ 156.50 VARIANCES.

Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this chapter would cause an unnecessary hardship, the Board of Commissioners may, on recommendation of the Planning and Zoning Board, authorize a variance to the terms of this chapter only to the extent that is absolutely necessary and not to an extent which would violate the intent of the chapter. Conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable, generally, to other property. A concurring vote of four-fifths of the members of the Board of Commissioners shall be necessary to authorize a variance to the terms of this chapter.

(Ord. 98-19, passed 9-28-98)

§ 156.51 DUTY OF BRUNSWICK COUNTY REGISTER OF DEEDS.

(A) The town shall file a copy of this chapter with the County Register of Deeds. The Register of Deeds shall not thereafter file or record a plat of a subdivision located within the territorial jurisdiction of the town without the approval of the legislative body as required in this chapter. The landowner shown on a subdivision plat submitted for record, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the territorial jurisdiction of the town as defined in this chapter. The filing or recording of a plat of a subdivision without the approval of the municipal legislative body as required by this chapter shall be null and void. The Clerk of Superior Court of Brunswick County shall not order or direct the recording of a plat where such recording would be in conflict with this section.

(B) No building permit shall be issued or construction permitted unless the final plat has been properly approved and recorded.

(Ord. 98-19, passed 9-28-98)

§ 156.52 AMENDMENTS.

The Board of Commissioners may from time to time amend the terms of this chapter, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted

to the Planning and Zoning Board for review and recommendation. A [public hearing](#) ~~public hearing~~ ~~evidentiary hearing~~ is required for all amendments. The Planning and Zoning Board, from date of this notice following the [public hearing](#) ~~public hearing~~ ~~evidentiary hearing~~, shall have 30 days within which to submit its report. If the Planning and Zoning Board fails to submit a report within the specified time, it shall be deemed to have approved the amendment.

(Ord. 98-19, passed 9-28-98)

§ 156.53 ABROGATION.

It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Ord. 98-19, passed 9-28-98)

§ 156.54 PLANNED RESIDENTIAL DEVELOPMENTS, PLANNED GROUP DEVELOPMENTS.

Planned Residential Developments and PUD's are not applicable to the town.

(Ord. 98-19, passed 9-28-98)

MAPS

§ 156.70 MAPS TO BE RELATED TO HOLDEN BEACH CONTROL SYSTEM.

Where a map is the result of a survey, one or more corners shall, by a system of azimuths or courses and distance, be accurately tied to a monument of the Holden Beach Control System.

('85 Code, § 16-1.1) (Ord. 38, passed 12-3-79)

§ 156.71 COORDINATE INFORMATION REQUIRED ON MAP.

The difference between Grid North and Map North shall be on the map and the coordinates of the referenced corner shall be computed and shown in "x" and "y" ordinates on the map.

('85 Code, § 16-1.2) (Ord. 38, passed 12-3-79)

§ 156.72 ACCEPTANCE OF MAPS, SITE PLANS, PLOT PLANS, AND THE LIKE.

No maps, site plans, plot plans, or applications for building permits shall be accepted by the town which have not been tied to the Holden Beach Control System.

('85 Code, § 16-1.3) (Ord. 38, passed 12-3-79)

§ 156.99 PENALTY.

Any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this chapter, subdivides his land in violation of this chapter or transfers or sells land by reference to, exhibition, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this chapter and recorded in the Office of the Brunswick County Register of Deeds, shall be guilty of a misdemeanor. The description by metes and

bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town, through its attorney or other official designated by the Board of Commissioners shall enjoin illegal subdivision, transfer, or sale of land by action for injunction. Further violators of this chapter shall be subject, upon conviction, to fine and/or imprisonment as provided by G.S. § 14-4.

(Ord. 98-19, passed 9-28-98)

CHAPTER 157: ZONING CODE

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GENERAL PROVISIONS

§ 157.001 AUTHORITY.

(A) This chapter is adopted under the authority granted by G.S. § ~~160A-384~~[160A-702](#) et seq. and amendments thereto. ('85 Code, § 15-2.1)

(B) The North Carolina General Statutes empower the town to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and the Town Commissioners deem it necessary for the purpose of promoting the health, safety, morals, or general welfare of the town to enact such a chapter, and the Town Commissioners have appointed a Planning and Zoning Board to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and the Planning and Zoning Board has divided the town into districts and has prepared regulations pertaining to such districts in accordance with the Land Use Plan and designed to lessen congestion throughout the town; to secure safety from fire, panic, and other dangers; to promote health and the general welfare, to provide adequate 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, park, and other public requirements, and the Planning and Zoning Board has given reasonable consideration, among other things, to the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the town, and the Town Commissioners have given due public notice of hearings relating to zoning districts, regulations, and restrictions, and have held such ~~public hearing~~[Legislative hearings](#), and all requirements of the General Statutes with regard to the preparation of the report of the Planning and Zoning Board and subsequent action of Town Commission have been met.

('85 Code, § 15-1) (Ord. 33, passed 10-5-81)

§ 157.002 TITLE.

This chapter shall be known as, referred to, and cited as the "Zoning Code, Holden Beach, North Carolina" and hereinafter referred to as the code.

('85 Code, § 15-2.2) (Ord. 33, passed 10-5-81)

§ 157.003 PURPOSE; INTENT.

(A) The purpose of this chapter is to promote the comfort, health, safety, aesthetics, and general welfare of the town. ('85 Code, § 15-2.3)

(B) It is the general intent of this chapter to:

(1) Regulate and restrict the use of all structures, lands, and waters within the town limits.

(2) Regulate and restrict lot coverage, population density and distribution, and the location and size of all structures within the town limits.

(3) Implement the Town Land Use Plan: prepared in accordance with the Coastal Area Management Act of 1974 and adopted by the town so as to:

(a) Secure safety from fire, flooding, panic, and other dangers.

(b) Provide adequate light, air, sanitation, drainage.

(c) Further the appropriate use of land, and conservation of natural resources.

(d) Obtain the wise use, conservation, development, and protection of the community's water, soil, wetlands, woodland, and wildlife resources, and attain a balance between land uses and the ability of the natural resource base to support and sustain such uses.

(e) Prevent overcrowding, and avoid undue population concentration and urban sprawl.

(f) Stabilize and protect the natural beauty and property values.

(g) Lessen congestion in and promote the safety and efficiency of the streets and highways.

(h) Facilitate the adequate provision of public facilities and utilities.

(i) Preserve natural growth and cover and promote the natural beauty of the community. ('85 Code, § 15-2.4) (Ord. 33, passed 10-5-81; Am. Ord. 4-90, passed 4-2-90)

§ 157.004 APPLICATION OF RESTRICTIONS AND REGULATIONS.

The proper regulation of the use of certain structures, lands, and waters, only through the use of the zoning districts contained within this chapter, is neither feasible nor adequate. Therefore, the following restrictions and regulations, which shall be applied in addition to the district regulations, are necessary to accomplish the intent of this chapter.

('85 Code, § 15-3.1) (Ord. 33, passed 10-5-81)

§ 157.005 JURISDICTION.

The provisions of this chapter shall apply to all structures, land, water, and air within the jurisdiction of the town.

('85 Code, § 15-3.2) (Ord. 33, passed 10-5-81)

§ 157.006 DEFINITIONS.

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

ACCESSORY USE or STRUCTURE. A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure. Accessory uses and structures are permitted in any district but not until their principal structure is present or under construction. Accessory uses shall not involve the conduct of any business, trade, or industry except for home and professional occupations as defined herein. Structures used for accessory uses shall be of comparable color and material of the primary structure.

APPROVED PERVIOUS PRODUCT. An engineered product that allows water to pass through to the soils beneath. This product shall be approved by the Planning and Inspections Department. These products will be assigned a pervious factor in which the allowable lot area shall be multiplied by, resulting in the allowable square footage of product that shall be permitted. Example: A 50 x 100 lot would have an area of 1,500 square feet eligible for an approved pervious product. An approved pervious product with a factor of 1.0 would be allowed to place 1,500 square feet of an approved pervious product in addition to the 30% of impervious area. An approved pervious product with a factor of .75 would be allowed to place 1,125 square feet of an approved pervious product.

AVERAGE. The numerical result obtained by dividing the sum of two or more quantities by the number of quantities.

BALANCED SOIL. Placing original soil cut from higher locations on a lot into lower elevations so that the amount of soil cut equals the amount filled.

BED AND BREAKFAST HOME. A private home offering bed and breakfast accommodations to persons domiciled on the premises only, for periods of less than one week per visit.

[BEDROOM, sleeping Room.](#)

[BUILDING, Any structure use or intended for supporting or sheltering any use or occupancy.](#)

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

BUILDING HEIGHT. The vertical distance measured from design flood elevation (DFE) to the highest point of the structure.

BUILDING INSPECTOR. The person, officer, and his authorized representatives, whom the town Commissioners have designated as their agent for the administration and enforcement of these regulations.

CHURCH. An institution that people regularly attend to participate in or hold religious services, meetings and other activities. The term CHURCH shall not carry a secular connotation and shall include buildings in which religious services of any denomination are held.

CLUBHOUSES (to include, but not limited to, BEACHCLUBS, CABANA CLUBS, PROPERTY OWNER ASSOCIATION FACILITIES and similar type uses). A building or facility owned or operated by an

incorporated, unincorporated, chartered association or an individual or individuals nominated by such entities for the purpose of engaging in social, civic, educational, recreational, cultural or similar activities, but not primarily for profit or to render a service that is customarily carried on as a business, for the benefits of its members.

~~CONDITIONAL ZONING. A legislative zoning map amendment with site specific Conditions incorporated into the zoning map amendment.~~

~~CONDITIONAL USE. A use that is allowed in a particular zoning district only if conditions specified in the zoning ordinance are met. A formal evidentiary hearing is required to determine if the conditions are met to issue a permit.~~

DISTRICT. Any section of the town in which zoning regulations are uniform.

DWELLING, ~~MOBILE HOME. See MOBILE HOME. 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.~~

DWELLING, MULTIPLE-FAMILY. A residential building designed for or occupied by three or more families, with the number of families in residence not exceeding the number of dwelling units provided.

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

DWELLING, TWO-FAMILY (~~DUPLEX~~). A building designed and constructed or reconstructed to be used for two dwelling units that are connected by a common structural or load bearing wall of at least ten lineal feet in length.

DWELLING UNIT. ~~One or more rooms together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure, and containing independent cooking and sleeping facilities. A single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.~~

EAVE. An overhanging roof extension equal to or less than 20 inches.

FAMILY. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage, no such family shall contain over five persons, but further provided that domestic servants employed on the premises may be housed on the premises without being counted as a family or families.

FENCE. A structure, obstacle, or barrier serving as an enclosure, boundary or screening device usually made of wooden posts or rails, wire, vinyl, or fabric (and other natural or manufactured materials). Required heights and locations for fences are found in § 157.080.

FLOATING HOME. Any vessel used, ~~designed~~ designed, or occupied as a dwelling unit, business, or private or social club, whether mobile or immobile in design or use and whether self-propelled or not.

FLOOD, (COASTAL). A temporary rise in ocean level that results in inundation of areas not ordinarily covered by water.

FLOOD, REGULATION. The flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur. The regulatory flood generally has a flood frequency of approximately 100 years as determined by the Federal Food Insurance Administration, HUD.

FRATERNITY or SORORITY HOUSES. A building occupied by and maintained exclusively for college or university students who are affiliated with a social, honorary, or professional organization which is chartered by a national, fraternal, or sororal order and which is so recognized by the college, university, or other institution of higher education.

FOOTPRINT. The shape of a building reflecting the perimeter of the impervious area of the structure measured from exterior plate to exterior plate. If the eaves are greater than 20 inches, the footprint will be measured from eave to eave.

GROSS FLOOR AREA. The total area of all floors of a building as measured to the outside surfaces of exterior walls and including but not limited to; halls, stairways, elevator shafts, attached garages, porches, decks and balconies.

HEIGHT MEASURING POINT: (HMP). Design flood elevation or base flood elevation plus two feet.

(1) (a) Wherever there is less than nine feet between the DFE and finished grade the HEIGHT MEASURING POINT may be moved to a maximum of nine feet above finished grade.

(b) All structures located in any A or V zone must have a minimum of eight feet clearance between the lowest horizontal structural member and finished grade.

(2) FEMA flood area "X" measuring point shall be the lowest original soil under the structure after the undisturbed soil has been balanced.

HOME OCCUPATION. An occupation for gain or support customarily conducted on the premises by a person or family residing thereon.

IMPERVIOUS AREA. Something that is incapable of being passed through or penetrated by water; this shall include, but not be limited to, sidewalks, driveways (with the exception of sand and grass), patios, and any roofed structure from exterior plate to exterior plate.

JUNK YARD. Any land or area use, in whole, or in part for commercial storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of scrapped motor vehicles and dismantling of such vehicles or machinery.

LIGHTING. Artificial illumination as regulated by § 92.30 of the Holden Beach Town Code.

LOT. A parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required.

LOT COVERAGE. The total footprint of the principal structure and all impervious areas of the total platted lot.

LOT DEPTH. The mean horizontal distance between front and rear lot lines.

LOT, FRONT. The front of a lot shall be considered to be that side of the lot which fronts on a street. In the case of a corner lot the narrower side fronting on the street shall be considered to be the front of the lot. In case the corner lot has equal frontage on two or more streets, the lot shall be considered to front on the street on which the greatest number of lots front, or if unplatted, on the street on which the greatest number of buildings have been erected.

LOT OF RECORD. A lot which is part of a subdivision recorded in the office of the Register of Deeds, Brunswick County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

LOT TYPES.

- (1) CORNER LOT. A lot located at the intersection of two or more streets.
- (2) INTERIOR LOT. A lot other than a corner lot with only one frontage on a street.
- (3) THROUGH LOT. A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

LOT WIDTH. The distance between the side property lines measured at the front building line.

~~MOBILE HOME. A structure that:~~

~~(1) Consists of a single unit completely assembled at the factory or of two (double wide) or three (triple wide) principal components totally assembled at the factory and joined together at the site.~~

~~(2) Is designed so that the total structure (or in the case of a double wide or triple wide, each component thereof) can be transported on its own chassis.~~

~~(3) Is designed to be used as a dwelling and provides complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.~~

~~(4) Is actually being used, or is held ready for use, as a dwelling.~~

~~(5) Is not permanently attached to a foundation. A structure that is otherwise defined herein as a mobile home is permanently attached to its foundation if:~~

~~(a) The foundation was constructed in such a way or at such expense as to make it unlikely that the mobile home placed upon it will later be removed; or~~

~~(b) If the mobile home cannot be removed from the foundation without great expense or severe damage to the mobile home. MANUFACTURED HOME or MOBILE HOME. A structure as defined in G.S. § 143-145(7).~~

MOBILE HOME LOT. A mobile home lot is a piece of land within a mobile home park whose boundaries are delineated in accordance with the requirements of this chapter.

MOBILE HOME PARK. A mobile home park is a piece of land so designed and improved that it is licensed as a MOBILE HOME PARK under this chapter, or a piece of land licensed as a nonconforming park under § 157.118 of this chapter.

NEIGHBORHOOD. Construed to be the houses within 200 feet of the subject lot, within the subdivision the lot is located. If there are less than ten houses in this area, the closest ten houses will be considered the NEIGHBORHOOD.

NONCONFORMING SITUATIONS.

(1) A situation that occurs when, on the effective date of this chapter or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a NONCONFORMING SITUATION may arise because a lot does not meet minimum acreage requirements, because structures do not satisfy maximum height or minimum floor-space limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with the chapter, or because land or buildings are used for purposes made unlawful by the chapter.

(2) **NONCONFORMING USE.** A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially-zoned area is a nonconforming use.)

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

(4) **LOT.** A parcel of land whose boundaries have been established by some legal instrument such as a deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. If a public road crosses a parcel of land otherwise characterized as a lot by this definition, the land on each side of the public road shall constitute a separate lot.

(5) **NONCONFORMING LOT.** A lot existing at the effective date of this chapter or any amendment to it (and not created for the purpose of evading the restrictions of this chapter) that cannot meet the minimum area or lot-width requirements of the district in which the lot is located.

(6) **ORDINANCE.** This chapter, including any amendments. Whenever the effective date of the chapter is referred to, the reference includes the effective date of any amendment to it.

(7) **NONCONFORMING LOT.** Any structure, development, or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

(8) EXPENDITURE. A sum of money paid out in return for some benefit or to fulfill some obligation. Whenever the term is used hereafter, it also includes binding, contractual commitments to make future expenditures, as well as any other substantial changes in position.

NURSING HOME (CONVALESCENT HOME, REST HOME). A health facility where persons are housed and furnished with meals and continuing nursing care for compensation.

OPEN SPACES. An area (land and/or water) generally lacking in manmade structures and reserved for the enjoyment of residents of the Planned Unit Development, or other group project. Common OPEN SPACES may contain accessory structures and improvements necessary or desirable for religious, educational, non-commercial, recreational, or cultural uses.

PARKING SPACE, OFF-STREET. Consists of a space adequate for parking an automobile with room for opening doors on both sides, together with properly related access to a public street or alley and maneuvering room.

PERSON. Means and include a firm, ~~association~~ [association](#), organization, partnership, trust, company, or corporation as well as an individual.

PLANNED DEVELOPMENT, RESIDENTIAL.

A parcel of land in single or joint ownership of whatever form which is planned to be developed as a unit and is developed according to an approved plan in a single development operation or in a programmed series of development operations. Density within the PLANNED DEVELOPMENT-RESIDENTIAL DISTRICT is controlled by the following ratios:

(1) The maximum floor area ratio (FAR) is a ratio of the maximum square foot amount of total floor area (all stories) permitted for each square foot of land area.

(2) The minimum open space ratio (OSR) is a ratio of the minimum square foot amount of open space which shall be provided for each square foot of floor area.

(3) The minimum recreational space ratio (RSR) is a ratio of the minimum square foot amount of recreation space required for each square foot of floor area.

(4) The minimum total car ratio (TCR) is a ratio of the total number of parking and garage spaces required for each living unit, including spaces without time limits (primarily for occupants) and spaces available for limited time periods (primarily for guests).

PLATTED LOT. See LOT OF RECORD.

RENTAL HOME. A rental home is a dwelling unit available for rent to non-property owners for periods of as little as one day and for periods in excess of one day.

SCREENING (BUFFERS). A fence, wall, hedge, or other planted area or device used to conceal something from adjacent lots or streets. In the case of contrasting districts, buffers are required to lessen the visual impact of the more intense uses from those of less intense use (example: business screened from residential). Plantings shall be of sufficient height and density to conceal from public view the subject being screened. If fencing or structure is used, it shall be compatible in appearance to the primary structure.

SERVICES. Occupation contributing to the welfare of others which is useful labor that does not produce tangible commodity.

SETBACK LINE. The line on the front, rear, and sides of a lot, which delineates the area upon which a structure may be built and maintained. Setbacks shall be measured from the recorded property line.

SHELTER, FALLOUT. A structure or portion of a structure that provides protection to human life during periods of danger from nuclear fallout, air raids, storms, and other emergencies.

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.

SITE PLAN. A drawing prepared by a licensed engineer or surveyor that adequately demonstrates the proposed use for which a permit is sought that will become an integral part of the application record. The required elements of an acceptable site plan may be obtained from the Planning and Inspections Department.

[SLEEPING ROOM, a room designated as sleeping or bedroom on the plans and permit application.](#)

[SLEEPING UNIT, A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units](#)

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

STORES. Business establishments where usual diversified goods are kept for retail sale.

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

STREET LINE. The right-of-way boundary of a street.

STRUCTURE AND/OR BUILDING. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, walls, fences, and poster panels.

TOWN COMMISSIONERS. Town Commissioners of Holden Beach, North Carolina.

TRACT. A piece of land whose boundaries have been described or delimited by a legal instrument or map recorded in the office of the Register of Deeds.

TRAVEL TRAILER. A wheeled vehicular portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes, having a body width not exceeding eight feet. This is also intended, to include structures mounted on auto or truck bodies that are referred to as campers.

TRAVEL TRAILER LOT. A plot of land within a travel trailer park designed for the accommodation of one travel trailer.

TRAVEL TRAILER PARK. Travel trailer park shall mean any site or tract of land upon which are located the minimum number of travel trailer spaces or land area required by this chapter, regardless of whether or not a charge is made for such service.

USEABLE AREA. The available space of a platted lot after taking into consideration a bulkhead, marsh areas (as defined by the Coastal Area Management Act) and the first line of stable natural vegetation (as defined by the Coastal Area Management Act) and all federal and/or state regulated wetlands that may have reduced the actual area of land available for construction purposes. For purposes of determining useable area, one seeking a building permit shall furnish the Building Inspector with a survey prepared by a registered land surveyor that delineates the useable area as defined herein. The surveyor shall further provide the Building Inspector with the calculation of the square feet of useable area available on the lot.

USED or OCCUPIED. Include the words “intended, designed, or arranged to be used or occupied.”

