

PROPOSED TEXT AMENDMENTS. April 2016.

Key:

Proposed new language.

~~Existing language to be removed.~~

Sec. 30-35. - Notice.

- (a) *Rezoning, variance, approved waiver, certificate of appropriateness for a major work, or watershed modification.* Whenever there is a request for a zoning map amendment, special use permit, variance, certificate of appropriateness for a major work, watershed map amendment, watershed modification, or an approved waiver involving a parcel of land, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land ~~adjoining and contiguous to~~ within 250 feet of that parcel of land as shown on the county tax listing, shall be mailed a notice of the proposed request or approved waiver.
- (1) Notice shall be by first class mail to the last addresses listed for such owners on the county tax abstracts.
 - (2) The person or persons mailing such notices shall certify to the town council that proper notice has been given and such certification shall be deemed conclusive in the absence of fraud.
 - (3) In the case of comprehensive rezoning of all property within the jurisdiction, notice shall be mailed as required by G.S. 160A-384.
 - (4) Notice of such proposed action shall be published in a newspaper of general circulation in accordance with state statutes.
 - (5) Notice of such proposed action shall also be published on the town's website.
 - (6) Each site shall be posted in a conspicuous location with the time, date, and notice of public hearing. Posting shall not be required in the case of comprehensive rezoning.
- (b) *Text amendment and appeal.* Whenever there is a request for an action involving a text amendment to this chapter or an appeal of an interpretation of this chapter, a notice of such proposed action shall be published in a newspaper of general circulation in accordance with state statutes and published on the town's website.
- (c) *Board approval of subdivision or site plan.* Whenever there is a request for an action involving a subdivision or site plan requiring a board approval under this chapter; the meeting of the designated board shall have an agenda duly posted in accordance with state open meetings statutes.

(Ord. of 1-6-2000, § 9-1.2; Ord. of 2-5-2009)

Sec. 30-111. - Establishment of official zoning map.

- (a) *Official zoning map.* The jurisdiction is hereby divided into zones, or districts, as established in article VII. The official zoning map shall be kept in digital format in the planning department. Copies of the official zoning map, or portions thereof, may be made from time to time. These copies are informational

only; the digital official zoning map is the final and sole authority as to the zoning status of land within the zoning jurisdiction of the Town of Oak Ridge.

- ~~(b) *Map certification.* The official zoning map shall be identified by the signature of the mayor of the town, attested by the town clerk, and bear the seal of the jurisdiction, together with the effective date of the ordinance from which this article is derived.~~
- ~~(eb) *Map changes.* If changes are made in district boundaries or other matters portrayed on the official zoning map, such changes shall be entered on the official zoning map. The Planning Director shall authenticate the entry of each amendment to the official zoning map and shall maintain a record of the nature and date of entry of each amendment.~~
- ~~(ec) *Unauthorized changes.* No changes in zoning district boundaries shall be made on the official zoning map, except in conformance with the procedures set forth in this chapter. Any unauthorized change shall be considered a violation of this chapter.~~
- ~~(e) *Map location.* Regardless of the existence of purported copies of the official zoning map which may from time to time be made or published, the official zoning map, which shall be located in the planning department, shall be the final authority as to the current zoning of property within the jurisdiction.~~
- ~~(f) *Map damage and replacement.* 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 council may by resolution adopt a replacement official zoning map which shall supersede the prior official zoning map. Unless the prior official zoning map has been lost, or has been totally destroyed, the prior map or any significant remaining parts thereof, shall be preserved, together with all available records pertaining to its adoption or amendment.~~
- ~~(g) *Replacement of 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 correction shall have the effect of amending the original official zoning map; or any subsequent amendment thereof. The replacement official zoning map shall be identified by the signature of the mayor of the town, be attested by the town clerk, and bear the seal of the jurisdiction.~~
- ~~(hd) *Purpose of the RS-30 and MH overlay zoning districts within this article.* The RS-30 and MH overlay zoning districts are referenced in this article for the sole purpose of defining permitted uses and dimensional standards within the district for those areas identified as RS-30 or MH on the official zoning map. No property shall be rezoned to the RS-30 district or have the MH overlay district applied after the effective date of the ordinance from which this article is derived.~~

Sec. 30-168. - Powers and duties.