VARIANCE. A relaxation of the terms of the zoning code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the chapter would result in unnecessary and undue hardship. As used in this chapter, a **VARIANCE** is authorized only for height, area, and size of structure or size of yards and open spaces. Establishment or expansion of use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in any zoning district.

YARD. A required open space unoccupied and unobstructed by a structure or portion of a structure, provided, however, that fences, walls, poles, posts, and other customary yard accessories, ornaments, and furniture may be permitted in any **YARD** subject to height limitations and requirements limiting obstruction of visibility.

YARD, FRONT. An area extending between side lot lines across the front of a lot adjoining a street. Depth of required front yards shall be secured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

YARD, REAR. An area extending across the full width of the lot and lying between the rear lot line and a line parallel thereto at a distance therefrom as required in the applicable district.

YARD, SIDE. An area extending along the length of the lot between the required front yard and the required rear yard, and between the side lot lines and a line parallel thereto and a distance therefrom as required in the various districts.

ZONING BOARD, ZONING COMMISSION, or PLANNING COMMISSION. Holden Beach Planning Board.

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

ZONING REGULATIONS- A zoning regulation authorized by §160D-701 Article (7), (2019-11,s.2.4)

('85 Code, §§ 15-12.3, 15-12.4) (Ord. 33, passed 10-5-81; Am. Ord. 95-04, passed 2-22-95; Am. Ord. 95-05, passed 2-22-95; Am. Ord. 96-02, passed 5-20-96; Am. Ord. 96-08, passed 6-17-96; Am. Ord. 97-07, passed 4-21-97; Am. Ord. 98-14, passed 7-13-98; Am. Ord. 98-15, passed 7-13-98; Am. Ord. 01-08, passed 7-23-01; Am. Ord. 02-12, passed 10-14-02; Am. Ord. 04-04, passed 5-10-04; Am. Ord. 06-01, passed 1-9-06; Am. Ord. 06-07, passed 6-12-06; Am. Ord. 06-14, passed 11-14-06; Am. Ord. 15-01, passed 1-13-15)

§ 157.007 ONE PRINCIPAL BUILDING PER LOT.

No platted lot shall be occupied by more than one principal building. No part of a yard, court, or other open space provided about any building or structure for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required under this chapter for another building or structure. A residence shall always constitute a principal use.

('85 Code, §15-3.6) (Ord. 33, passed 10-5-81; Am. Ord. 4-84, passed 2-6-84) Penalty, see § 157.999

§ 157.008 ADJOINING AND VACANT LOT OF RECORD.

If two or more adjoining and vacant lots of record are in a single ownership at any time after the adoption of this chapter, and such lots individually have less frontage or area than the minimum requirements of the District in which such lots are located, such lots shall be considered as a single lot (or several lots) meeting the minimum requirements for the District in which such lots are located.

('85 Code, § 15-3.11) (Ord. 33, passed 10-5-81)

§ 157.009 EXEMPTIONS.

All lots platted prior to September 18, 1978 containing at least 5,000 square feet are exempt from the minimum width requirement of 50 feet for construction purpose as long as they meet other building and health requirements.

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('85 Code, § 15-3.12) (Ord. 33, passed 10-5-81)

§ 157.010 MINIMUM REQUIREMENTS.

The provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted regulations the most restrictive or that imposing the higher standards, shall govern.

('85 Code, § 15-11.1) (Ord. 33, passed 10-5-81)

§ 157.011 NONLIABILITY.

The town does not guarantee, warrant, or represent that only those areas designated as floodlands will be subject to periodic inundation or that those soils listed as being unsuited for specific uses are the only unsuitable soils, and hereby asserts that there is no liability on the part of the Board of Commissioners, its agencies, or employees for any flood damages, sanitation problems, or structural damages that may occur as a result of reliance upon, and conformance with, this chapter.

('85 Code, § 15-11.5) (Ord. 33, passed 10-5-81)

SPECIFIC RESTRICTIONS

§ 157.025 BULKHEADS ON CANAL LOTS.

(A) No structure shall be erected on a canal lot prior to bulkheading; bulkheading to be on a line established by the Corps of Engineers or CAMA staff. Any lot on a canal with depth of less than 75 feet between the established bulkhead line and the front property line shall be unbuildable. Canal lots which have a minimum depth of 75 feet may be developed. This depth shall be the average depth of the lot measured from front to back at ten-foot intervals across the width of the lot. This provision does not affect the yard requirements. ~~Neither the principal structure nor uncovered steps may extend closer than six feet from the bulkhead and no piles shall be placed closer than six feet from any bulkhead.~~

(B) No erosion shall be permitted as a result of poorly constructed or worn bulkheads. Repairs will be based on the ability of the bulkhead to prevent erosion of soil and sedimentation, not on the age of, or original materials used in the bulkhead. Any bulkhead allowing soil or sediment to travel under, over, around, or through it will be in violation and will require repair. As enforcement official for this chapter, the Building Inspector will require corrective action within 90 days of the first notice to the owner. If the repair cost will exceed 50% of the cost of a new bulkhead the owner will be required to replace the bulkhead with a new structure meeting the current building code.

(C) Bulkhead repair standards. A bulkhead will need repairing under any one or more of the following conditions:

- (1) Where the structure deteriorates enough to allow sediment to filter through into a canal.
- (2) When any sediment goes under the bulkhead, as indicated by sinkholes behind bulkhead.
- (3) When the top of bulkhead leans waterward due to failing dead man anchors.

(D) Bulkheads on canal lots. Bulkheads are required on all canal lots. Every property located on Holden Beach must be brought into compliance with this requirement by February 10, 2012. For purposes of this section "all canal lots" is construed to mean the entrance, feeder and finger canals of the Harbor Acres, Heritage Harbor and Holden Beach Harbor subdivisions. Specifically excluded are lots bordering the Atlantic Intracoastal Waterway, except where they may abut the entrance, feeder and finger canals within the aforementioned subdivisions.

(E) In addition to the penalties and remedies allowed in § 157.999(A)(1) of this chapter, violators of this section will be subject to a civil fine as provided in § 157.999(A)(3) for each day the violation continues.

('85 Code, § 15-3.13) (Ord. 93-02, passed 2-17-93; Am. Ord. 95-07, passed 5-1-95; Am. Ord. 10-01, passed 2-9-10; Am. Ord. 11-04, passed 4-12-11) Penalty, see § 157.999

§ 157.026 AEC STANDARDS.

All lots shall comply with the applicable AEC Standards as amended in accordance with the State Guidelines for Areas of Environmental Concern (15 NCAC 7H) pursuant to the Coastal Area Management Act of 1974.

('85 Code, § 15-3.14) (Ord. 33, passed 10-5-81) Penalty, see § 157.999

§ 157.027 LOTS CONTAINING MARSH OR WETLANDS.

Platted lots containing marsh or wetlands as defined by CAMA, [Town Of Holden Beach Code Administrator](#), or the Corps of Engineers may be developed provided:

(A) Yard requirements are met.

~~(B) The piles supporting the structure are located no closer than seven feet from an existing bulkhead, the COE line, or CAMA line, whichever is closer.~~

~~(C)~~(B) Fill material placed landward of the marsh line is not allowed to slip or wash into the marsh.

('85 Code, § 15-3.16) (Ord. 18-87, passed 12-7-87) Penalty, see § 157.999

§ 157.028 LOTS LOCATED SOUTH OF OCEAN BOULEVARD.

No building shall be located on that part of any lot lying within 100 feet of the toe of the frontal dune or anywhere within the dune complex where such lot has sufficient area to locate a building north of such 100-foot setback line or dune complex, provided, that the Building Inspector is authorized to approve a setback of less than 100 feet, but not less than the current CAMA setback, equal to the average setback of buildings located within 150 feet of the proposed new building providing such location is outside the dune complex. If there is not a sufficient area, this requirement may be modified as necessary to allow construction of a building located as close as permitted to Ocean Boulevard. No lot shall be created hereafter which would prohibit locating a building in compliance herewith.

('85 Code, § 15-3.10) (Ord. 33, passed 10-5-81; Am. Ord. 13-82, passed 8-2-82; Am. Ord. 4-84, passed 2-6-84) Penalty, see § 157.999

§ 157.029 LOTS ADJACENT TO ATLANTIC INTRACOASTAL WATERWAY.

Lots adjacent to Atlantic Intracoastal Waterway between Rogers Street and Ferry Road shall have the 25-foot front yard requirements waived as necessary to enable a property owner to build on his lot beyond the Corps of Engineers Easement. Parking shall be under the houses or on the north side of the houses.

('85 Code, § 15-3.15) (Ord. 33, passed 10-5-81) Penalty, see § 157.999

§ 157.030 LOTS WEST OF 229 FRONTING ON HIGH POINT STREET.

Owners of dwelling units on lots fronting on High Point Street that existed as of the date of passage of this section, where the structure encroaches into the 25-foot front yard setback, shall be entitled to secure a building permit to make improvements to the structure. Said improvements shall include: the enclosure of the structure; rewiring and plumbing additions; reconfiguration of rooms within the pre-existing area; repair of roofing; installation of new windows and doors. Improvements shall not include: an increase in the setback encroachment; an increase in the height of a non-conforming structure; and increase in the dwelling footprint.

(Ord. 04-03, passed 3-22-04)

§ 157.031 LOTS SOUTH OF OCEAN BOULEVARD EAST BETWEEN JORDAN BOULEVARD AND FERRY ROAD.

Lots adjacent to the Atlantic Ocean and fronting on Ocean Boulevard East between the eastern right-of-way line of Jordan Boulevard extended southerly to the ocean and eastern right-of-way line of Ferry Road extended southerly to the ocean shall have their front yard setback line defined by measuring 85 feet from the right-of-way line located on the north side of Ocean Boulevard East, and these lots shall not build any structure in the 5-foot setback.

(Ord. 05-02, passed 3-29-05)

§ 157.032 LOT BOUNDARY MODIFICATIONS.

It is the general intent of this section to set forth the requirements that must be followed in order for an owner to secure a modification to his or her lot boundaries, provided the procedures outlined below are followed:

(A) Any owner seeking to secure a modification of his or her lot boundaries shall apply to the Board of Adjustment. A fee, set by the Board of Commissioners from time to time, but in no event less than \$175 shall be paid to the town with each application for lot boundary modification. Said fee is intended to cover the cost of advertising and other administrative expenses that may be involved in the processing of the application;

(B) A ~~public hearing~~evidentiary hearing shall be held within the Town Council chambers to consider said application. All property owners within 100 feet of the affected properties, shall be given ten days notice by regular mail. The procedures outlined by the Board of Adjustment's rules shall be followed, except where said procedures may be modified herein;

(C) A concurring vote of 4/5 of the Board of Adjustment is required in order to allow any modification to a lot boundary;

(D) A survey drawn by a registered land surveyor, or engineer, shall accompany all requests for lot modification. Said survey shall be drawn in a manner that can be recorded in the Office of the Register of Deeds of Brunswick County;

(E) The boundaries of two adjacent lots owned by the same person and platted prior to September 28, 1998 and containing less than 7,500 square feet per lot may be redrawn if all conditions of this section are met, together with the following restrictions:

(1) The modification will not materially endanger the public health and safety and insure that the owner will have adequate access to the property, and density in the area will not be increased by said modification;

(2) The modification will not substantially injure the value of adjoining or abutting properties;

(3) The location and character of the modification will be in harmony with the area in which it is located and in general conformity with the town plan of development;

(4) Any existing violation of the current town code or any existing variance must be brought into compliance with town ordinances prior to or by lot boundary modification;

(5) No existing lot may be subdivided pursuant to this section;

(6) Any lot which upon modification is 7,500 square feet or larger must meet all current subdivision and zoning regulations;

(7) After modification, no lot shall be permitted to contain fewer than 5,000 square feet, nor shall the street frontage be less than 50 linear feet;

(8) No new lot shall be created and the number of lots involved in the modification shall not increase;

(9) The property line between the back of lots shall not be changed;

(10) Side lot lines shall be at substantially right angles to street lines or radial (if same are consistent with surrounding plats) and shall always be straight lines.

(F) Once the Board of Adjustment has approved the boundary modification, the plat map shall be recorded in the Office of the Register of Deeds of Brunswick County and a copy of the recorded plat shall be furnished to the town. No building permit may be issued for any property until a modification has been approved and the plat recorded.

(G) After approval of lot modification by the town, the lots as modified shall only be conveyed and described as modified and depicted on the plat referenced in division (F) above.

(Ord. 05-04, passed 6-13-05)

DISTRICTS AND BOUNDARIES; ZONING MAP

§ 157.040 ZONING DISTRICTS ENUMERATED.

For the purposes of this chapter the town is hereby divided into the following use districts:

- (A) C Conservation;
- (B) CS Conservation Special Use;
- (C) R Rural;
- (D) RS Rural Special Use;
- (E) R-1 Residential District;
- (F) R-2 Residential District;
- (G) C-1 Commercial District.

('85 Code, § 15-5.1) (Ord. 93-05, passed 2-17-93)

§ 157.041 OFFICIAL ZONING MAP.

(A) The Official Zoning Map of the town is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter. The Official Zoning Map shall be identified by the signature of the Mayor of the town attested by the Town Clerk, and bearing the seal of the town. No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this chapter. Regardless of the existence of copies of the Official Zoning Map which may be made or published, the Official Zoning Map located in the Building Inspector's office shall be the final authority as to the current zoning status of land and water areas, buildings and other structures in the town. ('85 Code, § 15-3.7)

(B) In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions the Town Commissioners may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such corrections shall have the effect of amending the original Official Zoning Map. The new Official Zoning Map shall be identified by the signature of the Mayor of the town attested by the Town Clerk, and bearing the seal of the town. Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment. Copies of the Official Zoning Documents shall be kept in the town safe and in a watertight container.

(C) The new Official Zoning Map is hereby adopted by reference and declared to be a part of this chapter.

('85 Code, § 15-3.8) (Ord. 33, passed 10-5-81; Am. Ord. 97-17, passed 10-28-97; Am. Ord. 02-02, passed 2-11-02) Penalty, see § 157.999

§ 157.042 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(A) Boundaries indicated as approximately following the center lines of streets or highways, shall be construed to follow such center lines.

(B) Boundaries indicated as approximately following the right-of-way of streets or highways, shall be construed to follow such rights-of-way.

(C) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.

(D) Boundaries indicated as approximately following town limits shall be construed as following such town limits.

(E) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, canals, or other bodies of water shall be construed to follow such center lines.

(F) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by divisions (A) through (E) of this section, the Board of Adjustment shall interpret the district boundaries.

('85 Code, § 15-3.9) (Ord. 33, passed 10-5-81)

§ 157.054 PERMITTED AND ~~CONDITIONAL USES~~ Special Uses

The following uses are listed as permitted (P) or conditional (C) in each zoning district where allowed. The uses listed may not address all possible uses. In determining if a use is permitted, the Zoning Enforcement Officer shall consider which category of expressed use most closely matches the proposed use and apply the regulations pertaining to that category to that proposed use. In the event there is no match, the use shall be prohibited.

TABLE OF PERMITTED USES

Uses Permitted R-1R-2C-1C-CSRRS Above ground petroleum/oils/lubrication storage/distribution facilities
CAccessory buildings to residential uses
PPPAny facility/activity/material consistent with municipal and/or governmental operations
PPPPPPArtificial fence and retaining wall
PPPPPart gallery
PEterior automated teller/cash distribution facilities/telephone units
CBank
P

Uses Permitted R-1R-2C-1C-CSRRS Barber shop
PBeauty shop
PBed & breakfast
PBoat charter
PBusiness, financial, medical, agencies, professional offices
PChildren's day care facilities
PChurch
CCCCCClubhouses
PDocks
PPPPPDwelling, single-family
PPPPDwelling, two-family
PPPDwelling, multi-family
PPNon-commercial electronic communications antennas (subject to §157.082)
PPPEExercise and physical fitness
PFishing piers
PGrounds and facilities for public recreation facility, such as community center buildings, parks, playgrounds, tennis courts and similar facilities operated by the town
PPPPPHome professional office and home occupation
CHotels and motels
CMobile home parks, travel trailer parks, and campgrounds (subject to §§ 157.115 - 157.120)
PMooring
PCommercial parking lot
PPrivate living quarters built in conjunction with commercial structures
PRestaurants, snack bars
PRental homes
PPPP

Uses PermittedR-1R-2C-1C-CSRRSStores retailing beach equipment including rental, wearing apparel, bicycles, boats and accessories, crafts and hobby goods, fishing tackle and bait, flowers, gifts, souvenirs, groceries, ice cream, seafood, and sporting goodsP

(Ord. 06-01, passed 1-9-06; Am. Ord. 06-14, passed 11-14-06)

ZONING DISTRICT REGULATIONS

§ 157.055 APPLICATION OF DISTRICT REGULATIONS.

(A) Within the use districts indicated on the Zoning Map, no buildings or land shall be used, and no building shall be erected or altered which is intended or designed to be used in whole or in part, for any other purpose other than those listed in this subchapter. ('85 Code, § 15-5.2) (Ord. 93-5, passed 2-17-93)

(B) (1) The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided.

(a) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(b) No building or other structure shall hereafter be erected or altered:

1. To exceed the height or bulk.
2. To accommodate or house a greater number of families.
3. To occupy a greater percentage of lot area.
4. To have narrower or smaller rear yards, front yards, side yards,

or other open spaces than herein required, or in any other manner be contrary to the provisions of this chapter.

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

(d) No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.

(2) Regulations for each district shall be enforced and interpreted according to the following rules:

(a) Permitted uses. Uses are permitted by right.

(b) Conditional-usesSpecial-Uses, are permitted subject to the additional conditions imposed and approved by the Board of Adjustment. In granting a conditional-special use, the Board of Adjustment shall consider the following criteria:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
2. That the use meets all required conditions and specifications elsewhere stated;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity;
4. That the location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the town plan of development;
5. Whether the proposal complies with the land use plan;
6. Whether additional limitations or restrictions are necessary in order to protect properties. Such restrictions may include: setback limitations, fencing and screening of structures, height restrictions, continued maintenance of the structure, restrictions on signage, aesthetic considerations; and
7. A review of a detailed site plan that must be submitted with any application for a conditional-special use.

(c) Accessory uses. Accessory uses and structures are permitted in any district but not until their principal structure is present or under construction. Accessory uses shall not involve the conduct of any business, trade, or industry except for home and professional occupations as defined herein. Structures used for accessory uses shall be of comparable color and material of the primary structure and shall be on the same lot of the primary use.

(d) Uses not specified. Uses not specified in this chapter may be permitted by the Board of Adjustment after the Planning and Zoning Board has made a review and written recommendation and provided that such uses are similar in character to the permitted uses in the district.

(e) Temporary uses. Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Board of Adjustment, as provided for under § 157.150 of this chapter.

(f) Minimum regulations. Regulations set forth by this chapter shall be minimum regulations. If the district requirement's set forth in this chapter are at variance with the regulations of any other lawfully adopted rules, regulations, or other ordinance, the more restrictive or higher standard shall govern.

(g) Land covenants. Nothing in this chapter shall modify or repeal any deed restrictions but no such restrictions shall constitute a means for developing less than prescribed herein.

('85 Code, § 15-3.5) (Ord. 33, passed 10-5-81; Am. Ord. 02-12, passed 10-14-02; Am. Ord. 06-01, passed 1-9-06) Penalty, see § 157.999

§ 157.056 CONSERVATION (C).

(A) The Conservation District is established as a district in which the principal use of land is the effective long-term management and protection of significant, limited, or irreplaceable areas. Management is needed due to the natural, cultural, recreational, scenic, or natural productive values of local, regional, state, and national concern. Areas included within this district are depicted on the Zoning Map and will include the following lands and waters: coastal wetlands, public trust waters, estuarine waters, ocean hazard and inlet hazard areas seaward of the first line of stable vegetation, and the Corps of Engineers A.I.W.W. right-of-way (excepting only those areas shown as Rural Special Use). Other large homogenous tracts of marshland within the town are also classified as Conservation. Because of map scale requirements all areas described herein as Conservation are not able to be shown on the Zoning Map.

(B) Development activities within the Conservation category AEC's described above must be consistent with the regulations (15A NCAC7H) governing development. Suitable uses would include piers, docks, and gazebos, but no permanent commercial structures or habitable dwellings of any type. Temporary bridges and landings to access spoil areas for the specific purpose of servicing soil areas provided CAMA and town requirements are met. A specific start and completion date, together with the establishment of operating hours, (completion is the return to the pre-service condition) is required. After such specific work is completed, the temporary facilities will be removed and the area restored to its pre-service condition.

(C) The intent of the Conservation class is to perpetuate the natural, productive, scenic, cultural, and recreational features of the coastal zone.

('85 Code, § 15-5.3) (Ord. 93-05, passed 2-17-93; Am. Ord. 02-03, passed 2-25-02)

§ 157.057 CONSERVATION ~~SPECIAL USE~~ Conditional Zoning (CS).

(A) The Conservation ~~Special Use District~~ Conditional Zoning is established as a district in which the principal use of land, like the Conservation ~~District~~ Zoning, is the effective long-term management and protection of significant, limited, or irreplaceable areas. Management is needed due to the natural, cultural, recreational, scenic, or natural productive values of local, regional, state, and national concern.

(B) Projects and activities may occur within Conservation Special Use classified areas consistent with the protection provided for by the regulations (Federal, State and Local).

(C) It is also the intent of the Conservation Special Use District to perpetuate the natural, productive, scenic, cultural, and recreational features of the coastal zone.

(D) (1) Activities within this zone may include the following:

- (a) Marine and wetlands research;
- (b) Environmental and ecological studies; and

(c) Educational and recreational programs related to the above.

(2) Such activity may require temporary or permanent structures or facilities.

(3) Any temporary use must be limited to no more than six months, with periodic renewal; upon completion, the lands will be restored to their original state.

(4) Permanent and temporary use will be consistent with divisions (A), (B) and (C) above.

(5) For any specific use of these lands, application must be made to the Planning and Zoning Board for review including, but not exclusive to, a prospective plan and procedures with facilities and resources to be employed. Upon review, the project will be forwarded to the Board of Commissioners for consideration and disposition.

('85 Code, § 15-5.4) (Ord. 93-05, passed 2-17-93; Am. Ord. 02-03, passed 2-25-02)

§ 157.058 RURAL DISTRICT (R).

(A) The Rural District is established as a district in which the principal use of land is for single-family dwellings. There will be a maximum of 2.5 units per acre based on that area not defined as coastal wetlands AEC and in accordance with State, Federal and local requirements.

(1) A dwelling is a residence where people live for domestic purposes. Domestic use is defined as devoted to home duties and activities, nothing in this section shall preclude one- and two-family homes from being used as a vacation rental home consisting of a minimum of two overnight stays.

(2) Transient occupancy not consisting of at least two overnight stays shall be considered to be inconsistent with domestic residential usage and is not allowed. This would include persistent usage for group gatherings for the purpose of short-term social or recreational activities. This would include use as a clubhouse, lodge, public or private clubs, cabana clubs and property owner association facilities except when contiguous, owned by and within the borders of an on-island residential subdivision.

(B) Permitted uses are set forth in the Table of Permitted Uses, § 157.054.

(C) Dimensional requirements R:

(1) Lot area. Minimum required: Each lot shall contain a minimum of 6,000 square feet.

(2) Lot width. In accordance with current subdivision regulations of the town.

(3) Front yard. In accordance with current subdivision regulations of the town.

(4) Side yard. In accordance with current subdivision regulations of the town.

(5) Rear yard. In accordance with current subdivision regulations of the town.

(6) Building height. No building shall exceed a maximum height of 31 feet measured from design flood elevation to the highest point of the structure, with the exception that a building in an X Zone when measured from the finished grade should have a maximum height of 35 feet.

(7) Lot coverage.

(a) Lot coverage of main structure shall not exceed 30% of the platted lot. All impervious structures outside of main structure shall not exceed 30% of buildable land less area of the main structure. All Health Department and CAMA requirements must also be met. Open decks are not considered in the 30% lot coverage of the main structure, but they must meet all setback requirements. Gravel, sand and grassed areas are considered pervious. An approved pervious product shall be allowed to cover 30% of the platted lot in addition to the allowable impervious area. (See definition of APPROVED PERVIOUS PRODUCT.)

(b) Driveways, parking lots, parking spaces, parking areas, patios and other similar areas and surfaces located in the front yard setback, rear yard setback and side yard setbacks adjacent to a street right-of-way shall be gravel, grass or of an approved pervious product.

(8) Off-street parking. Off-street parking shall be provided as required in §§ 157.075 through 157.077 of this chapter.

('85 Code, § 15-5.5) (Ord. 93-05, passed 2-17-93; Am. Ord. 95-04, passed 2-22-95; Am. Ord. 96-02, passed 5-20-96; Am. Ord. 98-06, passed 5-11-98; Am. Ord. 01-01, passed 1-22-01; Am. Ord. 01-08, passed 7-23-01; Am. Ord. 06-01, passed 1-9-06; Am. Ord. 06-07, passed 6-12-06; Am. Ord. 06-13, passed 11-14-06; Am. Ord. 07-05, passed 6-12-07; Am. Ord. 15-01, passed 1-13-15) Penalty, see § 157.999

§ 157.059 RURAL SPECIAL USE (RS).

(A) Water Dependent Structures or uses, such as utility easements, docks (covered and uncovered), boatlifts, dolphins, boat ramps, dredging apparatus, bridge and ~~approachments~~ approaches, revetments, bulkheads, culverts, groins, navigational aids, mooring pilings, navigational channels, simple access channels and drainage ditches, are permitted provided all town requirements are met.

(B) The Rural ~~Special Use District~~ Conditional Zoning

~~is~~ is established as a district in which the use of land is the Corps of Engineers spoil activities.

('85 Code, § 15-5.6) (Ord. 93-05, passed 2-17-93; Am. Ord. 02-03, passed 10-14-02)

§ 157.060 RESIDENTIAL DISTRICT (R-1).

(A) The R-1 Residential District is established as a district in which the principal use of land is for one- and two-family dwellings. The regulations of this district permit intensive development provided the necessary public and/or community water and sewer systems are available.

(1) A dwelling is a residence where people live for domestic purposes. Domestic use is defined as devoted to home duties and activities, nothing in this section shall preclude one- and two-family homes from being used as a vacation rental home consisting of a minimum of two overnight stays.

(2) Transient occupancy not consisting of at least two overnight stays shall be considered to be inconsistent with domestic residential usage and is not allowed. This would include persistent usage for group gatherings for the purpose of short-term social or recreational activities. This would include use as a clubhouse, lodge, public or private clubs, cabana clubs and property owner association facilities except when contiguous, owned by and within the borders of an on-island residential subdivision.

(B) Permitted uses are set forth in the Table of Permitted Uses, § 157.054.

~~(C)~~ (C) Parking Requirements See Section 157.075 (B), 1 & 2 (Reserved)

(D) Dimensional requirements R-1.

(1) Lot area. Minimum required:

(a) For a one-family dwelling, 5,000 square feet.

(b) For a two-family dwelling, 7,500 square feet.

(2) Lot width. Minimum required: 50 feet.

(3) Front yard. ~~Minimum required: 25 feet.~~ setbacks per structure size:

<4000 Square Feet (Gross Floor Area) Minimum Required: 25 Feet

4000 < 5000 Square Feet (Gross Floor Area). Minimum Required: 30 Feet

5000 > 6000 Square Feet (Gross Floor Area), Minimum Required: 35

Feet

(4) Side Yard Setbacks per Structure Size:

4000 Square Feet (Gross Floor Area). Minimum Required: 5 feet

4000 < 5000 Square Feet Minimum (Gross Floor Area). Required: 7 Feet

5000 > 6000 Square Feet Minimum (Gross Floor Area) , Required: 10

Feet

(a) Open porches, decks, or overhangs shall not extend into minimum

setbacks

~~(4) Side yard. Minimum required: five feet. Open porches, steps, or overhangs shall not be within five feet of the property line.~~

(5) Rear Yard Setbacks per Structure Size

<4000 Square Feet (Gross Floor Area), Minimum Required: 20 Feet

4000 < 5000 Square Feet (Gross Floor Area). Minimum Required: 25 Feet

5000 > 6000 Square Feet (Gross Floor Area). Minimum Required: 30 Feet

~~(5) Rear yard. Minimum required: 20 feet.~~

(6) Building height. No building shall exceed a maximum height of 31 feet measured from Design Flood Elevation to the highest point of the structure, with the exception that a building in an X Zone when measured from the finished grade should have a maximum height of 35 feet.

(7) Lot coverage.

Formatted: Default

(a) Lot coverage of main structure shall not exceed 30% of the platted lot. If structure is 4000 square feet, (Gross Floor Area) , or greater then lot coverage cannot be greater than 25 percent. If structure coverage is 5000 square feet, (Gross Floor Area). or greater lot coverage is limited to 20 percent. All impervious structures outside of main structure shall not exceed 30% of buildable land less area of the main structure. All Health Department and CAMA requirements must also be met. Open decks are not considered in the 30% lot coverage of the main structure, but they must meet all setback requirements. Gravel, sand and grassed areas are considered ~~(a) Lot coverage of main structure shall not exceed 30% of the platted lot. All impervious structures outside of main structure shall not exceed 30% of buildable land less area of the main structure. All Health Department and CAMA requirements must also be met. Open decks are not considered in the 30% lot coverage of the main structure, but they must meet all setback requirements. Gravel, sand and grassed areas are considered pervious. An~~ approved pervious product shall be allowed to cover 30% of the platted lot in addition to the allowable impervious area. (See definition of APPROVED PERVIOUS PRODUCT.)

(b) Driveways, parking lots, parking spaces, parking areas, patios and other similar areas and surfaces located in the front yard setback, rear yard setback and side yard setbacks adjacent to a street right-of-way shall be gravel, grass or of an approved pervious product.

(8) Off-street parking. Off-street parking shall be provided as required in §§ 157.075 through 157.077 of this chapter.

(9) Corner visibility. On a corner lot, nothing shall be erected, planted, or allowed to grow in such a manner as to impede vision over a height of three feet above the centerline grades of the intersecting streets within the triangular area bounded on two sides by the two street centerlines and on the third side by a straight line connecting points on the street centerlines located one-half the street right-of-way width plus 40 feet measured from the intersection of the centerlines.

(10) Location of accessory buildings. Accessory buildings shall be located not less than five feet from property line.

(11) ~~Minimum floor space per dwelling unit. 750 square feet.~~ Reserved

(12) ~~Minimum floor area of building. 784 square feet of heated space.~~ Maximum Structure Size of any dwelling shall be 6000 Square Feet (gross floor area)

(13) Open uncovered stairs, not including any deck or landing at porch level, may project up to ten feet into the required front or rear yards but not both.

(14) A heating and air stand may project into the front or rear yards setback but not both. The stand shall be no larger than is needed to accommodate and service the equipment and subject to the Building Inspector's approval.

(E) Erosion threatened ocean front lots.

(1) In the event that it becomes necessary to relocate a structure that has become threatened by erosion, per below, a Special Use Permit may be authorized to establish the front yard building setback at a distance no less than ten feet from the property line. However if the structure to

be relocated can meet CAMA ocean side setback rules (per CAMA guidelines for new construction) and ~~remain within the 25-foot street-side~~ meet required setbacks then no further relief can be given. Each case will be reviewed on its own merits. The conditions specified by the Town Planning and Zoning Board in the granting of this Special Use Permit shall be recorded at the County Register of Deeds Office prior to the execution of this permit.

(2) The following criteria applies:

(a) The erosion escarpment must have advanced to a point within 20 feet of the foundation of the roofed area of the structure.

(b) No portion of the structure shall be permitted to encroach into the setback allowed by this section. Exceptions are — steps and HVAC platforms may encroach no more than five feet into the ten feet setback area.

(c) The structure shall remain on the lot it occupies at the time that it becomes erosion threatened.

(d) The size of the structure shall not be increased in any way, shape or form except as allowed by this section.

(e) The front (northern) property lines of lots subject to this section shall be contiguous with the southern boundary of a city, state or private street.

(f) All off street parking requirements shall remain in effect.

(g) Building placement on all lots (corner and non-corner) and required parking areas shall comply with the setback requirement of § 157.081 in order to ascertain that no encroachment into an area required for view of oncoming vehicular traffic shall occur.

(h) No ground level enclosure shall be permitted within the 25-foot front setback lines. A ground level enclosure shall not exceed over 144 square feet per dwelling unit.

(i) This section shall not limit nor repeal any and all applicable local, state and federal statutes.

('85 Code, § 15-5.7) (Ord. 33, passed 10-5-81; Am. Ord. 93-20, passed 11-1-93; Am. Ord. 95-05, passed 2-22-95; Am. Ord. 96-02, passed 5-20-96; Am. Ord. 00-17, passed 7-10-99; Am. Ord. 01-01, passed 1-22-01; Am. Ord. 01-08, passed 7-23-01; Am. Ord. 02-12, passed 10-14-02; Am. Ord. 06-01, passed 1-9-06; Am. Ord. 06-07, passed 6-12-06; Am. Ord. 06-13, passed 11-14-06; Am. Ord. 07-05, passed 6-12-07; Am. Ord. 15-01, passed 1-13-15) Penalty, see § 157.999

§ 157.061 RESIDENTIAL DISTRICT (R-2).

(A) The R-2 Residential District is established as a district in which the principal use of land is for multi-family dwellings.

(1) A dwelling is a residence where people live for domestic purposes. Domestic use is defined as devoted to home duties and activities, nothing in this section shall preclude one-, two- and multi-family homes from being used as a vacation rental home consisting of a minimum of two overnight stays.

(2) Transient occupancy not consisting of at least two overnight stays shall be considered to be inconsistent with domestic residential usage and is not allowed. This would include persistent usage for group gatherings for the purpose of short-term social or recreational activities. This would include use as a clubhouse, lodge, public or private clubs, cabana clubs and property owner association facilities except when contiguous, owned by and within the borders of an on-island residential subdivision.

(B) Permitted uses are set forth in the Table of Permitted Uses, § 157.054.

(C) The following uses are conditional-special uses and may be permitted subject to a finding by the Board of Adjustment that the additional conditions listed herein and any conditions that are set out in § 157.055(B)(2)(b) are met. Home professional office and home occupations, provided the use is conducted entirely within a dwelling and carried on by the occupants, the use is clearly incidental and secondary to the use of the dwelling for living purposes and the use does not change the character thereof. Furthermore, there is no display, no stock-in-trade nor commodity sold upon the premises and employment is in connection with the home occupation. Such occupation shall be carried on solely within the main dwelling and shall not occupy more than 25% of the floor area of the dwelling. Beauty parlors and barber shops shall not be construed as home occupations and are excluded from the definition of HOME OCCUPATION.

(D) Dimensional requirements for R-2.

(1) Lot area. Minimum required:

(a) For a one-family dwelling, 5,000 square feet.

(b) For a two-family dwelling, 7,500 square feet.

(c) For a multi-family dwelling, 7,500 square feet for first two-family dwelling units, plus 2,000 square feet for each additional family dwelling unit.

(2) Lot width. Minimum required: 50 feet.

(3) Front yard. Minimum required: 25 feet.

(4) Side yard. Minimum required: (one and two stories) five feet, including overhangs, steps and decks.

(5) Rear yard. Minimum required: 20 feet.

(6) Lot coverage.

(a) Lot coverage of main structure shall not exceed 30% of the platted lot.

All impervious structures outside of main structure shall not exceed 30% of buildable land less area of the main structure. All Health Department and CAMA requirements must also be met. Open decks are not considered in the 30% lot coverage of the main structure, but they must meet all setback requirements. Gravel, sand and grassed areas are considered pervious. An approved pervious product shall be allowed to cover 30% of the platted lot in addition to the allowable impervious area. (See definition of APPROVED PERVIOUS PRODUCT.)

(b) Driveways, parking lots, parking spaces, parking areas, patios and other similar areas and surfaces located in the front yard setback, rear yard setback and side yard setbacks adjacent to a street right-of-way shall be gravel, grass or of an approved pervious product.

(7) Off-street parking. Off-street parking shall be provided as required in §§ 157.075 through 157.077 of this chapter.

(8) Corner visibility. On a corner lot, nothing shall be erected, platted, or allowed to grow in such a manner as to impede vision over a height of three feet above the centerline grades of the intersecting streets within the triangular area bounded on two sides by the two street centerlines and on the third side by a straight line connecting points on the street centerlines located one-half the street right-of-way width plus 40 feet measured from the intersection of the centerlines.

(9) Location of accessory buildings. Accessory buildings shall not be located less than five feet from property line.

(10) Minimum floor space per dwelling unit. 750 square feet.

(11) Building height. No building shall exceed a maximum height of 31 feet measured from design flood elevation to the highest point of the structure.

(12) Open uncovered stairs, not including any deck or landing at porch level, may project up to ten feet into the required front or rear yards but not both.

(13) The minimum area of heated living space in each structure shall be 784 square feet.

(14) A heating and air stand may project into the front or rear yards setback, but not both. The stand shall be no larger than is needed to accommodate and service the equipment and subject to the Building Inspector's approval.

(E) Erosion threatened ocean front lots.

(1) In the event that it becomes necessary to relocate a structure that has become threatened by erosion, per below, a Special Use Permit may be authorized to establish the front yard building setback at a distance no less than ten feet from the property line. However if the structure to be relocated can meet CAMA ocean side setback rules (per CAMA guidelines for new construction) and remain within the 25 foot street side setback then no further relief can be given. Each case will be reviewed on its own merits. The conditions specified by the Town Planning and Zoning Board in the granting of this Special Use Permit shall be recorded at the County Register of Deeds Office prior to the execution of this permit.

(2) The following criteria applies:

(a) The erosion escarpment must have advanced to a point within 20 feet of the foundation of the roofed area of the structure.

(b) No portion of the structure shall be permitted to encroach into the setback allowed by this section. Exceptions are — steps and HVAC platforms may encroach no more than five feet into the ten feet setback area.

(c) The structure shall remain on the lot it occupies at the time that it becomes erosion threatened.

(d) The size of the structure shall not be increased in any way, shape or form except as allowed by this section.

(e) The front (northern) property lines of lots subject to this section shall be contiguous with the southern boundary of a city, state or private street.

(f) All off street parking requirements shall remain in effect.

(g) Building placement on all lots (corner and non-corner) and required parking areas shall comply with the setback requirement of § 157.081 in order to ascertain that no encroachment into an area required for view of oncoming vehicular traffic shall occur.

(h) No ground level enclosure shall be permitted within the 25-foot front setback lines. A ground level enclosure shall not exceed over 144 square feet per dwelling unit.

(i) This section shall not limit nor repeal any and all applicable local, state and federal statutes.

('85 Code, § 15-5.8) (Ord. 33, passed 10-5-81; Am. Ord. 95-04, passed 2-22-95; Am. Ord. 95-05, passed 2-22-95; Am. Ord. 96-02, passed 5-20-96; Am. Ord. 00-17, passed 7-10-99; Am. Ord. 01-01, passed 1-22-01; Am. Ord. 01-08, passed 7-23-01; Am. Ord. 02-12, passed 10-14-02; Am. Ord. 06-01, passed 1-9-06; Am. Ord. 06-07, passed 6-12-06; Am. Ord. 06-13, passed 11-15-06; Am. Ord. 07-05, passed 6-12-07; Am. Ord. 15-01, passed 1-13-15) Penalty, see § 157.999

§ 157.062 COMMERCIAL DISTRICT (C-1).

(A) The Commercial District is established as the district in which a variety of sales and service facilities may be provided to the general public. The specific intent is to encourage the construction of and the continued use of land and buildings for commercial and service uses that are compatible with the family beach character of Holden Beach and serve to enhance the services available to residents and visitors. All commercial activities shall be conducted from a permanent structure, shall comply with the town's noise ordinance, and meet or exceed the parking requirements of this chapter.

(B) Refer to the Table of Permitted Uses, § 157.054, for permitted uses in this district.

(C) Dimensional requirements C-1.

(1) Front yard. Minimum required: 25 feet.

(2) Side yard. Minimum required: five feet. Open porches, steps, or overhangs shall not be within five feet of the property line.

(3) Rear yard. Minimum required: five feet, except that if a commercial use abuts a residential district there shall be a rear yard of 20 feet.

(4) Buildings constructed or converted to commercial use after the effective date of this chapter shall provide off-street parking and loading space as required in §§ 157.075 through 157.088 of this chapter.

(5) All signs and billboards must meet the requirements set forth in § 157.079 of this chapter.

(6) Building height. No building shall exceed a maximum height of 31 feet measured from design flood elevation to the highest point of the structure.

(7) Lot coverage. Driveways, parking lots, parking spaces, parking areas, patios and other similar areas and surfaces located outside of the building footprint shall be gravel, grass or of an approved pervious product.

(D) Screening shall be required to conceal from public view HVAC equipment, utility equipment, accessory structures, and other accessory facilities accessory to a commercial use.

(E) Solid waste disposal containers to be screened. Screening for solid waste disposal (dumpsters) shall be of comparable material and color as the structure they are accessory to. The height of the screen shall be equal to or greater than the height of the container being screened. The width shall be sufficient to permit two feet clearance between the receptacle and the screen to facilitate cleaning and maintenance. A concrete pad with drain to sanitary sewer or a dry well is required by the NC State Board of Health. The opening shall have a gate or slide that can be held in place while being serviced. All other refuse containers, such as cans or bins, shall be adequately screened from the view of adjacent properties or the street right-of-way.

(F) Outside material storage. Outside storage shall be within a fully enclosed accessory structure or shall be screened from view of all adjacent properties and the street right-of-way by a perpetually maintained vegetative buffer or fence of comparable material and color that matches the primary structure. Only material, goods, wares, etc. that are incidental to that business are permitted to be stored.

(G) Outside display of items for sale. The display of any goods, material, or items for sale may be displayed outside of a business so long as they are contained or secured to prevent blowing off site, and are not encroaching upon the required pedestrian way or reduce the required number of parking spaces established by this chapter. All displays shall be of the same product line sold by the occupant in the primary use of the lot.