The planning and zoning board shall have the following powers and duties:

- (1) To hear and recommend to the town council matters in accordance with the terms of this chapter; to wit: zoning map amendments, ~~special use permits~~ and zoning vested rights;
- (2) To hear and recommend to the town council matters on appeal from the enforcement officer for soil erosion; to wit: subdivisions, site plans, and soil erosion plans;
- (3) To hear and recommend to the town council matters pertaining to road name changes, road closings, right-of-way vacations, easement removals, right-of-way encroachments, and watershed matters as assigned;
- (4) To provide recommendations to the town council with regard to any of the above matters which may be appealed; as well as those matters which remain with the town council as original jurisdiction such as text amendments and minor watershed modifications;

- (5) To develop a comprehensive plan for the territory under its jurisdiction, subject to specific direction from the town council;
- (6) To make such other studies and plans and review such other related matters as directed by the town council;
- (7) To review, approve, and/or recommend to the town council new or altered plans including: subdivisions, clustered or attached residential development, planned unit developments, office, commercial, and industrial developments, street and utility improvements, and any other proposals for development specified by this chapter and waivers authorized in division 8 of article VIII;
- (8) To make recommendations to the town council on all minor and major watershed modification requests; ~~and~~
- (9) To serve as the Town's Tree Board, and to hear and recommend to Town Council matters relating to trees including landscape plans and tree preservation plans, and to advise staff, other boards, and Town Council on maintaining and enhancing the Town's tree resources; and
- ~~(9)~~
- (10) To exercise any other power and authority provided to it by the town council, this chapter and state law.

(Ord. of 1-6-2000, § 9-2.3)

ARTICLE V. - ENFORCEMENT

Sec. 30-253. - Violations.

Any of the following shall be a violation of this chapter and shall be subject to the **civil** enforcement remedies and penalties provided by this article and by state law:

- (1) *Development without permit.* To engage in any development, use, construction, remodeling or other activity of any nature upon the land or improvements thereon subject to the jurisdiction of this chapter without all required permits, certificates or other forms of authorization as set forth in this chapter.
- (2) *Development inconsistent with permit.* To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.
- (3) *Violation by act or omission.* To violate, by act or omission, any term, variance or waiver, condition, or qualification placed by the town council or its agent boards upon any required permit, certificate or other form of authorization for the use, development or other activity upon land or improvements thereon.
- (4) *Use in violation.* To erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this chapter, or any other regulation made under the authority conferred thereby.
- (5) *Subdivide in violation.* To subdivide land in violation of this chapter or transfer or sell land by reference to, exhibition of, or any other use of a plat or map showing a subdivision of the land before the plat or map has been properly approved under this chapter and recorded in the office

of the register of deeds, except as permitted by G.S. 160A-375(b) regarding pre-sale contracts. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from violation of this chapter.

- (6) *Continue a violation.* Each day's violation of any provision of this chapter is a separate and distinct offense.

(Ord. of 1-6-2000, § 8-1; Ord. of 7-6-2006, § 8.1.5)

Sec. 30-254. - Enforcement intent.

- (a) *Questions.* It is the intention of this chapter, unless otherwise provided, that all questions arising in connection with the enforcement of this chapter shall be presented first to the enforcement officer and that such questions shall be presented to the board of adjustment only on appeal from the enforcement officer's decision. An appeal from the decision of the board of adjustment shall be by proceedings in the nature of certiorari to the superior court as provided by law.
- (b) *Town council.* It is further the intention of this chapter that the duties of the town council in connection with this chapter shall not include the hearing and passing upon disputed questions that may arise in connection with the enforcement thereof.

(Ord. of 1-6-2000, § 8-2)

Sec. 30-255. - Enforcement procedure.

When the enforcement officer or his agent finds a violation of this chapter, it shall be his duty to notify the owner and the occupant if different of the land, building, structure, sign, or use of the violation. The owner and the occupant if different shall immediately remedy the violation.