(H) Sidewalks required. It is the intent of the town to require safe pedestrian access along all commercial properties. If the developer of commercial property does not install sidewalks at the time the property is developed, the town reserves the right and the property owner shall agree to pay an assessment sufficient to construct public sidewalks along the street adjacent to the development at a later date.

(I) Landscaping required. All commercial structures shall have landscaping installed, by the property owner, to soften the impact of the bare walls to adjacent properties and the streets.

(J) Clubhouses. Clubhouses shall provide the following:

(1) Post the Town of Holden Beach adopted beach regulations within the clubhouse facility;

(2) Provide restroom facilities for their guests;

- (3) Provide showers for their guests;
- (4) Provide a first aid kit;
- (5) Provide phone for 911 use;
- (6) Provide adequate trash containers to prevent litter;

('85 Code, § 15-5.9) (Ord. 33, passed 10-5-81; Am. Ord. 17-87 passed 9-14-87; Am. Ord. 93-05, passed 2-17-93; Am. Ord. 95-05, passed 2-22-95; Am. Ord. 01-08, passed 7-23-01; Am. Ord. 02-12, passed 10-14-02; Am. Ord. 06-01, passed 1-9-06; Am. Ord. 06-13, passed 11-14-06; Am. Ord. 06-14, passed 11-14-06; Am. Ord. 15-01, passed 1-13-15) Penalty, see § 157.999

§ 157.063 GOVERNMENTAL SERVICE PERMITTED IN ALL DISTRICTS.

(A) Uses in conjunction with the provision of municipal and other governmental-related facilities, services and activities are permitted in all zoning districts in the town. The town will ensure that municipal operations and facilities will be screened from the view of adjacent properties and public streets if they are determined to be deleterious to the character of those adjacent properties.

(B) The following customary uses are generally considered government services uses:

- (1) Municipal/governmental office buildings and accessory structures.
- (2) Material and equipment maintenance and storage buildings.
- (3) Emergency operations facilities and activities, including electric power generation.
- (4) Police, fire and emergency rescue facilities.
- (5) Material storage yards.
- (6) Above ground petroleum/oils/ lubrication storage/distribution facilities.
- (7) Electronic communications antennas, which shall have no limitations as to height.
- (8) Memorials, parks and public recreational facilities.
- (9) Telephone/electric power distribution substations.
- (10) Water and sewer pumping/treatment/ distribution facilities, which shall have no limitations as to height.
- (11) Public parking lots.
- (12) Municipal/governmental service training facilities.
- (13) Stormwater management structures.
- (14) Artificial fences and retaining walls.
- (15) Material recycling centers/facilities.

(16) Automated teller/cash distribution facilities/telephone units.

(17) Any other facility/activity/material consistent with municipal and/or governmental operations.

(Ord. 00-18, passed 7-24-00; Am. Ord. 06-01, passed 1-9-06)

§ 157.064 SPECIAL ENTERTAINMENT USES - VIDEO GAMING MACHINES.

(A) Authority. The provisions of these regulations are adopted by the Board of Commissioners of the Town of Holden Beach, after review by the Planning Board and after ~~public hearing~~[legislative hearing](#) as required by statute. From and after the effective date set forth hereinafter, these regulations shall apply to every building, lot, tract, or parcel of land within the corporate limits of the town and within its satellite or extraterritorial area as same is controlled by the town's zoning ordinance.

(B) Statement of purpose. The Town of Holden Beach is primarily residential in character. There is limited commercial development on the Island, and said development has been established to serve and meet the needs of the beach's visitors and year-round residents. The nature and character of the town and its beach has been that of a family beach, intended to encourage families to come to the beach. Future development is encouraged to maintain this approach, and the Land Use Plan, adopted by the town, encourages low key development. The property values at Holden Beach have steadily increased and the Board is of the opinion that maintaining control over the development of the Island to maintain the present development standards and family values has positively affected the property values within the jurisdiction of the Town of Holden Beach. It is the intent of the Board of Commissioners to create an atmosphere where anyone and their child, grandchild, or young person could move freely within the town.

(C) Definitions. For the purpose of these regulations, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

VIDEO GAMING MACHINES. A video machine which requires deposit of any coin, token, or use of any credit card, debit card, or any other method that requires payment to activate play of any of the games listed in this subsection. This shall include slot machines and other forms of electrical, mechanical or computer games such as:

- (1) A video poker game; or any other kind of video playing game.
- (2) A video bingo game.
- (3) A video craps game.
- (4) A video keno game.
- (5) A video lotto game.
- (6) Eight liner.
- (7) Pot of gold.

(8) Any video game based on or involving the random or chance matching of different pictures, words, numbers or symbols not dependent on the skill or dexterity of the player.

(D) Application of regulations. Video gaming machines shall be regulated as to location in the following manner in addition to any other requirements of this code:

(1) No video gaming machines shall be permitted in any building that is:

(a) Located within 1,500 feet in any direction from a building used as a dwelling;

(b) Located within 1,500 feet in any direction from a building in which a video gaming machine is located;

(c) Located within 1,500 feet in any direction from a building used as a church, synagogue or other house of worship or cemeteries;

(d) Located within 1,500 feet in any direction from a building used as a public school, state licensed day care center, nursing home facility or public library;

(e) Located within 1,500 feet in any direction from any lot or parcel on which a public playground, public swimming pool, public park or museum is located;

(f) Located with 1,500 feet of any publicly owned or operated facility.

(g) When computing distances, the entire property for the establishment shall be considered, including any parking lots.

(2) Video gaming machines shall be located only in a C-1 Zoning District and shall be established by ~~Special Exception~~Special Use approval of the Board of Adjustment.

(3) No signs advertising video gaming are permitted.

(4) No more than three video gaming machines shall ~~be located in~~be in the same building, structure or located on the same lot.

(5) All minimum requirements of the C-1 Zoning District shall be met.

(E) Non-conforming video gaming machines. Any video gaming machines lawfully operating as of the effective date of this section that is in violation of any provision of this section shall be deemed a non-conforming use. Any use which is determined to be non-conforming by application of the provisions of this section shall be permitted to continue for a period not to exceed one year. Such non-conforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. If a non-conforming use is discontinued for a period of 180 days or more it may not be reestablished. Any video gaming machine currently in lawful operation shall not be rendered non-conforming by the subsequent location of a dwelling, church, house of worship, day care center, school, playground, public swimming pool, public park, museum or nursing home facility.

(Ord. 00-24, passed 12-11-00; Am. Ord. 13-07, passed 10-8-13)

§ 157.065 PUBLIC UTILITY INFRASTRUCTURE.

(A) In the interest of being able to provide required public works and utility services throughout the town limits, it is necessary that associated public utility structures and apparatus be located as required by engineering design and public need.

(B) The following are ~~conditional special~~ uses and may be permitted in all zoning districts, subject to a finding of the Board of Adjustment that all below listed conditions have been met.

(1) Water, sewer, telephone, cable television and electric power distribution lines may be located in all zoning districts according to a design and layout prepared by an engineer licensed to operate in the State of North Carolina. Lines shall, when possible, be located within existing street rights-of-way, other town-owned property or public easement areas to which the town has rights. In the event this is not possible due to design criteria, then additional public utility easement rights shall be obtained by the town, in which said lines shall be located. All line installation shall be conducted according to appropriate state and federal guidelines, depending upon the utility line in question. All necessary permits shall be obtained prior to installation. These facilities and associated apparatus will take into account the impact of the aesthetic value and practical use of property. All lines must be located underground.

(2) Water and sewage pumping stations with associated apparatus and public utility substations may be located in all zoning districts according to a design and layout prepared by an engineer licensed to operate in the State of North Carolina. Facilities shall be located on town-owned property or within public utility easement areas to which the town has rights. All construction shall be conducted according to appropriate state and federal guidelines, depending upon the facility in question. All necessary permits shall be obtained prior to construction.

(3) All utility structures, apparatus and stations shall meet the following regulations:

(a) Landscaping and elevation drawings of the structures and enclosures should be provided with the ~~conditional special~~ use application.

(b) The structure or apparatus shall be appropriately enclosed and/or landscaped for safety or aesthetic reasons when deemed necessary. Structures or apparatus will present a visual image that is compatible with and similar to the character of the surrounding area. Fencing may be considered to the height of six feet to encompass the immediate footprint of all dangerous apparatus.

(c) No vehicles shall be parked on the structure premises except for those required for utility service or other town approved operation. No materials shall be permanently stored on the premises. However, materials necessary for repairs or servicing of the facility may be stored during the time in which repairs or services are in progress.

(d) The facility shall be used solely for its intended purpose. The facilities shall be secured when vacant.

(Ord. 01-01, passed 1-22-01)

(e) All screening or aesthetic landscaping shall be installed and implemented prior to any certificate of occupancy. That the landscaping, irrigation system or screening,

once installed, shall be properly maintained. A plan shall be provided to the town for the maintenance of the approved plan denominating the corporation or partnership entity that shall be responsible for maintenance. That should the entity fail to maintain the improvements, the town shall have the authority either to sue to secure injunctive relief, or to enter the premises and perform the repair, charging the land with a lien for the work performed.

(Ord. 01-01, passed 1-22-01; Am. Ord. 02-12, passed 10-14-02)

SUPPLEMENTAL DISTRICT REGULATIONS

§ 157.075 OFF-STREET PARKING REGULATIONS.

(A) Scope. Parking spaces shall be provided for the number of vehicles that would ordinarily be attracted to a use or development in accordance with this section. The following lists conditions for which parking shall be provided. The list includes but is not limited to: all developments; all redevelopments; all increases or enlargements of any building by adding dwelling units, guest rooms, seats, or floor area; and all conversions from one type use or occupancy to another.

(B) Parking plan. All applications for a building permit shall include a parking plan to show conformity with this section. The plan shall indicate the layout of the parking facility, including dimensions, number of spaces, maneuvering space, aisles and access to a public right-of-way.

(C) Minimum size. All required parking spaces required by this section shall maintain the following minimum dimension.

(A) Commercial: All required parking spaces required by this section shall maintain the following minimum dimension.

(1) Width. All parking spaces shall measure a minimum width of ~~nine~~nine feet along the entire required length of the parking space.

(2) Length. All parking spaces shall measure a minimum length of 20 feet. Exception: Parallel parking spaces shall have a minimum length of 28 feet.

(B) R2 and R1: All required parking shall maintain the following minimum dimensions.

(1) Width: All parking spaces shall measure a minimum width of ten feet along the entire required length of the parking space.

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(D) Parking requirements.

(1) On premises private parking spaces shall be provided so that no spaces are a distance greater than 300 feet from the center point of the front of the lot.

(2) All required parking spaces shall be permanently marked or identified. The preferred method of marking for pervious surfaces shall be header ground monuments. Exception: Single-family dwellings.

(3) No parking space shall be so configured or arranged as to block or impede the flow in and out of another parking space. Exception: Single-family dwellings.

(4) Reserved accessible parking spaces shall be provided in accordance with the North Carolina Accessibility Code.

(E) Parking layout. The following table indicates the minimum width of the aisle or drive used to access the parking spaces based upon the angle of the parking spaces. Where there is no parking, interior aisle or drive widths shall be at least ten feet wide for one-way traffic and 20 feet wide for two-way traffic.

Parking Angle (in Degrees) 0°30°45°60°90° One-way traffic 13'11" 13'18" 26' Two-way traffic 19'20" 21'23'26'

(F) Table of required off-street parking.

(1) The Building Inspector shall determine the required off-street parking after reviewing building plans and the parking plan and shall make the final determination for required parking based upon the reasonable expected use of the property.

(2) All commercial businesses shall provide a minimum of one parking space per two employees on shift. In the event of an odd number of employees, the business shall round up to one additional parking space.

Uses Required Off-Street Parking Residential (one- and two-family dwellings, multi-family and condominiums) Minimum of 2 parking spaces per dwelling unit or 1 parking space per bedroom, whichever is greater. Auditorium or theater One space for each 4 seats in the largest assembly area. Auto wash Shall provide spaces equal to 3 times the capacity of the car wash. Bowling alley Three spaces per alley plus requirements for any other use associated with the establishment such as restaurant, and the like. Churches One parking space for each 4 seats in the sanctuary. Clinics, medical Four parking spaces for each doctor plus 1 parking space for each employee. Fishing piers Six spaces for each 100 feet of pier length plus requirements for any other use associated with the support and operation of the pier. General or professional offices One parking space for each 300 square feet of gross floor space. Home occupations (except medical doctors, and dentist offices) Two parking spaces in addition to the residential parking requirements. Home occupations: medical doctors and dentist offices in residence Three parking spaces in addition to the residential parking requirements. Hotels and motels One and one-half spaces for each guest room, suite, or unit. Kindergarten or nursery Four spaces for drive-in off-street dropoff and pickup. Nursing home One parking space for each 4 beds intended for patient use. Public or private clubs and/or clubhouses One parking space for each 80 square feet of gross floor space. Restaurant, snack bar One parking space for each 5 seats. Retail One parking space for each 300 square feet of gross floor area. Other uses not specified in the section Sufficient spaces to accommodate the number of vehicles that would ordinarily be attracted to the use in question, as determined by the Planning and Inspections Department.

(3) In the Central Commercial District bounded by Rothschild and Quinton Streets, the on-premises parking requirements of non-residential uses will be reduced by 50% from those specified in the preceding table, except for public or private clubs and/or clubhouses.

(G) Combination of required parking spaces. The required parking spaces for any number of separate uses located on the same parcel may be combined in one lot but the required space assigned to one use may not be assigned to another use.

(H) Dual use parking. Dual use parking is the sharing of parking spaces between two uses that do not share any of the same operating hours. These uses may have no more than 50% of their required parking spaces on an adjacent lot or parcel located within 300 feet as measured from the center point of the front of the lot.

(Ord. 06-01, passed 1-9-06; Am. Ord. 06-14, passed 11-14-06)

§ 157.076 OFF-STREET LOADING REQUIREMENTS.

In any district in which a building hereafter erected is to be occupied by any manufacturing, processing, assembly, wholesaling, retailing, laundering, dry cleaning or similar activity requiring the receiving or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such buildings at least one off-street loading space plus one additional space for every 20,000 square feet or major fraction thereof of gross floor space in excess of 10,000 square feet. Each such loading space shall be at least ten feet in width, 25 feet in length, and shall have a height clearance of at least 14 feet.

(Ord. 06-01, passed 1-9-06)

§ 157.077 LIGHTING.

Any parking lot/security lighting shall be erected and maintained in compliance with the town ordinance regarding outside lights, §§ 92.30 et seq. of the Holden Beach Town Code.

(Ord. 06-01, passed 1-9-06)

§ 157.078 (RESERVED)

§ 157.079 SIGN REGULATIONS.

(A) Purpose, scope and intent.

(1) Purpose. It is the general purpose of this section to prohibit signs of a commercial nature ~~in districts~~ ~~in districts~~ where commerce is not permitted, to limit signs in commercial districts in relation to the intensity of the use of the district and its surroundings, to permit temporary signs, and to place certain restrictions on signs in residential areas.

(2) Scope. The provisions of this section shall apply to the construction, erection, alteration, use, location, size, height and maintenance of signs within the territorial jurisdiction of this section. However, certain signs are not subject to the permitting requirements of this section.

(3) Intent. This section shall supplant all previous signage requirements and definitions.

(B) Definitions. The following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMATION. The movement or the optical illusion of movement of any part of the sign structure, design or pictorial segment, including the movement of any illumination, or the flashing, scintillating or varying of light intensity. The automatic changing of all or any part of the facing of a sign or any sign or part of a sign shall be considered to be animation. Also included in this definition are signs

having chasing action, which is the action of a row of lights commonly used to create the appearance of motion.

BANNER. A sign or outside advertising display having the character, letters, illustrations, ornamentation, symbol, color or visual representation applied to cloth, paper, vinyl, fabric, plastic or like kind of malleable material, with or without frame. The term BANNER shall include flags, pennants, ribbons, spinners, streamers, kites, balloons and/or similar types of lighter-than-air objects, or any other material or outside advertising display fastened in such a manner as to move upon being subjected to movement of the atmosphere or any mechanical device.

BUILDING FRONTAGE. The linear length of a building facing the street right-of-way.

CHANGEABLE COPY SIGN AND BULLETIN BOARD. A sign on which message copy is changed manually in the field, through the utilization of attachable letters, numbers, symbols and other similar characters of changeable pictorial panels.

COMMERCIAL CENTER. Two or more retail stores, or service establishments, professional offices or any other businesses serving a community or neighborhood, not necessarily owned by one party nor by a single land ownership, which occupy a common and/or adjacent buildings on the premises and utilizing common parking areas.

DIRECTORY SIGN. A sign listing the names and/or use or location of more than one business, activity or professional office conducted within a building, group of buildings or commercial center. Such a sign contains no other identifying/advertising message than that listed above.

DOUBLE-FACED SIGN. A sign with two faces which are parallel.

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

FESTOON LIGHTING. A string of outdoor lights used to construct a sign and suspended between two points, provided they are not glass tubes with neon, argon or krypton gases.

FREESTANDING SIGN AND/OR GROUND SIGN. A sign supported by a sign structure placed in the ground and which is wholly independent of any building, fence, vehicle or object other than the sign structure, for support.

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

HANDBILL (CIRCULAR). A sign that is distributed to the public or placed on vehicles, buildings, structures, objects or surfaces as part of the distribution.

HEIGHT OF SIGN. The vertical distance measured from the adjacent street crown grade to the top of the sign face or sign structure, whichever is greater.

ILLUMINATION, DIRECT. Illumination which emits light either by means of an artificial light source on a surface, or by means of an artificial light source transmitted through a surface.

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

MARQUEE. A permanent canopy often of metal and glass projecting over an entrance.

OCCUPANCY. Any one business, activity or office.

OFF-PREMISES SIGN. A sign that identifies or communicates a message related to an activity conducted, a service rendered or a commodity sold, which is not the primary activity, service or commodity provided on the premises where the sign is located.

ON-PREMISES SIGN. A sign that identifies or communicates a message related to the activity conducted, the service offered or the commodity sold on the premises upon which the sign is located, and shall include nonprofit event signs.

PARAPET. A false front or wall extension above the roof line.

PORTABLE SIGN. Any sign designed or intended to be readily relocated, whether or not it is permanently attached to a building, structure or on the ground. The term includes signs on wheels or on portable structures, tent signs, A-frame signs and similar devices and any sign not secured or securely affixed to the ground or a permanent structure.

PREMISES. A lot in the case of a business center, each tenant or occupancy shall be considered separate premises. In the case of business establishments consisting of lots located in two or more contiguous blocks (separated by a dedicated public street or dedicated public walkway), the contiguous lots in each block shall be considered separate premises.

PROJECTING SIGN. A sign that projects more than 12 inches from the principal structure (usually perpendicular).

REMOTE ADVERTISING. A sign directing attention to a business, service, commodity, entertainment, or profession not conducted or offered where such is located.

SIGN. Any device designed to attract the attention of the public which is attached, painted or otherwise affixed to, or a part of a building, structure, material, surface, or object. Integral decorative or architectural features of buildings, (except letters or trademarks) fences, walls and works of art are not to be construed as being a SIGN. Works of art shall not be objects removed from their normal functions to convey information using letters and/or numbers. SIGN shall include any artificial light source, time or temperature units, clocks and any device which animates or projects a visual representation which attracts the attention of the public. Customary graphics found on soft drink and newspaper dispensaries and similar machines shall not be considered as signs.

SIGN AREA. The area of signs composed in whole or in part of freestanding letters, devices or sculptured matter not mounted on a measurable surface, which shall be construed to be the area of the least square, rectangle or circle that will enclose the letters, devices and/or sculptured matter. The area of a double-faced sign shall be the area of one face of the sign.

SIGN FACE. The part of the sign that is or can be used to identify, advertise or communicate information for visual representation which attracts the attention of the public for any

purpose. SIGN FACE includes any background material, panel, trim, color, and direct illumination or self-illumination used that differentiates that sign from the building, structure, backdrop surface or object upon which or against which it is placed.

SIGN STRUCTURE. A supporting structure erected or intended for identifying/ advertising purposes, with or without a sign on the structure, situated upon or attached to real property, upon which any sign is fastened, affixed, displayed, applied or a part of; however, this definition shall not include a building, fence, flagpole, illumination standard.

SIGN, WALL. A sign attached to or painted on a wall or building, with the exposed display surface of the sign in a place parallel to the place of the wall to which it is attached or painted, including signs affixed to or on display through a facade window.

WINDOW, FACADE. A window located in the front of the building or part of a building facing a street or courtyard.

YARD FRONT. An area extending between side lot lines across the front of a lot adjoining a street. Depth of required front yard shall be secured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

(C) Signs exempt from permitting requirements. A permit is not required for the following types of signs or sign alterations, and such signs shall not be considered in determining the allowable number or size of signs on the premises; however, they must comply with all other applicable sections of this chapter and the conditions of this section.

(1) Traffic directional signs, identification and legal notices, and all other signs erected by or on behalf of a governmental body. However, signs for businesses on governmental property shall not be exempt.

(2) Private street or road name signs.

(3) Signs directing and guiding traffic and parking on private property not exceeding two square feet for each sign with a maximum height limitation of three feet. A maximum of one such sign shall be permitted at each point of ingress or egress to a parking area. The copy shall be limited to the directional information bearing no advertising matter.

(4) Pavement markings of a traffic directional nature.

(5) Signs not visible beyond the boundaries of the lot or parcel upon which they are situated or from any public right-of-way or beach.

(6) Welcome signs and town civic directory signs authorized by the Board of Commissioners. Ex: Days at the Docks; Festival By-the-Sea

(7) Signs designated "no trespassing", "no dumping", "no loitering", and similar signs not exceeding one square foot in area.

(8) Signs warning the public of the existence of danger, but containing no advertising material, to be removed upon subsidence of the danger for which warning is being given.

(9) One real estate sign, advertising the sale of all or a portion of the premises on which it is displayed during the sale subject to the following restrictions:

- (a) Permitted sign types are non-illuminated wall, window or freestanding.
- (b) Maximum area is four square feet.
- (c) Maximum height is four feet, when free-standing.
- (d) Maximum number is two faces.
- (e) No sign designed as "sold" shall be displayed for more than seven days.

(10) Rental signs. One sign advertising a rental dwelling unit provided the sign is not more than four square feet in area and shall be attached to the building so that it is parallel to the building face.

- (a) Permitted sign types are non-illuminated wall or window.
- (b) Maximum area is four square feet.

(11) One temporary construction site sign not exceeding four square feet for R-1, R-2 and C-1 districts and not exceeding 32 square feet with permitting and set back ten feet from front property line and at least five feet from side property line. Signs erected on the site during the period of active construction to announce the name of the contractor(s). Maximum height shall be eight feet in R-1, R-2 and C-1 districts except when attached to the principal structure. These signs must be removed prior to the certificate of compliance being issued for the building and premises on which these signs are located.

(12) Changing copy on a legal bulletin board where no structural changes are made, or the changing of the interchangeable letters on signs designed for them, or the changing of the color of illumination systems.

(13) Open house and garage sale signs, provided there is not more than one such sign per house, on the same premises; the maximum area is three square feet; and the maximum height is four feet. Such signs are permitted on no other public or private property. Signs may be placed three days prior and must be removed once the event is over.

(14) Holiday season decorations, provided no business identification or commercial message is contained on the sign.

(15) Religious symbols, commemorative plaques of recognized historical agencies or identification emblems or religious orders or historical agencies, provided that all such symbols, plaques and identification emblems shall be placed flat against a building.

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

(17) Sign messages which advertise a discontinued activity or use of a building or premises shall be removed within 60 days from the date the activity or use was terminated. Signs advertising events such as shows, displays, festivals, circuses, fairs, athletic contests, dances, fund drives, elections, exhibits, meetings, conventions and the like shall be removed within seven days after the date of termination of such event.

(18) Direction or information signs of a public or quasi public nature which do not exceed 12 square feet in area. Such signs shall only be used for the purpose of stating or calling attention to:

(a) The name or location of the town, hospital, community center, public or private school, church, synagogue, or other place of worship; this type sign may be illuminated;

(b) The name of a place of meeting of an official or civic body, or fraternal organization; this type sign may be illuminated;

(c) An event of public interest such as a ~~public hearing~~ legislative hearing, rezoning announcement, election (Signs should be removed within seven days following election), church or public meeting; local or county fair; and other similar community activities and campaigns.

(19) The flying of individual national, state, county, city, church or religious flags subject to the restrictions set forth in the following section, except where displayed in connection with commercial promotion.

(20) Public service signs that identify public services or conveniences, such as restrooms, telephones, state vehicle inspection, credit cards accepted, hours of operation, vacancies, trading stamps given, and trade association affiliations; provided that the total area of all such signs displayed to any one street does not exceed four square feet per occupancy; and further provided that such signs shall be designed and erected inside the perimeter of a permitted sign or mounted flush against a building or structure.

(21) Political signs, campaign signs or election signs may be erected no more than 60 days prior to a primary election, and no more than 90 days prior to a general election. Signs are limited to six square feet in size. All such signs must be removed within seven days after the election.

(D) Prohibited signs. The following signs are prohibited:

(1) Any commercial identification or advertising signs on benches and refuse containers, except the latter may display a logotype not to exceed one square foot.

(2) Signs attached or painted to piers or seawalls except for one on-premises building identification sign not to exceed nine square feet per establishment. Signs on buildings located on piers shall not be prohibited but shall conform to the other provisions of this chapter.

(3) Pavement markings, except those of a customary traffic control nature.

(4) Signs of any kind, except building-mounted signs and signs conforming to division (C)(7), erected or displayed in any first row sand dune or within a distance of 50 feet landward from the mean high water mark, whichever is more restrictive.

(5) Signs of material, including but not limited to paper, paint, cardboard, plastic, wood and metal which are painted on or attached to trees, lampposts, parking meter posts, hydrants, traffic signs, stairways, rocks or other natural features, telephone or utility poles or painted on the roofs of buildings visible from any public thoroughfare.

(6) Off premises commercial identification or advertising signs.

(7) Any sign or sign structure, any portion of which extends above the top of the wall parapet or building roof line.

(8) Signs on roof surfaces unless the sign does not extend above the highest part of the building roof line on which it is mounted.

(9) Portable signs, except temporary, non-illuminated signs announcing any public, charitable, educational or religious event or function are allowed provided a permit is obtained from the building inspector and further provided they are located entirely within the premises of the institution, set back no less than ten feet from the front property line and at least five feet from side property line, do not exceed a sign area of 32 square feet, and do not constitute a safety hazard in the opinion of the building inspector. Such signs shall be allowed no more than 14 days prior to the event and must be removed within 48 hours after the event or function. If building mounted, these signs shall be flat wall signs and shall not project above the roof line. If ground mounted, the top shall be no more than eight feet above the ground level.

(10) Any sign or outdoor advertising display which contains statements, words or pictures of an obscene character as defined in G.S. 14-190.1 such as will offend public morals or decency.

(11) Any private or business sign, except those for a driveway, loading zone and the like, authorized by a public agency which restricts or appears to reserve any portion of the public right-of-way or any public property for the exclusive use or private uses of any individual, tenant, client, guests or business. This prohibition extends to all such signs, whether on public property or private property.

(12) Glass tubes filled with neon, argon, krypton or other gases used to construct a sign. Open, closed or vacancy signs shall be permitted but shall be limited to one sign per structure and no larger than three square feet.

(13) Illuminated signs in R-1 and R-2 districts except for signs associated with social, cultural or recreational uses.

(14) Name-brand outdoor signs such as ice cream, milk, cigarettes, and the like.

(15) Circulars, throwaways, handbills.

(16) Banners, balloons, streamers, spinners, placards, pennants or similar wind-activated devices are prohibited in commercially zoned areas. The flying of the United States flag, state flags, municipal flags, flags of foreign nations, political subdivisions, churches or religious groups are exempt from the provisions of this section, except for size, which shall not exceed four by six feet.

(17) Prohibited advertisement of illegal activities in the state.

(18) Any other type or kind of sign which does not comply with the terms, conditions and provisions contained in this section.

(E) Traffic hazards and sign illumination.

(1) No floodlights shall be utilized as a part of a sign illumination system which are not hooded or shielded so that the light source is not visible from any public right-of-way or adjacent property, nor shall any sign otherwise reflect or emit a glaring light so as to impair driving vision.

(2) The maximum illumination level for lighted signs shall be 500 watts per side for incandescent bulbs, 300 watt per side for quartz bulbs, and 175 watts per side for metal halide bulbs. Other bulbs and wattages shall have the approval of the Electrical Inspector and shall meet the intent of this code section to limit excessive lighting.

(3) No sign illumination system shall contain or utilize any beacon, spot, searchlight or stroboscopic light or reflector which is visible from any public right-of-way or adjacent property; nor shall such lights be operated outside, under any circumstances, except by authorized public agencies.

(4) No sign shall display lights resembling by color and design or other characteristics customarily associated with danger of those used by police, fire, ambulance and other emergency vehicles or for navigation. Automotive warning or flashing signs shall not be utilized as commercial attention-seizing devices.

(5) No sign is permitted which, due to its position, shape, color, format or illumination, obstructs the view of or may be confused with an official traffic sign, signal or device or any other official sign, or which uses the words "stop", "warning", "danger", or similar words implying the existence of danger or the need for stopping or maneuvering.

(6) No sign shall rotate or otherwise move.

(7) No sign shall obstruct the view of motor vehicle operators entering a public roadway from any driveway, street or alley. On any corner lot on which a front and side yard is required, nothing shall be erected, placed, planted or allowed to grow which obstructs sight lines between the heights of two feet and ten feet above the crown of the adjacent roadway in a triangular area formed by measuring from the point of intersection of the front and exterior side lot lines a distance of 25 feet along the front and side lot lines and connecting the points so established to form a triangle on the area of the lot adjacent to the street intersection.

Cross reference:

Traffic Code Ch. 70 — 157.081

(F) Design and standards. All signs shall be constructed of durable materials and designed to meet all applicable requirements of the state building code. All signs must be designed and constructed to withstand 130 mph wind loads with applicable shape factors as prescribed in the building code.

(G) Misleading advertising.

(1) It shall be unlawful for a person to display false or misleading statements upon signs, or other public places, calculated to mislead the public as to anything sold, any services to be performed, or information disseminated. The fact that any such sign or display shall contain language sufficient to mislead a reasonable and prudent person in reading it shall be prima facie evidence of a violation of this subsection by the persons displaying such sign, or permitting the sign to be displayed at their residence, establishment or place of business.

(2) Signs with the copy of "Grand Opening", "Going Out of Business", "Sale", "Half Price" and the like shall be classified as temporary signs, regardless of construction, and are permitted only as a window sign, on attraction panels with changeable copy, or on an outdoor advertising sign. If sign is displayed for 60 days, there can not be another sign of the same nature displayed for 60 days from date of removal.

Statutory reference:

False Advertising Act, G.S. 66-76, 66-83

(H) Obstruction of exterior doors, windows and fire escapes. No sign or advertising display shall be attached to or placed against the outside of a building in such a manner as to prevent ingress and egress through any door or window, nor shall any sign or advertising display obstruct or be attached to a fire escape.

(I) Occupation of or projection into public right-of-way. Except if done by a public agency, no sign shall occupy public property in any manner, nor shall any sign extend across a property line where such property line borders a public right-of-way or any public property.

(J) Signs in disrepair and unsafe signs.

(1) All signs and supports, braces, guys and their anchors shall be kept in good repair, refurbished and repaired as necessary, and perpetually maintained in safe condition, free from deterioration, defective or missing parts, or peeling or faded paint, and able to withstand the wind pressure for which they were originally designed. Any sign not in compliance with this subsection is declared to be a nuisance.

(2) If any sign is damaged exceeding 50% of the reproduction value according to appraisal by competent appraisers, such sign may be restored, reconstructed, altered or repaired only to conform with all of the provisions of this chapter.

(K) Obsolete and abandoned signs.

(1) Any sign which advertises or pertains to a business, product, service, event, activity or purpose which is no longer conducted or that has not been in use for three months or which is no longer imminent, or any sign structure that no longer displays any sign copy shall be deemed to be an obsolete or abandoned sign.

(2) Signs associated with businesses which are normally open only on a seasonal basis shall not be considered to be obsolete or abandoned, provided there is clear intent to continue operation of the business within nine months. Similarly, permanent signs applicable to a business that is temporarily suspended because of a change of ownership or management shall not be deemed

abandoned or obsolete unless the property remains vacant for a period of six months or 12 months if the signs otherwise conform to all provisions of this section.

(3) Obsolete or abandoned signs, sign copy or sign structures are prohibited and shall be removed by the owner of the property, his agent or the person having the beneficial use of the building or site upon which such sign or sign structure is erected within 30 days after written notification from the building inspector. Notice shall be provided in accordance with the procedural guidelines specified in division (J). In the event of noncompliance with the terms and provisions, the town shall cause such signs to be removed at the expense of the property owner.

(4) When any sign is relocated, made inoperative or removed for any reason, except for maintenance, all structural components, including the sign face and sign structure, shall be removed or relocated with the sign. All structural components of freestanding signs shall be removed to ground level. The structural components of all other signs, including painted wall signs, shall be removed back to the original building configuration.

(L) Permit procedures. The building inspector shall issue a permit for the erection or construction only for a sign which meets the requirements of this section. Unless otherwise provided for in this section, no sign or sign structure, regardless of its cost of construction, shall be erected, replaced, relocated, constructed, changed or altered until after a permit has been issued by the building inspector. Applications for permits to erect, hang, place, paint or alter the structure of a sign shall be submitted on forms obtainable from the building inspector three days prior to the issuance of a permit. Each application shall be accompanied by a plan showing the following:

- (1) Name and address of the owner of the sign.
- (2) Exact size, shape, configuration, design, area, height, nature, number and type of sign to be erected.
- (3) The value of the sign or sign structure.
- (4) The method and type of illumination, if any.
- (5) The location proposed for such signs in relation to property lines, zoning district boundaries, right-of-way lines, and existing signs.
- (6) If conditions warrant it, such additional information as will enable the building inspector to determine if such sign is to be erected in conformance with the requirements of this section.

(M) Permit sign fees. Before issuing a permit, the building inspector shall collect the fees as established in the schedule of permit fees.

(N) Penalty for failure to obtain permit. Should any person actually begin any work for which a permit is required by this section without taking out a permit, he shall pay, in addition to the fees provided in section (M), an additional amount equal to 100% of the required fees and shall be subject to all penalty provisions of this section.

(O) Inspection. The building inspector may make or require any inspections of any constructionwork to ascertain compliance with the provisions of this section and other laws which are in

force and to ascertain that the sign is erected or displayed as indicated on the approved sign permit application.

(P) Zoning district on-premises sign regulations. Regulations for on-premises signs by zoning district are as follows:

(1) In R-1 zoning district:

(a) Maximum area is four square feet for each dwelling unit. Setback must be complied with.

(b) Maximum height is four feet except when attached to the residential structure.

(2) In R-2 zoning district:

(a) Maximum area is four square feet for the first dwelling unit plus one square foot for each additional unit, with 32 square feet maximum. Setback must be complied with.

(b) Maximum height is four feet except when attached to the residential structure.

(c) Any signs permitted in R-1 are permitted in R-2.

(3) In a commercial zoning district:

(a) Any sign permitted in an R-1 or R-2 residential district.

(b) Business sign(s), flat against the building, not to exceed a total aggregate sign area of more than 25% of the building's square foot front facing a street or access, and with a sign area of no more than 100 square feet.

(c) One projecting sign for each business within the building, each sign to be limited to 20 square feet in area. The projecting sign areas shall be included in totaling the aggregate sign area limited in subsection (3)(b) of this section and shall be set back at least ten feet from front property line and at least five feet from side property line. A projecting sign is not authorized in addition to a ground sign as authorized in subsection (3)(d) in this section.

(d) A ground sign advertising the business accommodation and/or services. The sign shall not exceed 32 square feet for the faceage of both sign and its supporting structure in total. Such sign shall be set back at least ten feet from the front property line and at least five feet from the side property line and shall not exceed ten feet in height. Any supporting visible vertical columns shall not exceed 12 inches square. A ground sign is not authorized in addition to a projecting sign as authorized in subsection (3)(c) of this section.

(e) Directional signs, limited in area to two square feet identifying parking areas and access drives, shall be permitted as accessory signs and shall not be included in computing any sign area limitation.

(f) A commercial center ground sign for on-site directional purposes is allowed when conforming to the following:

1. Only one ground sign of any type is permitted.
2. All provisions of division (P)(3)(d) must be met even when the directory sign is composed of individual signs.
3. If a directory sign is placed, all other signage will be attached to the primary structure(s).
4. Signs placed on lots adjoining a street intersection shall be placed a minimum of 50 feet from such intersection for public safety.

(4) Plans for signs displaying the name of a subdivision, condominium or housing project and located on the property of the project must be submitted to the Planning and Zoning Board for its approval.

(5) The use of festoon lighting or decorative lights for a commercial use or occupancy shall be listed and labeled for commercial use, and shall comply with all laws and requirements of the current state adopted electrical code and fire prevention code.

(Q) Other Zoning Districts. Signs in other districts, such as conservation. Application must be made to the Board of Adjustment for a special use permit to erect sign. That all signs must conform to all regulations with regard to signage in other zoning areas. The board shall have the authority to establish limitations with regard to placement, size, color in addition to consideration of the conditions outlined in § 157.055(B)(2)(b).

(R) Conforming signs; intent. Signs which were in existence prior to the adoption of the ordinance from which this chapter derives which do not conform to the provisions of this section are declared nonconforming signs. It is the intent of this section to recognize that the eventual elimination, as expeditiously and fairly as possible, of nonconforming signs is as much a subject of health, safety and welfare as is the prohibition of new signs that would violate the provisions of this section. It is also the intent of this section that any elimination of nonconforming signs shall be effected so as to avoid any unreasonable invasion of established property rights.

(S) General non-conforming sign provisions.

(1) Subject to the exceptions and the town's amortization schedule, any non-conforming sign may be continued in operation and maintenance after the effective date of the ordinance from which this chapter derives, provided that nonconforming signs shall not be:

- (a) Changed to or replaced with another nonconforming sign, including changing the sign face (except on changeable copy signs and billboards).
- (b) Structurally altered so as to extend their useful life.
- (c) Expanded.
- (d) Relocated.
- (e) Re-established after damage or destruction of more than 50% of the value at the time of such damage or destruction.

(f) Modified in any way that would increase the degree of nonconformity of such sign.

(2) Except in the case of subsection (1)(c) of this section, this shall not prevent repairing or restoring to a safe condition any part of a sign or sign structure of normal maintenance operations performed on a sign or sign structure.

(3) All signage is to be amortized on a five-year schedule.

(T) General provisions.

(1) Number. No freestanding sign structure requiring a permit shall coexist on the same lot with any other freestanding sign unless the lot has more than 500 feet of principal street frontage, in which case no two such signs shall be located closer than 500 feet from one another.

(2) Setback. All outdoor advertising signs requiring a permit shall be required to sit back from the side property line a distance of at least five feet. Such signs shall be erected so as not to obstruct or impair driver vision at ingress-egress points and intersections.

(3) Signage. Signage in C-1 zoned areas shall be limited to 2.5% of the front facade when internally lit and 5% when externally lit. Signage may be erected and displayed when in compliance with the maximum percentage of facade covered limitations and provided:

(a) Signage placed in the space in windows located one above the other shall not exceed in height two-thirds of the height of the taller of the adjacent windows.

(b) Signage placed in the space between the windows located beside each other shall not exceed in height two-thirds of the height of the adjacent windows.

(c) No signage shall protrude more than 12 inches from the wall to which it is attached.

(d) No signage shall extend beyond the parapet or eave line as appropriate of the building to which it is attached. If the building consists of more than two stories, signage shall not extend above the second story.

(e) The display area of signage painted on or affixed to or otherwise displayed on or through a facade window shall not exceed 15% of the area of the window.

(f) The message of a sign shall be limited to the names, trademarks and service marks of the establishment located on the zoning lot. Additionally, the message of signs may include information necessary to direct patrons to the business where the business may not have a direct entrance from the street or pedestrian way.

(4) Marquees. Marquees may be erected and displayed on a lot in compliance with the maximum percentage of facade coverage limitations for signage contained in subsection (3) of this section; however, a marquee shall not extend more than ten feet from a building nor be less than nine feet above the ground or sidewalk at the lowest point.

(5) Awnings. Awnings may be erected and displayed on a zoning lot in compliance with the maximum percentage of facade coverage limitations for signage contained in subsection (3) of this section; however:

(a) When such drop awning is let down to its fullest extent, no metal bar or other solid or hollow framing may not be less than eight feet above the ground or sidewalk; and

(b) A flexible cloth, canvas or similar skirt may hang no more than 12 feet below the horizontal bar supporting the awning, but in no case shall a skirt be less than seven feet above the ground or sidewalk at the lowest point.

(U) Noncompliance. The building inspector, after giving 48-hours' notice to remove any unauthorized permanent signs, and informing in the notice that the penalty will begin, should notify the Town Attorney of non-compliance at the expiration of the time limit. Temporary or portable signs erected or situated upon public property should be given notice to remove immediately. Persons found guilty of violating this section shall be subject to a penalty in accordance with § 157.999. Each day a violation continues shall be considered a separate offense.

('85 Code, § 15-6.8) (Ord. 33, passed 10-5-81; Am Ord. 8-88, passed 5-02-88; Am Ord. 00-04, passed 2-28-00; Am Ord. 00-21, passed 10-9-00; Am Ord. 02-12, passed 10-14-02; Am. Ord. 03-08, passed 11-24-03; Am. Ord. 07-10, passed 7-10-07) Penalty, see § 157.999

§ 157.080 FENCES.