- (1) *Notice of violation.* If the owner or occupant if different of the land, building, sign, structure, or use in violation, fails to take prompt corrective action, the enforcement officer shall give the owner and occupant if different written notice, by regular and certified mail to his last known address, by personal service, or in accordance with law by posting notice of the violation conspicuously on the property stating:
- That the land, building, sign, structure, or use is in violation of this chapter;
 - The nature of the violation, and citation of the section of this chapter violated; and
 - The measures necessary to remedy the violation.
- (2) *Appeal.* Any owner or occupant if different who has received a notice of violation may appeal in writing the decision of the enforcement officer to the board of adjustment within 15 days following the date of receipt of the notice of violation. The board of adjustment shall hear the appeal within a reasonable time, and it may affirm, modify, or revoke the notice of violation subject to the provisions and procedures of section 30-197. In the absence of an appeal, the decision of the enforcement officer contained in the notice of violation shall be final.
- (3) *Order.* If, upon a hearing held pursuant to an appeal as prescribed in this section, the board of adjustment shall find that a violation of this chapter exists with respect to the land, building, sign, structure, or use, the board of adjustment shall make an order in writing to the owner and to the occupant if different, affirming the notice of violation and ordering compliance therewith. The order shall be served on the owner and on the occupant if different in accordance with the standards of subsection 30-392(b) and by a method prescribed in subsection 30-197(a)(5).
- (4) *Failure to comply with an order.* If the owner or occupant of a property fails to comply with a notice of violation from which no appeal has been taken, or an order of the board of adjustment affirming a notice of violation, the owner or occupant shall be subject to such civil remedies and penalties as may be provided for by state law and sections 30-256 and 30-257. If the owner or occupant, if

different, fails to comply with the remedies and penalties prescribed, the town shall enforce the order through an action in a court of competent jurisdiction.

(Ord. of 1-6-2000, § 8-3; Ord. No. O-2013-10, § 10, 9-5-2013)

Sec. 30-256. - Remedies.

Any one or all of the following procedures may be used to enforce the provisions of this chapter:

- (1) *Injunction.* Any violation of this chapter or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.
- (2) *Civil penalties.* Any person who violates any provisions of this chapter shall be subject to the assessment of a civil penalty under the procedures provided in section 30-257
- (3) *Denial of permit or certificate.* The enforcement officer may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this chapter or of a condition or qualification of a permit, certificate or other authorization previously granted.
- (4) *Conditional permit or temporary certificate.* The enforcement officer may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate governmental authority.
- (5) *Stop work orders.* Whenever a building, sign, or structure, or part thereof is being constructed, reconstructed, altered or repaired in violation of this chapter, the enforcement officer may order the work to be immediately stopped. The stop order shall be in writing and directed to the owner, occupant, or 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. Such action shall be in accordance with G.S. 160A-421, as applicable, or the state building code.
- (6) *Revocation of permits.* The enforcement officer may revoke and require the return of a permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; 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.
- ~~(7) *Criminal penalties.* Any violation of this chapter shall be a misdemeanor or infraction as provided by G.S. 14-4, subject to a maximum fine of \$500.00.~~
- (7) Violations of this chapter shall be noticed as civil matters and prosecuted using civil remedies only, and no such violation shall be a misdemeanor or infraction as provided by N. C. Gen. Stat. § 14-4."

(Ord. of 1-6-2000, § 8-4)

Sec. 30-257. - Civil penalties, assessment and procedures.

- (a) *Penalties.* Any person who violates any provisions of this chapter shall be subject to assessment of a civil penalty in the amount of \$25.00 for the first violation; \$50.00 for the second violation; \$100.00 for the third violation; and \$200.00 for the fourth and succeeding violations thereafter. Except that any penalties assessed under section 30-303 shall be stayed until all arrears are resolved.
- (b) *Notice.* No civil penalty shall be assessed until the person alleged to be in violation has been notified of the violation in accordance with subsection 30-255(1). If after receiving a notice of violation under subsection 30-255(1), the owner or other violator fails to take corrective action, a civil penalty may be imposed under this section in the form of a citation. The citation shall be served in the manner of a

notice of violation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within 15 days of the date of the notice.

- (c) *Responsible parties.* The owner or occupant of any land, building, structure, sign, or use of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, assists, directs, creates, or maintains any condition that is in violation of the requirements of this chapter may be held responsible for the violation and subject to the civil penalties and remedies herein provided.
- (d) *Continuing violation.* For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.
- (e) *Demand for payment.* The enforcement officer shall make written demand for payment upon the property owner or the person in violation, and shall set forth in detail a description of the violation for which the civil penalty has been imposed.
- (f) *Nonpayment.* If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to legal counsel for recovery of the civil penalty by institution of a civil action in the nature of debt in the appropriate division of the general court of justice. ~~institution of a civil action in the appropriate division of the general courts of justice for recovery of the civil penalty. Provided, however, if the civil penalty is not paid within the time prescribed, the enforcement officer may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to G.S. 14-4.~~

(Ord. of 1-6-2000, § 8-5)

Sec. 30-258. - Civil penalties, soil erosion and sedimentation control.

- (a) *General.* Any person who violates any provisions of article XI, or the act, or rules or orders adopted or issued pursuant to this chapter, or who initiates or continues a land disturbing activity for which an erosion and sedimentation control plan is required, or not in accordance with the terms, conditions, and provisions of an approved erosion and sedimentation control plan, shall be subject to a civil penalty. No civil penalty shall accrue in excess of \$500.00 per day, in addition to the penalty for failure to submit an erosion and sedimentation control plan as provided in subsection (e) of this section.
- (b) *Notice of violation.* No penalty shall be assessed until the person alleged to be in violation has been notified of the violation by registered or certified mail, return receipt requested, or other means reasonably calculated to give actual notice. The notice shall describe the violation with reasonable particularity, set forth the measures necessary to achieve compliance with the plan, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period will result in the assessment of a civil penalty or other enforcement action. If, after the allotted time period has expired, the violator has not completed corrective action, a civil penalty may be assessed from the date of receipt of the notice of violation. However, no time period for compliance need be given for failure to submit a soil erosion and sedimentation control plan for approval or for obstructing, hampering or interfering with an authorized representative while in the process of carrying out his official duties. Each day of continuing violation shall constitute a separate violation.
- (c) *Notice of assessment.* The enforcement officer shall determine the amount of the civil penalty to be assessed under this subsection, shall make written demand for payment upon the person in violation, and shall set forth in detail a description of the violation for which the penalty has been imposed. In determining the amount of the penalty the enforcement officer shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage. Notice of the assessment shall be by registered or certified mail or other means reasonably calculated to give actual notice. If payment is not received or equitable settlement reached within 30 days after demand for payment is made, the matter shall be referred to the town attorney for institution of a civil action in the appropriate division of

the general counts of justice for recovery of the penalty. Such civil actions must be filed within three years of the date the final decision was served on the violator.

- (d) *Specific civil penalties.* Civil penalties for specific violations of article XI shall be assessed as follows:
- (1) *Grading without permit:* \$500.00 per day for failure to secure a valid grading permit prior to conducting a land disturbing activity for which a soil erosion and sedimentation control plan is required.
 - (2) *Failure to protect:* \$500.00 per day for failure to take all reasonable measures to protect public property, or private property, including lakes and/or natural watercourses, from damage caused by land disturbing activities.
 - (3) *Failure to follow plan:* \$300.00 per day for failure to conduct a land disturbing activity in accordance with the provisions of an approved erosion and sedimentation control plan.
 - (4) *Failure to install devices:* \$500.00 per day for failure, when more than one acre is disturbed (\$250.00 per day when one acre or less is disturbed), to install erosion and sedimentation control devices sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract and prevent off-site sedimentation.
 - (5) *Failure to maintain measures:* \$300.00 per day for failure to maintain satisfactory erosion and sedimentation control measures, structures and/or devices on the site that are designed to provide protection from the calculated maximum peak rate of runoff from the ten-year storm or the 25-year storm in a high quality storm (HQW) zone.
 - (6) *Failure to maintain temporary measures:* \$250.00 per day for failure to maintain temporary erosion and sedimentation control measures and facilities during the development of the site.
 - (7) *Failure to maintain slopes:* \$250.00 per day for failure on graded slopes and fills to maintain an angle sufficient to retain vegetative cover or other adequate erosion and sedimentation control devices or structures.
 - (8) *Failure to cover slopes:* \$250.00 per day for failure within 30 days of completion of any phase of grading to plant or otherwise provide exposed, graded slopes or fills with ground cover, devices, or structures sufficient to restrain erosion.
 - (9) *Failure to plant cover:* \$250.00 per day for failure on a tract when more than one acre is disturbed, to plant or otherwise provide ground cover sufficient to restrain erosion within 30 working days or 120 calendar days, 15 working days or 60 calendar days in high quality water zones, whichever is the shorter, following completion of construction or development.
 - (10) *Failure to revise plan:* \$250.00 per day for failure to file an acceptable, revised erosion and sedimentation control plan after being notified of the need to do so.
 - (11) *Failure to maintain buffer:* \$250.00 per day for failure to retain a buffer zone of sufficient width along a lake or natural watercourse to confine visible siltation within the 25 percent of the buffer zone nearest the land disturbing activity.
 - (12) *Interference with official duties:* \$500.00 per day for obstructing, hampering, or interfering with any authorized agent of the jurisdiction or the sedimentation control commission while in the process of carrying out his official duties.
 - (13) *Failure to provide control:* \$250.00 per day for failure to install or maintain erosion control devices, or prevent off-site sedimentation on sites of land disturbing activity not requiring a grading permit and with disturbed area of less than one acre.
- (e) *Erosion and sedimentation control plan.* Any person who fails to submit an erosion and sedimentation control plan as required by this chapter shall be subject to a single, noncontinuing civil penalty of not more than \$1,000.00. Any person may be subject to additional civil penalties for violation of any other provision of this chapter or rules or orders adopted or issued pursuant to this chapter.