Except where otherwise provided herein, all fences shall be subject to the following regulations. Fences shall be exempt from the yard and building setback line requirements of this chapter. Fences not exceeding six feet may be erected only in side or rear yards and may not be extended toward the street beyond the front corner of the principal building. No fence exceeding a height of four feet will be constructed within 15 feet to any street. Fences not exceeding four feet may be constructed to the street right-of-way except in corner lot situations when the corner visibility provisions in § 157.081 of this chapter may impose stricter limits.

('85 Code, § 15-6.9) (Ord. 33, passed 10-5-81; Am. Ord. 94-27, passed 11-7-94; Am. Ord. 00-19, passed 8-28-00; Am. Ord. 06-01, passed 1-9-06) Penalty, see § 157.999

§ 157.081 VISIBILITY AT INTERSECTIONS.

On a corner lot in all districts, nothing shall be erected, planted, or allowed to grow in such a manner as to impede vision over a height of three feet above the centerline grades of the intersecting streets within the triangular area bounded on two sides by the two street centerlines and on the third side by a straight line connecting points on the street centerlines located one-half the street right-of-way width plus 40 feet measured from the intersection of the centerlines.

('85 Code, § 15-6.10) (Ord. 33, passed 10-5-81; Am. Ord. 3-87, passed 3-2-87) Penalty, see § 157.999

§ 157.082 ADDITIONAL HEIGHT REGULATIONS.

(A) Except as provided herein the 35-foot height limitation for the primary structure shall not be violated. In no case shall there be space above the 35-foot height that is suitable for human occupancy.

(B) Exceptions to this rule may only include the following:

(1) Town owned public utility structures are exempt;

(2) The following additional structures, when attached to the roof of the structure, may extend beyond the 35-foot height limit, provided further that they comply with the specifics set forth in this section:

(a) Chimneys not to exceed the minimum height specified by the State Building Code;

(b) Structurally functional rooftop appendages, including ventilators, exhaust fans and lightning rods. However, these appendages shall not extend more than two feet above the 35-foot height limit and shall not cover an area larger than three feet by three feet;

(c) Architectural elements, such as small decorative devices, including weather vanes and architectural detailing, shall not extend more than 1.5 feet above the 35-foot height limit and shall not have any facing larger than 1.5 square feet;

(d) Single rod antennas (such as marine antennas) that are freestanding without the need for additional support and not exceeding 1.5 inches in diameter. Weather gauges and other similar devices shall not extend more than two feet above the 35-foot height limit.

('85 Code, § 15-6.11) (Ord. 33, passed 10-5-81; Am. Ord. 04-02, passed 2-24-04)

§ 157.083 ACCESSORY BUILDINGS.

Accessory uses and structures are permitted in any district but not until their principal structure is present or under construction. Accessory uses shall not involve the conduct of any business, trade, or industry except for home and professional occupations as defined herein. Structures used for accessory uses shall be of comparable color and material of the primary structure and shall be on the same lot of the primary use.

('85 Code, § 15-6.12) (Ord. 33, passed 10-5-81; Am. Ord. 06-01, passed 1-9-06) Penalty, see § 157.999

§ 157.084 PARKING STORAGE; MAJOR RECREATIONAL EQUIPMENT.

For the purpose of these regulations, major recreational equipment is defined as including boats and boat trailers, motor vehicles, pickup campers or coaches (designed to be mounted on automotive vehicles), motorized dwellings, tent trailers, and the like, and the cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not. No such equipment shall be used for living, sleeping, or housekeeping purposes, when parked or stored on a residential lot, or in any location not approved for such use. ('85 Code, § 15-6.13) (Ord. 33, passed 10-5-81; Am. Ord. 16-87, passed 10-5-87) Penalty, see § 157.999

§ 157.085 RELOCATION OF BUILDINGS.

It is the general intent of this section to prevent the relocation of buildings such that the quality or character of the neighborhood in which a building might be moved is adversely affected. To this end, no building may be moved, either intact or in a dismantled state, except in accordance with the following:

(A) The use of the building must be a permitted use in the zone into which it is to be located.

(B) Site preparation and all work performed incidental to moving and placing the building at its new location and all reconstruction of the building as may be necessary must conform to all applicable federal, state and local laws and regulations and shall be completed within three months following the initiation of the work. For purposes of this section the work shall be considered complete upon issuance of a Final Certificate of Compliance. For each calendar day beyond three months following the initiation of the work that the work is not complete, the holder of the building permit shall be fined as provided in § 157.999, each day to be considered a separate offense, and such fine to be paid at the Town Hall. Should the work be delayed for cause beyond the control of the permittee or contractor employed to do the work, the time for completion may be extended. Requests for extensions of time shall be made in writing to the Town Manager setting forth full particulars as to cause of delay. Determination as to whether sufficient cause exists to justify a time extension and the amount of any extension shall be made by the Town Manager.

(C) The exterior appearance of the building shall be made equal or superior to the general nature, quality, and character of the neighborhood into which located.

(D) Evidence and plans demonstrating the intent to comply with divisions (A), (B), and (C) of this section shall be approved by the Building Inspector and Board of Adjustment prior to issuance of a building permit for moving the building. In this regard the Board of Adjustment shall hold a [public evidentiary hearing](#) as set forth in § 157.146(C) of this chapter. Owners of property within 200 feet of the proposed new location shall be individually notified by certified mail of the hearing.

(E) Temporary relocation of buildings for periods not to exceed 90 days may be approved by the Building Inspector provided that during such period the building shall not be connected to any utility system and shall not be occupied. In the event the owner desires to secure the building at its temporary location and initiate improvements thereon, such work shall be done at the owner's sole risk and shall be subject to the provisions of divisions (A) through (D) above. Failure to comply fully with divisions (A) through (D) of this section shall be just cause for an order to remove to be issued by the Building Inspector and each day the building remains after the deadline stated in the order shall be considered a separate violation of this section.

(F) A fee as established in the fee schedule adopted by the Board of Commissioners, which shall be available at the office of the Town Clerk, shall be paid to the town for each application for relocation of a building to cover the costs of advertising and other administrative expense involved.

(G) Prior to issuance of a building permit for the work, the person or firm to whom the building permit is to be issued shall furnish a performance bond issued by a surety authorized to do business in the state or shall deposit money, certified check, or government securities for the full cost of the work as determined by the Building Inspector in consultation with the applicant for the permit or for \$25,000 whichever is the greater, as a guarantee of faithful completion of the work.

('85 Code, § 15-6.14) (Ord. 16-82, passed 10-4-82; Am. Ord. 10-84, passed 8-6-84; Am. Ord. 5-85, passed 4-1-85; Am. Ord. 92-04, passed 3-18-92; Am. Ord. 14-10, passed 9-9-14) Penalty, see § 157.999

§ 157.086 FLOATING HOMES PROHIBITED.

No person may locate and occupy or cause to be located and occupy a floating home within the town limits.

('85 Code, § 15-6.15) (Ord. 4-86, passed 4-7-86) Penalty, see § 157.999

§ 157.087 BUILDING NUMBERS.

(A) The correct street number shall be clearly visible from the street on all buildings. Numbers shall be block letters, not script, and of a color clearly in contrast with that of the building and shall be a minimum of six inches in height. Numbers shall be provided on each unit in a duplex or multiple unit building and shall consist of the building number with a suffix letter (A, B, C, and the like). Numbers existing on the effective date of this chapter and at least four inches high and clearly visible from the street shall be allowed to remain. Replacement numbers shall comply with this section.

(B) Beach front buildings will also have clearly visible house numbers from the strand side meeting the above criteria on size, contrast, etc. Placement shall be on vertical column supporting deck(s) or deck roof on the primary structure. If no such condition exists for the building, or if a clearer line of sight position exists on the building, the numbers shall also be affixed to the primary structure. For buildings with a setback of over 300 feet from the first dune line, a vertical post shall be erected aside the walkway with house numbers affixed. The post shall not exceed eight feet in height above the base of the walkway. The post will be placed on the highest elevation of the walkway within 300 feet of the first dune line. In all cases the numbers must be clearly visible from the strand. Other placements may be acceptable with approval of the Building Inspector.

('85 Code, § 15-6.16) (Ord. 12-86, passed 10-6-86; Am. Ord. 91-03, passed 3-4-91; Am. Ord. 01-07, passed 7-23-01) Penalty, see § 157.999

§ 157.088 BED AND BREAKFAST HOMES.

(A) Bed and breakfast homes offering accommodations to no more than six persons shall be allowed in R-2, Residential Zones.

(B) Bed and breakfast homes offering accommodations to no more than eight persons shall be allowed in C-1 Commercial Zones only.

(C) Bed and breakfast homes shall be registered at Town Hall annually before beginning operation thereof, giving the name of the owner or operator, address, accommodations offered and period of operation.

(D) Evidence shall be provided that the facility is in full compliance with the North Carolina Administrative Code administered by the Department of Natural Resources and Community Development, Division of Health Services, pertaining to bed and breakfast homes.

(E) A minimum of one off-street parking space shall be provided for each bedroom and other room used for sleeping in bed and breakfast homes.

(F) There shall be no sign visible from the outside of the building identifying the premises as a bed and breakfast home or facility except as permitted under § 157.079 of this subchapter and specifically in the following districts: R-2 Residential, § 157.079(l), and C-1 Commercial, § 157.(j)(1), provided the sign area shall not exceed four square feet.

(G) A business license shall be required, the fee for which shall be \$10 annually.

('85 Code, § 15-6.17) (Ord. 13-87, passed 8-3-87) Penalty, see § 157.999

NONCONFORMANCE PROVISIONS

§ 157.100 CONTINUATION OF NONCONFORMING SITUATIONS.

Nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued, subject to the restrictions and qualifications set forth in this subchapter.

('85 Code, § 15-4.1) (Ord. 33, passed 10-5-81; Am. Ord. 4-90, passed 4-2-90)

§ 157.101 NONCONFORMING LOTS.

(A) When a nonconforming lot can be used in conformity with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such a use may be made as of right. Otherwise, the nonconforming lot may be used only in accordance with a [conditional-special](#) use permit issued by the Board of Adjustment. The Board shall issue such a permit if it finds that:

(1) The proposed use is one permitted by the regulations applicable to the district in which the property is located; and

(2) The property can be developed as proposed without any significant negative impact on the surrounding property or the public health, safety, or welfare. In issuing the permit authorized by this section, the Board may allow deviations from applicable dimensional requirements (such as setback lines and yard size minimums) if it finds that no reasonable use of the property can be made without such deviations.

(B) Whenever this chapter creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without thereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of division (A) of this section.

('85 Code, § 15-4.2) (Ord. 33, passed 10-5-81) Penalty, see § 157.999

§ 157.102 EXTENSION OR ENLARGEMENT OF NONCONFORMING SITUATIONS.

(A) Except as specifically provided in this section it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.

(B) Subject to division (C) of this section, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this chapter, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional building or to land outside the original building.

(C) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming

situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other divisions of this section occur.

(D) Physical alteration of structures or the placement of new structures on open land are unlawful if they result in:

(1) An increase in the total amount of space devoted to a nonconforming use.

(2) Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements.

(3) The enclosure of previously unenclosed areas. An area is unenclosed unless at least 75% of the perimeter of the area is marked by a permanently constructed wall.

(E) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged.

(F) Notwithstanding division (D) of this section, any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. This division is subject to the limitations stated in § 157.104 of this subchapter on abandonment and discontinuance of nonconforming situations.

(G) A structure that is nonconforming in any respect or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed subject to the following restrictions:

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

(2) The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building.

(3) The reconstructed building may not enclose areas that were previously unenclosed. An area is unenclosed unless at least 75% of the perimeter of the area is marked by a permanently constructed wall.

(4) Under no circumstances can a mobile or manufactured home in a nonconforming situation be replaced.

('85 Code, § 15-4.3) (Ord. 33, passed 10-5-81; Am. Ord. 4-90, passed 4-2-90; Am. Ord. 02-12, passed 10-14-02) Penalty, see § 157.999

§ 157.103 CHANGE IN KIND OF NONCONFORMING USE.

A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.

('85 Code, § 15-4.4) (Ord. 33, passed 10-5-81; Am. Ord. 02-12, passed 10-14-02) Penalty, see § 157.999

§ 157.104 ABANDONMENT AND DISCONTINUANCE; ~~CONDITIONAL~~special USE PERMIT.

(A) When a nonconforming use is discontinued for a consecutive period of 180 days, or discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes, except as provided in division (B) of this section.

(B) The Board of Adjustment may issue a Special Use ~~conditional use~~ permit to allow a nonconforming use that has been discontinued for more than 180 consecutive days to be reinstated if it finds that:

(1) The nonconforming use has been discontinued for less than two years.

(2) The discontinuance resulted from factors that, for all practical purposes, were beyond the control of the persons maintaining the nonconforming use.

(C) (1) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is discontinued for a consecutive period of 180 days, or discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the district in which the property is located, unless the Board of Adjustment issues a ~~conditional use~~special use permit to allow the property to be used (for a conforming purpose) without correcting the nonconforming situation.

(2) The Board shall issue such a ~~condi-tional~~special-use permit if it finds that:

(a) The nonconforming situation can-not be corrected without undue hardship or expense.

(b) The nonconforming situation is of a minor nature that does not adversely affect the surrounding property or the general public to any significant extent.

(D) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming mobile home park shall not terminate the right to continue if the use as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a mobile home is used as a nonconforming use on a residential lot where a conforming residential structure also is located, removal of that mobile home for 180 days terminates the right to replace it.

(E) The provisions relating to the 180-day period of discontinuance of use shall not apply to rental property normally rented on a seasonal basis.

('85 Code, § 15-4.5) (Ord. 33, passed 10-5-81; Am. Ord. 4-84, passed 2-6-84) Penalty, see § 157.999

MOBILE HOME AND TRAVEL

TRAILER PARKS; CAMPGROUNDS

§ 157.115 LOCATION.

No person may locate, or cause to be located, a mobile home park, travel trailer park, or campground other than in accordance with this subchapter.

('85 Code, § 15-7.1) (Ord. 33, passed 10-5-81) Penalty, see § 157.999

§ 157.116 PERMIT.

Application for a mobile home park or a travel trailer park and campground shall be made to the Building Inspector. The application will be reviewed by the Planning and Zoning Board, Building Inspector, and County Health Department. The application for a permit shall be accompanied by a plat and shall indicate the following when provided:

- (A) General layout and dimensions.
- (B) Roadways, walkways, drainage easements.
- (C) Mobile home or travel trailer lots.
- (D) All structures including washrooms, laundries, and utilities.
- (E) Source of water and water distribution approved by town.

('85 Code, § 15-7.2) (Ord. 33, passed 10-5-81; Am. Ord. 4-90, passed 4-2-90) Penalty, see § 157.999

§ 157.117 DESIGN STANDARDS FOR MOBILE HOME PARKS.

- (A) Every mobile home park shall be located on a site of not less than three acres.
- (B) Each mobile home lot shall contain a minimum area of 3,500 square feet; however, in no case shall the area occupied by structures exceed 40% of the total lot area.
- (C) Every mobile home park shall comply with the Federal Insurance Administration, HUD Flood Regulations Chapter X, Part 1910 adopted by the town, and Chapter 154, Flood Damage Prevention.
- (D) Every mobile home park shall be graded so as to prevent the accumulation or ponding of water and all surface water shall drain in such a way that will not endanger any water supply.
- (E) The street system shall be designed to provide convenient circulation. It shall include no dead-end streets longer than 500 feet with the closed end terminating in a cul-de-sac with a minimum graded or paved diameter of 80 feet.
- (F) Pavement or graded width of streets shall be 20 feet for two-way streets; for developments with less than 20 lots one-way streets will be permitted with minimum paved or graded width of 14 feet.
- (G) Grades should be sufficient to insure adequate drainage (generally greater than 0.5%).
- (H) Street intersections should be at right angles where possible but in no case less than 75 degrees. When a centerline offset occurs at an intersection, the distance between centerlines of the two intersecting streets shall not be less than 250 feet.

(I) All streets shall be designed and constructed in accordance with North Carolina Department of Transportation minimum construction standards for local residential subdivision roads.

(J) A buffer strip ten feet wide planted in grass with shrubs or trees shall be reserved as open space between any mobile home park and adjoining residential district.

(K) Every mobile home park and related structure shall comply with the State Building, Plumbing, Electrical, Heating, and Air Conditioning Codes and any other applicable regulations of the town.

(L) Each mobile home lot shall be provided with and shall be connected to sanitary sewerage and water supply systems approved by the County Health Department. Where more than eight mobile homes are attached to a septic tank then the Division of Environmental Management must approve the system. ('85 Code, § 15-7.3) (Ord. 33, passed 10-5-81; Am. Ord. 4-84, passed 2-6-84; Am. Ord. 4-90, passed 4-2-9) Penalty, see § 157.999

§ 157.118 NONCONFORMING MOBILE HOME PARK.

Nonconforming mobile home parks shall comply with §§ 157.100 through 157.104 of this chapter.

('85 Code, § 15-7.4) (Ord. 33, passed 10-5-81)

§ 157.119 REGISTRATION.

It shall be the responsibility of the mobile home park owner to keep an accurate register containing a record of all mobile homes, owners, and occupants of the mobile home park. The register shall contain the following information:

- (A) Name and address of owner and each occupant of a mobile home.
- (B) Location of mobile home in the park.
- (C) Date of entering the mobile home park.
- (D) Date of leasing the mobile home park.

('85 Code, § 15-7.5) (Ord. 33, passed 10-5-81) Penalty, see § 157.999

§ 157.120 DESIGN STANDARDS FOR TRAVEL TRAILER PARKS AND CAMPGROUNDS.

(A) Every travel trailer park and campground shall be located on a site of not less than three acres.

(B) Each travel trailer and campground lot shall be of sufficient size, however, in no case shall the ratio of lot area occupied by structures to total lot area exceed 40%.

(C) Every travel trailer park and campground and its street system shall be graded so as to prevent ponding of water.

(D) The street system shall provide convenient circulation. Dead-end streets longer than 500 feet shall not be permitted. The closed end of any dead-end street shall have a cul-de-sac with a minimum diameter of 60 feet.

(E) Roadway widths shall be a minimum of 18 feet for two-way circulation and a minimum of 12 feet for one-way circulation.

(F) Grades of all streets shall be sufficient to insure adequate surface drainage.

(G) All streets shall have a smooth, hard, dense surface that is durable and well-drained under normal use and weather conditions.

(H) A buffer strip ten feet wide planted in grass with shrubs or trees shall be reserved as open space between any travel trailer park and adjoining residential district.

(I) Every travel trailer in the park and campground and related structure shall comply with the State Building, Plumbing, Electrical, Heating, and Air Conditioning Codes, and any other applicable regulation of the town.

(J) All toilet, shower, lavatory, and laundry facilities shall be provided and maintained in a clean and sanitary condition and kept in good repair at all times.

(K) Each park and campground shall provide at least one sewage dumping station approved by the County Health Department. All sewage wastes from each park, including wastes from toilets, showers, lavatories, and laundry facilities shall be piped into the park's sewage disposal system.

(L) The travel trailer park and campground owner is responsible for refuse collection and all garbage and refuse shall be stored in suitable watertight and fly-tight receptacles.

(M) It shall be unlawful for a person to park or store a mobile home in a travel trailer park or campground. However, one mobile home may be allowed within a travel trailer park to be used as an office and/or residence of person responsible for the operation and maintenance of the travel trailer park and campground.

('85 Code, § 15-7.6) (Ord. 33, passed 10-5-81; Am. Ord. 4-84, passed 2-6-84; Am. Ord. 4-90, passed 4-2-90) Penalty, see § 157.999

AMENDMENTS

§ 157.130 AMENDING THE CHAPTER.

The Board of Commissioners may amend the text regulations and zoning map according to the following procedures. The following action shall be taken by the applicant:

(A) Initiation of amendments. Proposed amendments may be initiated by the Town Commissioners, Planning Board, Board of Adjustment, or by one or more interested parties.

(B) Application. An application for any amendment shall contain a description of the proposed zoning regulation or district boundary to be applied. Such application shall be filed with the Building Inspector not later than ten working days prior to the Planning Board meeting at which the application is to be considered.

(C) Fees. A fee of ~~\$35-250.00~~ shall be paid to the town for each application for an amendment to cover the costs of advertising and other administrative expense involved.

('85 Code, § 15-9.1) (Ord. 33, passed 10-5-81; Am. Ord. 4-84, passed 2-6-84)

[§157.130.01 See §30.25.01](#)

§ 157.131 ACTION BY THE PLANNING BOARD. (['85 Code, § 15-9.2](#)) ([Ord. 33, passed 10-5-81](#))

~~— Planning Board shall consider and make recommendations to the town commissioner c~~
~~(A) — The Planning Board shall consider and make recommendations to the Town~~
~~Commissioners concerning each proposed zoning amendment. The Planning Board may shall~~
~~hold separate public hearings/evidentiary hearing prior to any denial or approval. or may sit~~
~~concurrently with the public hearings held by the Town Commissioners or may conduct public~~
~~hearings for the Town Commissioners.~~

[\(B\) Planning Board shall adopt a brief statement describing whether the action taken is Consistent or inconsistent with approved comprehensive land use plan. §160D-605\(a\).](#)

('85 Code, § 15-9.2) (Ord. 33, passed 10-5-81)

§ 157.132 ACTION BY THE TOWN COMMISSIONERS.