- (f) *Civil penalty use.* Civil penalties collected for erosion and sedimentation control violations shall be used or disbursed as directed by G.S. 113A-64(a).

(Ord. of 1-6-2000, § 8-6)

~~Sec. 30-259. - Criminal penalty, soil erosion and sedimentation control.~~

~~Any person who knowingly or willfully violates any soil erosion and sedimentation control provisions of this chapter, or rule or order adopted or issued pursuant to the soil erosion and sedimentation control provisions, or who knowingly or willfully initiates or continues a land disturbing activity for which an erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a misdemeanor punishable by imprisonment not to exceed 90 days, or by a fine not to exceed \$5,000, or both.~~

(Ord. of 1-6-2000, § 8-7)

Sec. 30-260. - Injunctive relief, soil erosion and sedimentation control.

Whenever the enforcement officer has reasonable cause to believe that any person is violating or threatening to violate this chapter or any rule or order adopted or issued pursuant to this chapter, or any term, condition, or provision of an approved soil erosion and sedimentation control plan the enforcement officer may, either before or after the institution of any other action or proceeding authorized by this chapter, institute a civil action in the name of the jurisdiction, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to such proceedings from any civil ~~or criminal~~ penalty prescribed for violations of this chapter.

(Ord. of 1-6-2000, § 8-8)

Sec. 30-261. - Other powers and actions.

- (a) *State and common law remedies* In addition to other **civil** enforcement provisions contained in this article, the town council may exercise any and all **civil** enforcement powers granted to it by state law or common law.
- (b) *Previous enforcement.* Nothing in this chapter shall prohibit the continuation of previous enforcement actions.

(Ord. of 1-6-2000, § 8-9)

Sec. 30-262. - Remedies cumulative and continuous.

- (a) *Cumulative violations.* All such remedies provided herein shall be cumulative. To the extent that state law may limit the availability of a particular remedy set forth herein for a certain violation or a part thereof, such remedy shall remain available for other violations or other parts of the same violation.
- (b) *Repeat violations.* If an owner or occupant repeats the same violation within a five year period from the date of the initial violation, it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies.

(Ord. of 1-6-2000, § 8-10)

Sec. 30-263. - Action by others.

- (a) *Adjacent or neighboring property.* In addition to the remedies of the local government hereunder, if any building or structure is erected, constructed, reconstructed, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter, any other appropriate authority or any adjacent, nearby or neighboring property owner who would be affected by such violation may

institute injunction, mandamus or other appropriate action or proceeding to prevent the occupancy of such building, structure or land, or the continuance of any construction whatsoever in violation of this chapter.

- (b) *Land purchaser.* In the event that a purchaser buys land for which there is a surety to secure performance of improvements, after a period of two years has passed since the date of final plat recordation, the purchaser may bring action to enforce completion of the improvements. In such a case, the purchaser may seek specific performance.

(Ord. of 1-6-2000, § 8-11)

Secs. 30-264—30-289. - Reserved.

Sec. 30-301. - Zoning map and text amendments.

(a) *General requirements.*

- (1) *Amendments and modifications.* Zoning regulations, restrictions, and zoning boundaries as shown on the official zoning map may from time to time be amended, supplemented, changed, modified or repealed according to the provisions of this chapter.
- (2) *Prior building permit approval.* Amendments, modifications, supplements, repeal or other changes in zoning regulations and zoning boundaries shall not be applicable or enforceable without the consent of the owner with regard to lots for which building permits have been issued, pursuant to state law, prior to the enactment of the ordinance from which this article is derived making the change or changes, so long as the permits remain valid and unexpired or not revoked.
- (3) *Authorized submission.* The town council, any local board, commission or department or any person who resides or owns property within the zoning jurisdiction of the town may petition for an amendment to this chapter.