(A) Notice and ~~public hearing~~[legislative hearing](#). No amendment shall be adopted by the Town Commissioners until after public notice and hearing. Notice of ~~public hearing~~[legislative hearing](#) shall be published once a week for two successive calendar weeks in the local newspaper. The notice shall be published the first time not less than ten days prior nor more than 25 days before the date fixed for the hearing. Public notice may also be posted on the property concerned indicating the proposed change and date of ~~public hearing~~[legislative hearing](#).

(B) Before taking such lawful action as it may deem advisable, the Town Commissioners shall consider the Planning Board's recommendation ~~and consistency statement~~ on each proposed zoning amendment.

(1) Petitions for amendments that receive a favorable recommendation of the Planning Board, or petitions on which the Planning Board fails to make its recommendations within 30 days after the Planning Board's ~~public hearing~~[legislative hearing](#), shall be scheduled for ~~public hearing~~[legislative hearing](#) before the Town Commissioners. Such ~~public hearing~~[legislative hearing](#) shall be duly advertised.

(2) Petitions for amendments that receive an unfavorable or adverse recommendation of the Planning Board may be appealed within ten days of the date of such adverse decision, to the Town Commissioners by filing with the Clerk of the Board a notice, in writing, stating therein the action of the Planning Board and the amendment requested. Before taking action on any proposed amendment, the Town Commissioners shall hold a ~~public hearing~~[legislative hearing](#). ~~Public hearing~~[Legislative hearing](#) on proposed zoning amendments will be held at such times as the Town Commissioners shall decide.

('85 Code, § 15-9.3) (Ord. 33, passed 10-5-81; Am. Ord. 4-84, passed 2-6-84; Am. Ord. 16-85, passed 11-4-85; Am. Ord. 92-12, passed 9-23-92)

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§ 157.133 RESUBMISSION OF A DENIAL PETITION.

No resubmission of a denied petition may be submitted within six months following its denial.

('85 Code, § 15-9.4) (Ord. 33, passed 10-5-81)

ADMINISTRATION AND ENFORCEMENT

§ 157.145 DUTIES AND RESPONSIBILITIES OF THE BUILDING INSPECTOR.

(A) (1) The Building Inspector shall administer and enforce this chapter. He may be provided with assistance of such other persons as the Town Commissioners may direct.

(2) If the Building Inspector shall find that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violation indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

('85 Code, § 15-8.1)

(B) (1) The Building Inspector shall accept all applications, issue or deny all building permits, investigate all complaints, give notice of violations, and enforce the provisions of this chapter.

(a).

(a) Notices of Violation. – When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Chapter or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

~~(C) (2) — The Building Inspector and his deputies shall have access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this chapter.~~ Inspections. – Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured. §160D-403(e)

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('85 Code, § 15-3.3)

(Ord. 33, passed 10-5-81; Am. Ord. 4-90, passed 4-2-90)

§ 157.146 BOARD OF ADJUSTMENT.

(A) Composition; members. The Zoning Board of Adjustment shall consist of five regular members and three alternate members. All members shall be residents of the town. Appointments shall normally be made as of July 1 of each year. Regular and alternate members shall be appointed for staggered terms of three years, ~~provided that~~ vacancies occurring for reasons other than expiration of term shall be filled as they occur, for the unexpired remainder of the term. No member shall serve for more than two consecutive terms, and having served two consecutive terms, no member shall be eligible for reappointment until after remaining off the Board for one year. For this purpose, a member appointed to fill a vacancy for more than one-half a term shall be considered as having served a full term. Faithful attendance at meetings of the Board is to be considered by the Town Commission at the time of reappointment of any regular member or alternate member. Members of the Board of Adjustment may be removed for cause by the Town Commissioners upon written charges and after ~~public hearing~~[legislative hearing](#). Unexcused absence from three consecutive meetings, or any absence from six meetings in any calendar year shall be cause for removal. ('85 Code, § 15-10.1)

(B) Meetings. The Board shall elect one of its members as Chairperson and another as Vice-Chairperson who shall serve for one year. The Chairperson shall appoint the secretary to the Board of Adjustment. The Board shall draw up and adopt the rules of procedures under which it will operate. Meetings of the Board shall be held at the call of the Chairperson and at other such times as the Board may determine. The Chairperson, or in his absence, the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or his absence or failure to vote, indicating such fact, and also keeping records of its examination and any other official action. ('85 Code, § 15-10.2)

(C) Filing and notice for an appeal. Appeals from the enforcement and interpretation of this chapter and appeals for variances may be taken to the Board of Adjustment by any person aggrieved or by any office, department, board, or bureau of the town affected. Notice of an appeal to the Board of Adjustment shall be filed with the Building Inspector within 30 days of the date of the denial. An appeal stays all proceedings in furtherance of the action, unless the Building Inspector certifies to the Board that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record.

(1) Hearing of the appeal. After receipt of notice of an appeal, the Board Chairperson shall schedule the time for a hearing, which shall be at a regular or special meeting.

(2) Notice. At least one week prior to the date of the hearing, the Building Inspector shall furnish all adjoining property owners with written notices of the hearing. Notice of ~~public hearing~~[legislative hearing](#) shall be published once a week for two successive calendar weeks in the local newspaper. Public notice may also be posted on the property concerned indicating the proposed change and date of ~~public hearing~~[legislative hearing](#).

(3) Fees for appeal variances. A fee as established in the fee schedule adopted by the Board of Commissioners, which shall be available at the office of the Town Clerk, shall be paid to the town for each appeal to cover the necessary administrative costs and advertising.

(D) Powers and duties. The Board of Adjustment shall have the following powers and duties:

(1) To hear and decide appeals where it is alleged by the appellant that there is error in any decision made by the Building Inspector or other administrative official in the carrying out or enforcement of any provision of this chapter. A concurring vote of four-fifths of the members of the Board shall be necessary to reverse, wholly, or partly any such decision.

(2) To approve ~~conditional~~ special uses enumerated within the various zoning districts.

(3) To authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions a literal enforcement of the provisions of this chapter would result in unnecessary hardship. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. A variance from the terms of this chapter shall not be granted by the Board unless and until the following findings are made:

(a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other land, structures, or buildings in the same district.

(b) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

(c) That the special conditions and circumstances do not result from the actions of the applicant.

(d) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land, structures, or buildings in the same district.

('85 Code, § 15-10.4)

(E) Appeal from the Board of Adjustment. An appeal from the decision of the Board of Adjustment may be made to the County Superior Court within 30 days after the decision is made by the Board, but not thereafter. ('85 Code, § 15-10.5)

(Ord. 33, passed 10-5-81; Am. Ord. 91-05, passed 5-6-91; Am. Ord. 91-16, passed 12-2-91; Am. Ord. 96-05, passed 6-3-96; Am. Ord. 14-10, passed 9-9-14)

§ 157.147 PERMITS REQUIRED.

No permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustment.

('85 Code, § 15-8.2) (Ord. 33, passed 10-5-81; Am. Ord. 4-90, passed 4-2-90) Penalty, see § 157.999

§ 157.148 APPLICATION FOR PERMIT.

(A) (1) All applications for building permits shall be accompanied by plans in duplicate, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any; the location and dimensions of the proposed building or alteration and evidence of the County Board of Health's approval of the sewage disposal system or pursuant to § 157.152(B). The application shall include such other information as may be required by the Building Inspector including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with, and provide for the enforcement of this chapter.

(2) One copy of the plans shall be returned to the applicant by the Building Inspector after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. Should the Building Inspector disapprove an application for a building permit, the reasons for disapproval shall be listed on the application. The second copy of the plans, similarly marked, shall be retained by the Building Inspector. ('85 Code, § 15-8.3)

(B) (1) Applications for a building permit shall be made to the Building Inspector on forms furnished by the Building Inspector and shall include the following where applicable:

(a) Names and addresses of the applicant, owner of the site, architect, professional engineer, or contractor.

(b) Description of the subject site by lot, block, and recorded subdivisions or by metes and bounds; street address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees in the operation; and the zoning district within which the subject site lies.

(c) Additional information as may be required by the Board of Commissioners, Planning Board, or the Building Inspector. In the Commercial District, all zoning permits shall be reviewed by the Planning Board to ensure the spirit and intent of this chapter is met.

(2) The Building Permit shall be granted or denied in writing by the Building Inspector within 30 days. Any permit issued in conflict with the provisions of this chapter shall be null and void.

('85 Code, § 15-3.4)

(Ord. 33, passed 10-5-81; Am. Ord. 4-90, passed 4-2-90; Am. Ord. 05-01, passed 1-10-05; Am. Ord. 06-01, passed 1-9-06)

§ 157.149 EXPIRATION OF PERMIT.

If the work described in any building permit is not commenced following its issuance, the permit shall expire pursuant to the State Building Code.

('85 Code, § 15-8.4) (Ord. 33, passed 10-5-81; Am. Ord. 4-84, passed 2-6-84; Am. Ord. 4-90, passed 4-2-90)

§ 157.150 PERMIT FOR NEW OR ALTERED USES.

(A) It shall be unlawful to create, erect, change, convert, or wholly or partly alter, or enlarge the use of a structure until a building permit shall have been issued by the Building Inspector stating that the proposed use of the building or land conforms to the requirements of this chapter.

(B) No permit for erection, alteration, moving or repair of any building shall be issued until an application has been made for a building permit. The permit shall be issued in conformity with the provisions of this chapter.

(C) A temporary building permit may be issued by the Building Inspector for a period not exceeding six months during alterations or partial occupancy of a building pending its completion. A temporary building permit may be issued by the Building Inspector for a period not exceeding one month for bazaars, carnivals, or religious revival. Such temporary permit may require such conditions and safeguards as will protect the safety of the occupants and the public.

(D) The Building Inspector shall maintain a record of all building permits and a monthly summary of all permits issued shall be made available to the public.

(E) Failure to obtain a building permit shall be violation of this chapter and shall be punishable under § 157.999 of this chapter.

('85 Code, § 15-8.5) (Ord. 33, passed 10-5-81; Am. Ord. 06-01, passed 1-9-06) Penalty, see § 157.999

§ 157.151 CONSTRUCTION AND USE TO BE AS STATED ON PERMIT.

Building permits issued on the basis of plans and applications approved by the Building Inspector authorize only the use, arrangements, and construction set forth in such approved plans and applications. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter.

('85 Code, § 15-8.6) (Ord. 33, passed 10-5-81) Penalty, see § 157.999

§ 157.152 APPROVAL OF COUNTY BOARD OF HEALTH.

(A) The Building Inspector shall not issue a building permit for any structure which requires the Board of Health's approval for the installation of a sewage disposal system until such approval has been granted by the Brunswick County Board of Health. Evidence of approval shall accompany the application for a building permit.

(B) The Building Inspector may issue a building permit for new construction and additions to already constructed habitable residential or commercial structures without the necessity of approval by the Brunswick County Board of Health for the installation of a sewage disposal system provided the following contingencies are met, which include, but are not limited to: The necessity of providing approved sewage disposal before a certificate of occupancy is issued; the execution of a waiver acknowledging that sewage disposal must be approved before a certificate of occupancy is issued; that

water may not be supplied until a certificate of occupancy is issued; and that the structure may not be inhabited without a certificate of occupancy.

('85 Code, §15-11.4) (Ord. 33, passed 10-5-81; Am. Ord. 05-01, passed 1-10-05)

§ 157.153 RIGHT OF APPEAL.

If the building permit is denied, the applicant may appeal the action of the Building Inspector to the Board of Adjustment.

('85 Code, § 15-8.7) (Ord. 33, passed 10-5-81)

§ 157.154 CERTIFICATE OF OCCUPANCY.

(A) No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Building Inspector has issued a certificate of occupancy therefor. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building.

(B) Application for a certificate of occupancy may be made by the owner or his agent after all final inspections have been made for new buildings, or, in the case of existing buildings, after supplying the information and data necessary to determine compliance with this chapter and appropriate regulatory codes of the town for the occupancy intended. The Building Inspector shall issue a certificate of occupancy when, after examination and inspection, it is found that the building in all respects conforms to the provisions of the chapter and appropriate regulatory codes of the town for the occupancy intended.

('85 Code, § 15-8.8) (Ord. 33, passed 10-5-81)

§ 157.155 APPEALS.

(A) It is the intention of this chapter that all questions arising in connection with the enforcement of this chapter shall be presented first to the Building Inspector and that such questions shall be presented to the Board of Adjustment only on appeal from the Building Inspector and that from the decision of the Board of Adjustment recourse shall be to courts as provided by law.

(B) It is further the intention of this chapter that the duties of the Town Commissioners in connection with the chapter shall not include the hearing and passing of disputed questions that may arise in connection with the enforcement thereof, but only considering and passing upon any proposed amendment or repeal of the chapter text and map.

('85 Code, § 15-8.9) (Ord. 33, passed 10-5-81)

§ 157.156 PROTEST VOTE REQUIREMENT.

(A) Qualified protests.

(1) In the case of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of three-fourths of all the members of

the Board of Commissioners. For the purposes of this division, vacant positions on the Board and members who are excused from voting shall not be considered "members of the Board" for calculation of the requisite supermajority.

(2) To qualify as a protest under this section, the petition must be signed by the owners of either 20% or more of the area included in the proposed change or 5% of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed zoning map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine the "owners" of potentially qualifying areas.

(G.S. § 160A-385)???

(B) The Town Clerk shall certify that petitioners are in fact the owners of 20% of certain specified properties as required above.

('85 Code, § 15-8.10) (Ord. 33, passed 10-5-81)

§ 157.157 COMPLAINTS REGARDING VIOLATIONS.

Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building Inspector. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

('85 Code, § 15-11.2) (Ord. 33, passed 10-5-81)

§ 157.999 PENALTY.

(A) (1) Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements for which no penalty is otherwise provided, shall upon conviction thereof be fined not more than \$500 or imprisoned for not more than 30 days or both, and in addition shall pay all cost and expense involved in the case. Each day such violation continues shall be considered a separate offense.

(2) The owner or tenant of any building, structure, premises or part thereof, and any architect, building contractor, agent, or other person who commits, participates in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

(3) Nothing herein contained shall prevent the town from taking such other lawful action as is necessary to prevent or remedy any violation pursuant to G.S. § 160A-175. A civil fine of \$500 per offense shall be levied for violation of provisions in this chapter for which no civil fine is otherwise provided, in accordance with § 10.99(B) of this code of ordinances.

(Ord. 33, passed 10-5-81; Am. Ord. 93-11, passed 9-7-93; Am. Ord. 07-05, passed 6-12-07)

(B) Should any owner of property, or agent of an owner of property within the town, violate the provisions of § 157.079 of this chapter, and fail to have the offending sign removed as provided in § 157.079(K), the owner shall, in addition to other remedies available, be liable to a civil fine of \$25 for each violation, which fine shall be payable at Town Hall. Each day such violation continues shall be considered a separate offense. Removal of the offending sign within the 15-day grace period but subsequent illegal replacement of such sign shall constitute a continuing violation of the initial placement and be subject to appropriate fines and remedies. ('85 Code, § 15-6.8j.) (Ord. 33, passed 10-5-81; Am. Ord. 8-88, passed 5-2-88)

(C) (1) Criminal. Any person who violates any provision of §§ 157.115 through 157.120 of this chapter shall be subject a penalty in accordance with § 10.99(A) of this code of ordinances.

(2) Civil. In accordance with § 10.99(B) of this code of ordinances, any person who violates any provision of §§ 157.115 through 157.120 of this chapter shall be subject to a civil fine of \$50 per offense.

(D) Any owner of property or agent of an owner of property within the town, found to be in violation of the provisions of § 157.025 of this chapter shall be subject to a civil penalty of \$100 per day. ('85 Code, § 15-7.7) (Ord. 93-11, passed 9-7-93; Am. Ord. 10-01, passed 2-9-10)

Statutory Reference:

Enforcement of Ordinances, see G.S. 160A-175

CHAPTER 158: STORMWATER MANAGEMENT

Section

- 158.01 Goals and purposes
- 158.02 Definitions
- 158.03 Scope
- 158.04 General requirements
- 158.05 Summary of state regulations
- 158.06 Mandatory standards for existing development
- 158.07 Mandatory standards for future development
- 158.08 Developments that require state certification
- 158.09 Developments that do not require state certification
- 158.10 Mandatory standards for construction activities
- 158.11 Mandatory standards for public education
- 158.12 Inspection and notification
- 158.13 Appeals

158.14 Injunctive relief

158.99 Penalties

Cross Reference:

For provisions regarding flood damage prevention, see Chapter 154.

§ 158.01 GOALS AND PURPOSES.

The central environmental goal of the town is to restore and preserve water quality and the natural ecological functions of the surface waters that are included in its planning area and to minimize the impact of flooding and runoff of pollutants on health, safety, and welfare of the citizens of the town. In order to meet this important goal, the Town Stormwater Management chapter is adopted for the following purposes:

(A) To regulate existing developments, future developments, and construction activities according to state requirements and to institute additional mandatory requirements to prevent careless pollution of surface waters, damage to property due to excessive flooding and surface water runoff that causes damage to adjacent property.

(B) To establish the authority of the town to administer and enforce stormwater regulations.

(C) To create public education programs so that the citizens of the town will have knowledge of how to reduce and prevent pollution from their homes and businesses.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.02 DEFINITIONS.

For the purposes of this chapter, the following terms and phrases shall have these definitions:

AREA OF ENVIRONMENTAL CONCERN. An area identified by the North Carolina Coastal Resources Commission as environmentally fragile and economically important where uncontrolled or incompatible development could result in irreversible damage.

BUILT-UPON AREA. That portion of an individual development project that is covered by impervious or partially impervious cover including buildings, pavement, compacted soil (including coquina and marl), recreation facilities, gravel roads and parking areas, and the like. Uncovered wood-slatted decks and the water area of a swimming pool are not considered to be built-upon area.

CAMA. The Coastal Area Management Act which was adopted by North Carolina in 1974. The Act established a comprehensive regional resource management program for the state's twenty county coastal area. The management program that has evolved since 1974 in North Carolina has land use planning, regulatory, land acquisition, and policy development components.

CAMA MAJOR DEVELOPMENT PERMIT. The permit required by the Coastal Resources Commission for developments that infringe on Areas of Environmental Concern.

CAMA MINIMUM DEVELOPMENT PERMIT. The permit required by the Coastal Resource Commission for developments not meeting the conditions required for a major permit. Minor permits are administered by the town under authority granted by the Coastal Area Management Act using standards adopted by the Coastal Resource Commission.

COASTAL WETLAND. Any salt marsh or other marsh subject to regular or occasional flooding by tides, including wind tides (whether or not the tide waters reach the marshland areas through natural or artificial watercourses), provided this shall not include hurricane or tropical storm tides. Coastal wetlands contain some, but not necessarily all, often indigenous wetland plant species. Included in this definition of coastal wetlands is "such contiguous land as the Secretary of DENR reasonably deems necessary to affect any such order in carrying out the purposes [of the regulations]." ((3.5. 113-230(a)).

DEVELOPMENT. Any land disturbing activity which increases the amount of built-upon area or which otherwise decreases the infiltration of precipitation into the soil. A "future development" means any land which is utilized for a land-disturbing activity after the effective date of this chapter.

DRAINAGE STRUCTURE. Any natural or manmade terrain condition which manages or directs the flow of surface or subsurface water. Examples are open or covered drainage ditches, retention ponds, grass swales and catch basins.

EROSION. The wearing away of land surface by the action of wind, water, gravity, or any combination thereof.

EROSION AND SEDIMENT CONTROL PLAN. A written plan, including drawings or other graphic representations, for the control of soil erosion and sedimentation resulting from a land disturbing activity.

ESTUARINE SHORELINE. A non-ocean shoreline connected to the estuarine water which are especially vulnerable to erosion, flooding, and other adverse effects of wind and water. Estuarine shorelines extend from the mean high water level (in areas of tidal influence) or normal water level (in areas without tidal influence) along the estuaries, sounds, bays, and brackish waters for a distance of 75 feet landward unless otherwise set by the Coastal Resources Commission.

ESTUARINE WATERS. All the water of the Atlantic Ocean within the boundary of North Carolina and all the waters of the bays, sounds, rivers, and tributaries thereto seaward of the dividing line between coastal fishing waters, as set forth in the most recent official published agreement adopted by the Wildlife Resources Commission and the Department of Environment, Health and Natural Resources.

EXISTING DEVELOPMENT. Any land which has been utilized for a land-disturbing activity as of the effective date of this chapter.

FILL MATERIAL. Any substance or substances that when placed under or on the ground alters the topography of the land in any way. See Land Disturbing Activity below for a related definition.

INFILTRATION SYSTEM. A stormwater treatment system designed to allow runoff to pass or move (infiltrate) into the soil.