(b) *Requirements for zoning map amendments.*

- (1) *General requirements.* Any person authorized to seek an ordinance amendment shall submit an application according to a form provided by the planning department, along with other required information pursuant to appendix B to this Code in cases where sketch plans or site plans are required.
- (2) *Residential rezoning requirements.* Prior to submitting a rezoning request to Rural Preservation District (RPD), or Residential (RS) Districts over ten acres, the applicant must complete the following:
 - a. An Environmental Inventory containing, at a minimum:
 1. Land within the 100-year flood zone;
 2. Wetlands and stream buffers;
 3. Slopes greater than 15%;
 4. Active pasture land;
 5. Farm house or "home place," farm structures, and other historic structures or archaeological areas;
 6. Wood post fences, stone rows, and treelines;

7. Farm roads;

8. Scenic vistas, including views of pasture/ open space, mature tree stands and/or specimen trees, woodlands, or historic structures and landscapes.

b. A site visit with the Planning Director

(staff note: the following sections will be renumbered accordingly)

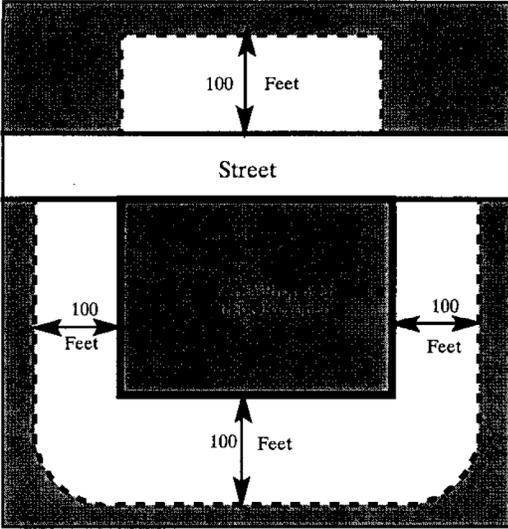
- (2) *Fee.* All fees shall be due and payable when the application is made according to the schedule of fees.
- (4) *Community outreach.* Prior to the scheduled Planning and Zoning Board hearing, the applicant shall conduct an outreach effort to neighbors who may have an interest in the proposed rezoning. Outreach may consist of one-on-one meetings, phone calls, letters, a community meeting, or any combination of the above or any additional outreach efforts to sufficiently gather public input prior to the public hearing.
- (3) *Filing of application.*
- a. No application for rezoning to the same district shall be filed within a one year period from the date of final action on the previous rezoning request other than a withdrawal, subject to the provisions of subsection (b)(6) of this section, prior to the public hearing on a given parcel of land or portion thereof unless the town council determines that evidence submitted to them merits consideration for a public hearing at their next meeting.
 - b. A second request for the same parcel of land or portion thereof for a different zoning district may occur within a one year period from final action on the initial request.
 - c. Under no circumstances may more than two zoning map amendments be filed for rezoning a given parcel of land or any portion thereof within any one year period.
- (4) *Notification.* The posting of signs, publishing of legal notices and other procedures as provided in article II shall be followed.
- (5) *Public hearing.* The planning and zoning board shall hold a public hearing on the application. The planning department shall present the application to the planning and zoning board, together with the planning department's recommendations, at the first regularly scheduled meeting following proper filing and notice of the application.
- (6) *Application withdrawal.*
- a. An application for amendment may be withdrawn by the applicant anytime before submission of the public notice to the newspaper announcing the public hearing.
 - b. After submission of such notice, an application may be withdrawn at the discretion of the planning and zoning board or town council at the public hearing.
 - c. No more than two withdrawals may occur on the same parcel of land or portion thereof within a one year period.
 - d. No application shall be filed on the same parcel of land or portion thereof within a one year period after the date of the second withdrawal.
- (7) *Continuance.* The planning and zoning board may continue a rezoning request for up to two months provided the reason for said continuance is stated in the motion to continue. Nothing in this section shall prohibit a continuance being granted for a greater period of time provided it is mutually agreed upon by all parties concerned. Upon failure of the planning and zoning board to act on a request immediately following all proper continuances, or if no action is taken, the petitioner may take the rezoning application to the town council without a recommendation from the planning and zoning board.
- (8) *Voting.*