LAND DISTURBING ACTIVITY. Any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance

that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. This includes placing fill materials on a lot to raise the lot above adjacent property or roadways (i.e., mounding).

NCAC. North Carolina Administrative Code.

NORTH CAROLINA COASTAL RESOURCES COMMISSION. The state policymaking organization - with responsibility for the coastal region.

OCEAN HAZARD AREA. An area where there exists a substantial possibility of excessive erosion and shoreline fluctuation. The seaward limit of this boundary is the mean low water line.

REDEVELOPMENT. Any rebuilding activity which has no net increase in built-upon area or which provides equal or greater stormwater controls than the previous development.

RETAINING WALL. A vertical wall, constructed of pressure treated lumber or other approved building materials with a height above adjacent grades no greater than 30 inches. The purpose of the wall is to assist in the control of stormwater run-off onto adjacent property as a result of (for example) fill soil requirements determined by the County Health Department for the installation of a septic system.

SA WATERS. Tidal ~~saltwaters~~[salt waters](#) of the highest quality which are suitable for commercial ~~shellfishings~~[shell fishing](#), swimming, and all other tidal saltwater uses. The chloride concentration of SA waters must be at least 500 parts per million.

SEDIMENTATION. The deposition of solid material, both mineral and organic, that has been transported from its site of origin by air or water.

SEDIMENTATION/EROSION CONTROL PLAN. A plan required by the Division of Land Resources in which developers must describe the sedimentation and erosion control devices they will use for land disturbing activities that are one acre or greater.

STATE BEST MANAGEMENT PRACTICES (BMPs). Guidelines published by the NC Department of Environment and Natural Resources (DENR), Division of Water Quality (DWQ) for design, operation and maintenance, and inspections of engineered solutions to stormwater runoff. These guidelines supplement the stormwater management rules adopted by the State of North Carolina.

STORMWATER. The flow of water which results from precipitation and which occurs immediately following rainfall, tidal flow or a snowmelt.

STATE CERTIFICATION. One or more of the following documents: a CAMA permit application and accompanying CAMA permit from the Division of Coastal Management, a Stormwater certification or permit, as required, from the Division of Environmental Management, and/or a Sedimentation and Erosion Control Plan that has been approved from the Division of Land Quality.

SURFACE WATERS. Rivers, streams, creeks, channels, lakes, reservoirs, ponds, drainage systems, springs, wetlands, wells, the Atlantic Ocean, and other bodies of surface or subsurface water, natural or artificial, lying within or forming part of the boundaries of Holden Beach. This term excludes privately owned ponds which have no entry or exit of water to or from waters of public domain.

10-YEAR, 24-HOUR STORM. The storm of the largest intensity expected to occur, on the average, once every 10 years, and of a 24-hour duration.

25-YEAR, 24-HOUR STORM. The storm of the largest intensity expected to occur, on the average, once every 25 years, and of a 24-hour duration.

VEGETATIVE FILTER. An area of natural or planted vegetation through which stormwater flows in a diffuse manner so that runoff does not become channelized and which provides for control of stormwater runoff through infiltration of runoff and filtering of pollutants. The defined length of the filter shall be provided for the direction of stormwater flow.

WET DETENTION POND. A structure that provides for storage and treatment of runoff and includes a permanent pool of water.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.03 SCOPE.

This chapter shall apply to the following entities within the jurisdiction of the town:

(A) All property owners, regardless of their previous practices, shall be subject to the regulations listed under § 158.06, Mandatory Standards for Existing Development, § 158.08, Development that Requires State Certification, and § 158.09, Developments that do not Require State Certification.

(B) All future developments shall be subject to the regulations listed under § 158.07, Mandatory Standards for Future Developments as well as those regulations listed in division (A).

(C) All construction activities, whether for future development or improvements on existing development (one or more units), shall be subject to these regulations listed under § 158.10, Mandatory Standards for Construction Activities.

(D) The town shall be responsible for meeting the requirements of § 158.11, Mandatory Standards for Public Education.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.04 GENERAL REQUIREMENTS.

(A) All visitors, residents, business owners, developers, and others who utilize the resources of the town shall take all reasonable measures to minimize the potential flooding and protect surface waters and the properties of others from damage resulting from their activities.

(B) Whenever conflicts exist between federal, state, or local laws and this chapter, the more restrictive provision shall apply.

(C) Any penalties imposed by the town shall be in addition to the penalties imposed by the state, county or federal government.

(Ord. No. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.05 SUMMARY OF STATE REGULATIONS.

The responsibility for administering North Carolina's stormwater regulations is shared by three divisions of the Department of Environment and Natural Resources (DENR). These divisions are the Division of Environmental Management, the Division of Coastal Management, and the Division of Land Quality. These state regulations are supplemented by local requirements outlined in this chapter.

(A) (1) The Division of Environmental Management (DEM) administers the requirements set forth in 15A NCAC 2H .1003. This section of the administrative code regulates the density of developments and mandates standards for engineered stormwater controls. Generally, DEM defines low density as development that has built-upon area of 25% or less.

(2) High density developments must have engineered stormwater controls that are designed, constructed, and maintained according to state standards. These controls capture the stormwater runoff and hold it for a period of time. During the detention process, pollutants are removed by infiltration and/or sedimentation.

(B) The Division of Coastal Management administers the Coastal Area Management Act (CAMA). CAMA's goal is to protect Areas of Environmental Concern (AEC), which are fragile areas where incompatible development may result in irreversible damage. CAMA identifies four broad categories of AECs: Estuarine systems, Ocean Hazard Areas, Public Water Supplies, and Natural and Cultural Resource Areas. Within these broad categories, there are 14 subcategories. The subcategories that are most applicable to the town are: Coastal Wetlands, Estuarine Waters, Estuarine Shorelines, Public Trust Areas, Ocean Erodible Areas, High Hazard Flood Areas, Inlet Hazard Flood Areas, and non-vegetated Beach Area.

Any structure to be built in an AEC must be permitted by the Division of Coastal Management and must meet General Use Standards which are listed in CAMA (15A NCAC 7H.0208). For a development in an AEC to be approved, it must be water-dependent and must minimize impacts to the area's soil and ecology. Some examples of water-dependent uses include bulkheads, piers, and marinas.

(C) The Division of Land Resources administers the Sedimentation Pollution Control Act. This Act requires developers to prepare Erosion and Sedimentation Control Plans for developments that are one acre or larger. The Plan must describe the temporary and permanent control measures the developer will use to prevent accelerated erosion and off-site sedimentation. Sedimentation and erosion control plans must meet certain site performance standards, including re-stabilization of construction sites within a reasonable time period, maintenance of a buffer zone, any natural watercourse or lake, and protection in the 10-year storm. This act gives local agencies the authority to inspect land-disturbing activities and to prosecute violators.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.06 MANDATORY STANDARDS FOR EXISTING DEVELOPMENT.

Persons who fail to comply with the below listed standards shall be subject to a fine of \$200 for each violation of this section, after notification by the town.

(A) Landscape easements. Owners, of property that is identified by the town as having special topographic drainage characteristics, shall be asked by the town to consider granting a five-foot

easement along property lines, where grass swales could be constructed (by the town) to direct the flow of surface water runoff. Grass swales shall be designed in accordance with the State Best Management Practices (BMPs). If such easements are granted, thus granting the town access to work on private property, the town would maintain the drainage pattern as it so determines.

(B) No landscaping, using impervious materials such as solid plastic and vinyl, will be permitted. Property owners should remove any such materials installed before the effective date of this chapter.

(C) Yard wastes, including dredge spoil, leaves, and yard trimmings, may not be deposited into drainage structures. Acceptable management practices for yard wastes include composting and land-filling.

(D) Septic systems should be maintained by the property owner on a regular basis according to county regulations to prevent contaminated wastewater from discharging to surface waters. In order to correct contaminated discharges, the town may remove the water meter from the property of the septic system violation until such time as violation is corrected.

(E) Hazardous compounds must not be discharged into a septic system. Such compounds include but are not limited to paint, paint thinner, solvents, pesticides, and petroleum products. It is undesirable to directly or indirectly place or discharge into surface and subsurface water drainage systems materials or liquids that could potentially degrade surface or subsurface water quality, restrict the flow of water in those systems, contribute to soil pollution on the island, or create soil erosion. The following are specifically prohibited to be placed or discharged (directly or indirectly) into surface and subsurface water systems:

- (1) Sewage or other household wastewater, including that associated with temporary portable toilets.
- (2) Water flowing from leaking water lines and lawn sprinkler systems, resulting in soil erosion.
- (3) Petroleum products such as used motor oil, paint, solvents and gasoline.
- (4) Commercial and household solid waste (garbage/trash).

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.07 MANDATORY STANDARDS FOR FUTURE DEVELOPMENT.

Persons who fail to comply with these regulations, after they have received notice from the town, will be subject to a \$500 fine for each day of the violation, and other actions or penalties as may be authorized by the town.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.08 DEVELOPMENTS THAT REQUIRE STATE CERTIFICATION.

(A) For developments that are one acre or larger, the state will require a stormwater certification or permit from the Division of Environmental Management. The Stormwater Management Plan required by the state certification or permit will assure proper disbursement of stormwater on and from

the lot so as not to cause harm or erosion to neighboring property. The property owner or their representative must submit a copy of the DEM stormwater certification or permit to the town.

(B) The Department of Environmental Management may also require a Wetland 401 Water Quality Certification and/or a Dredge and Fill Permit. If so, the property owner or their representative must submit copies of the permit application and the permit to the town, five business days prior to acting on the permit.

(C) Developments that infringe upon state-defined Areas of Environmental Concern (AEC) will require either a CAMA major from the Division of Coastal Management or a CAMA minor permit from the town. If a CAMA major permit is required, then the property owner or their representative must submit a copy of the permit application and the approved permit to the town, five business days prior to acting on the permit.

(D) The town shall monitor development projects to assure that the above mentioned permit criteria are adhered to, and will issue a notice of violation, or cause such a notice to be issued by the state.

(E) An Operation and Maintenance Plan (OMP) will be prepared by the property owner or their representative to assure proper and continual operation of the Division of Environmental Management certification or permit per § 158.08 (A) above. The OMP will indicate what operation and maintenance actions are needed, what specific quantitative criteria will be used for determining when those actions are to be taken, and who is responsible for those actions.

(F) Roadway drainage systems and stormwater control systems must be designed by a qualified registered professional engineer properly licensed by the state. The town may require re-certification if the property is transferred prior to actual development.

(G) All future subdivisions will require a ten-foot landscape drainage easement around perimeter of development.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.09 DEVELOPMENTS THAT DO NOT REQUIRE STATE CERTIFICATION.

Any land disturbing activity (as defined in earlier section of this chapter) must comply with the criteria presented below. A development which is under one acre and does not infringe upon any State-defined Areas of Environmental Concern will usually not require State Certification. However, such developments shall be subject to the certain town requirements as discussed below:

(A) The primary intent of these regulations is to satisfactorily control stormwater on individual parcels of land, and areas in between, so as not to adversely affect the quantity and quality of surface water flows as a result of natural rainfall, and to control runoff onto adjacent property, or water induced soil erosion in any form. Because of the low lying nature of the barrier island upon which the town is situated, it is important that surface water runoff be controlled as much as is reasonably possible within property boundaries, and not drained onto adjacent areas, both private and public (for example streets and roads).

(B) The amount of any fill materials to be placed for whatever purpose (height above existing grades) shall be limited to either 12 inches above the average centerline of the road adjacent to the property or not to exceed the height required by the County Health Department for approval of a septic system permit. After any parcel of land has been filled to the subject height as required by the County Health Department, if a septic tank permit is not obtained within 60 days, the fill materials placed shall be removed and the parcel of land returned to its original condition. If it is proposed to place fill materials on the property outside of the area of the septic tank and drain field, the additional area capable for building a structure shall be treated as an impervious surface for stormwater management purposes.

(C) Prior to the placement of any soil fill material on parcels of land, with the exceptions as listed below in division (D), the property owner or their appointed representative shall apply for a Stormwater Permit. The permit shall contain the following information:

(1) Site plan drawn to a scale of 1:20 on white bond paper a minimum of 8.5" x 14" in size. The plan will be clearly and legibly labeled and will show existing land grades of the parcel (topographic relief), adjacent property lines with existing land grades at the property line, and proposed finished land grades for the property in question. Elevations of adjacent property will be shown at minimum intervals of 25 feet, with a minimum of four points per property. If there is a residence on adjacent property, the elevation of the concrete slab of the residence will be indicated, as well as the elevation of existing grade at the corners of the structure. The site plan shall also show the location and elevation of a benchmark established on or adjacent to the property, to be used as an on-the-ground elevation reference.

(2) Location, area and composition of all features proposed to be located on the property such as building structures, driveways, sidewalks, septic tank and drain field, or any other feature that may impact stormwater management per these regulations.

(3) Designation of ground level pertaining to FEMA base flood elevations and height above mean sea level per § 157.006 of the Town Code. This is in reference to the point at which ground level will be measured (in reference to the ~~35-foot~~ height restriction) in order that a home may be constructed on the property.

(4) Per information presented above, it is the intent of these regulations that stormwater flow be routinely contained within property lines in question, and not be directed onto adjacent real estate. Within property lines, sheet flow drainage of stormwater over grassy or adequately vegetated surfaces will be managed in such a manner so as not to create soil erosion, sedimentation buildup, or channeling water in any way onto adjacent property. In all cases when stormwater is proposed to be directed toward a public street, the plan will be designed so as to control the first 1.5 inches of rainfall from impervious surfaces during a 24-hour period within the property boundaries.

(5) Using the above guidance, the proposed direction of flow for stormwater will be clearly shown throughout the plan, so as to provide the approving authority with sufficient information to determine how the applicant proposes to manage stormwater primarily on site. In addition to sheet flow drainage, engineered stormwater management solutions are encouraged. The completed plan must be sealed by an engineer or land surveyor licensed to practice in the stormwater runoff planning in

the state. The engineer or land surveyor in question shall certify that all aspects of the stormwater permit plan have been complied with according to the design.

(6) A retaining wall not to exceed 30 inches in height is allowed to retain the added soil fill materials on site as indicated in the septic permit, to prevent stormwater flow onto adjacent property. When the wall extends along the property lines, beyond the boundaries of the highest fill allowed, toward the street side or property rear, it must be decreased in elevation by a minimum of one foot for every 12 feet of wall length so that it remains parallel to the slope of the line of fill.

(7) In those cases where the property in question (~~with the Health Department approved soil added~~) is lower than adjacent property, additional fill materials may be added to bring the property up to the existing grade of adjacent properties, so long as ~~that addition is approved by the County Health Department~~ an engineered stormwater plan is approved.

(8) Direct outlet channels to surface water are prohibited unless designed for State Best Management Practices (BMPs). Stormwater must be allowed to pool and infiltrate on the lot or through drainage swales designed in accordance with BMPs.

(C) All future subdivisions will require ten-foot stormwater easements around the perimeter of development. The proposed development must comply with all other requirements of the stormwater management plan.

(D) Exceptions to this section shall include:

(1) The placement of topsoil (not to exceed three inches) for the purpose of landscaping will not require a Stormwater Permit.

(2) Bulkheads or retaining walls at existing houses on canal lots will not require a site plan sealed by an engineer if the bulkhead, retaining wall and fill are the same height as adjacent property. Wing-walls as required by the building code are exempt from division (B)(4) of this chapter.

(E) Any person who installs fill material or constructs a bulkhead, retaining wall, or similar structure without a permit is subject to a fine of \$500 for each incident and day of violation. Any person found in violation will be given ten days to remove fill material or bulkhead, retaining wall, or similar structure before the penalty begins, and to restore the site to its original condition.

(F) No residence Certificate of Occupancy (CO) shall be issued until the Building Inspector has inspected and certified the satisfactory completion of those criteria specified in the approved Stormwater Permit pertaining to the location upon which the home was constructed.

(G) In those instances where a Stormwater Permit is denied by the Building Inspector, the applicant may appeal the case to the Planning and Zoning Board. The appellate authority higher than the Planning and Zoning Board shall be the Board of Commissioners.

(Ord. 99-18, passed 9-13-99)

§ 158.10 MANDATORY STANDARDS FOR CONSTRUCTION ACTIVITIES.

Persons who fail to comply with these regulations after they have received notice from the town will be subject to a \$500 fine for each violation, and other actions or penalties as may be authorized by the town.

(A) For construction activities that are one acre or larger, the state will require a Sedimentation and Erosion Control Plan from the Division of Land Quality. The developer must submit a copy of the approved Sedimentation and Erosion Control Plan to the Town Manager. For construction activities that do not require state certification, all requirements of § 158.09 are applicable.

(B) The town shall monitor development projects to assure that the above mentioned permit criteria are adhered to, and will (if required) issue a notice of violation, or cause such a notice to be issued by the state.

(C) Construction activities, that are under one acre and infringe upon a State-defined Area of Environmental Concern, will require a CAMA minor permit from the Local Permit Officer for the town.

(D) No area outside of a subdivision shall have any change of the terrain, drainage (and the like) without prior approval from the town. Future subdivisions shall not have the terrain, drainage (and the like) altered before a review of the area is conducted by state and/or county officials; e.g. the County Health Department has inspected the site pertaining to the proposed alterations.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.11 MANDATORY STANDARDS FOR PUBLIC EDUCATION.

(A) The town will promote, encourage, and facilitate public education programs on stormwater management.

(B) The public must be informed of how to identify and report pollution violations and water quality problems. Such actions and conditions shall be reported to the Town Manager. Serious violations may be reported to the Department of Environmental and Natural Resources in Wilmington. (See Appendix A for a suggested format for public distribution materials on this topic.)

(C) The public must be informed of how to minimize water pollution in their homes and businesses. Some of the issues that shall be addressed are lawn and garden care, use of household chemicals, motor vehicle care, septic tank maintenance, and pet care. (See Appendix B for a suggested format for public distribution materials on this topic.)

(D) Any brochures printed by the town will also be made available on audio tape for the handicapped, upon request.

(Ord. No. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.12 INSPECTION AND NOTIFICATION.

(A) The town will, upon prior notification to the property owner, make reasonable inspections to determine whether or not the provisions of this chapter are being followed.

(B) A Notice of Violation may be issued by the town in those cases where the provisions of this chapter have not been followed. Notice will be hand-delivered or served by Certified Mail and shall set forth the measures to achieve compliance. A time-frame shall be established by the town for

compliance, with the length of time being set depending on the situation. The notice shall state that if the provisions are not adhered to, then civil action may result, including assessment of stated monetary penalties.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.13 APPEALS.

(A) Any person who is found in violation of the requirements listed under §§ 158.06, 158.08, 158.09, or 158.10 may appeal by submitting a written explanation of the appeal to the Planning and Zoning Board within 30 days of the date of the notification of the fine. This Board shall render a decision on the appeal in writing within 30 days after the receipt of the written appeal. Any person aggrieved by any decision of the Board, or any taxpayer, officer, department or board of the town may present to the Board of Commissioners, duly verified, setting forth that the decision is illegal and requesting review.

(B) Any citizen or property owner who is found in violation of the requirements listed under §§ 158.08, or 158.10 (A) through (C), may appeal by filing a written explanation of the appeal with the appropriate state agency within 30 days of the date of the notification of the violation.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.14 INJUNCTIVE RELIEF.

This chapter may also be enforced by appropriate equitable remedy issuing from a court of competent jurisdiction. The General Court of Justice shall have jurisdiction to issue such orders as may be appropriate to enforce the terms of this chapter. Upon a finding by the court of competent jurisdiction that a violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violations or to prevent the threatened violations of this chapter. The institution of an action for injunctive relief under this section shall not relieve any party from any civil or criminal penalty prescribed for violations of this chapter.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

§ 158.99 PENALTIES.

Violation of this chapter is a misdemeanor punishable as provided by G.S. 14-4. In addition, violation of this chapter shall subject the offender to a civil penalty, as determined by the Town Board of Commissioners, to be recovered by the town in a civil action, in the nature of a debt, if the offender does not pay the civil penalty within 30 days after being cited for violation of the chapter. Each day of continuing violation shall be a separate and distinct offense.

(Ord. 98-09, passed 5-28-98; Am. Ord. 99-18, passed 9-13-99)

PARALLEL REFERENCES

References to General Statutes of North Carolina

References to 1985 Code of Ordinances

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REFERENCES TO 1985 CODE OF ORDINANCES

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c.51.1410-1.14d.51.9911-1.194.0111-1.294.0211-1.394.9911-2.194.1511-2.294.1611-2.394.1711-
2.494.1811-2.594.1811-2.694.9911-3.294.3111-3.394.3211-3.494.9911-4.194.1911-4.494.9912-
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REFERENCES TO ORDINANCES

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Section Two: The Town Clerk is directed to forward this ordinance to American Legal Publishing for inclusion in the next published supplement to the Holden Beach Code of Ordinances.

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Section Three: This ordinance shall be effective the 16th day of June, 2021.

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Adopted this the 15th day of June, 2021.

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J. Alan Holden, Mayor

ATTEST:

Heather Finnell, Town Clerk