- a. A majority vote from the planning and zoning board shall constitute a favorable recommendation of the application and shall be forwarded to the town council.
- b. Applications receiving less than a majority favorable vote or unfavorable from the planning and zoning board shall constitute an unfavorable recommendation of the application and shall be forwarded to the town council.
- c. Applications forwarded to the town council shall require a simple majority vote to be approved, ~~except as provided for in subsection (b)(9) of this section.~~
- d. All votes of the planning and zoning board on zoning map amendments shall be accompanied by a written recommendation to the town council, citing consistently with the town's adopted land use plan and any other officially adopted plan that is applicable. Comment by the planning and zoning board that a proposed amendment is inconsistent with the land use plan shall not preclude consideration or approval of the proposed amendment by the town council.
- e. All votes of the town council on zoning map amendments shall be accompanied by a written statement citing consistency with the town's adopted land use plan and any other adopted planning documents.
- f. A member of the planning and zoning board or the town council shall not vote on any zoning map amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

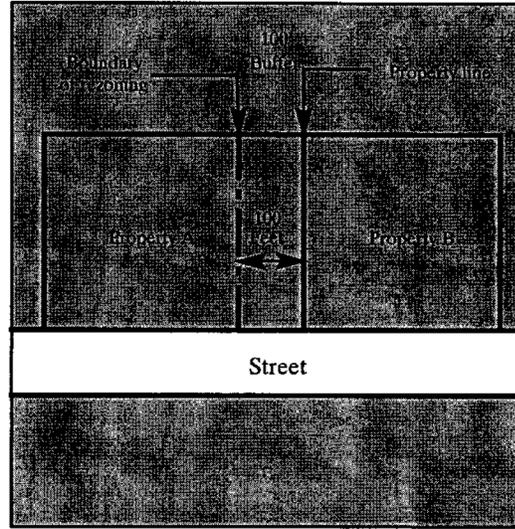
~~(9) *Protest petition.*~~

- a. ~~A landowner or neighboring property owner may file a protest petition with the planning and zoning board, which will review and validate the petition, and then submit the petition to the town council. Any proposed rezoning would then require a three-fourths favorable vote by the town council before a zoning amendment can be approved. Vacant seats and members who are recused from voting shall not be considered in calculation of the three-fourths majority.~~
- b. ~~The property owner or landowner of a qualifying area must file the petition in writing with the town clerk at least two days, excluding Saturdays, Sundays, and holidays, before the planning and zoning board's advertised public hearing on the proposed zoning change. Where an individual property owner is married, both husband and wife must sign the petition. A "qualifying area" is defined as:~~
 - 1. ~~Twenty percent of the property being rezoned; and/or~~
 - 2. ~~Five percent of a strip of land 100 feet wide adjacent to or across the street from the property. The 100-foot strip is measured from the property line of the parcel containing the area to be rezoned.~~
- c. ~~Protest petitions may not be filed for an amendment to an adopted special use permit or conditional use district if the amendment does not change the types of uses that are permitted within the district or increase the approved density for residential development, or increase the total approved size of nonresidential development, or reduce the size of any buffers or screening approved for the district.~~
- d. ~~Protest petitions can only be used to object to changes in existing zoning district boundaries.~~

FIGURE 3-A QUALIFYING AREA FOR PROTEST PETITIONS



Protest petitions may be filed by landowners being rezoned or by the owners of any one of the four sides shown above.



If a 100-foot buffer is left between the area rezoned (a portion of Property A) and Owner B's property line. Owner B has no right to file a protest petition.

(c) *Amendments to the flood zoning map.*

- (1) *Authorization to amend.* The location of any floodway zone or floodway fringe zone may be amended in cases where:
 - a. A flood control project of the federal, state, county or city government has substantially altered the flood hazard;
 - b. Flood data indicates that the boundaries or either of the zones as shown on the official flood zoning map are no longer correct;
 - c. A private individual, corporation, firm or governmental agency has submitted plans to the appropriate local authority, state agencies, and the Federal Emergency Management Agency for a channel improvement or relocation or a street or bridge which would affect the location of the existing zone boundaries as shown on the official flood zoning map. Any development activity requiring as a prerequisite an amendment to the official flood zoning map shall not be allowed until the amendment to the official flood zoning map is approved; or
 - d. Amendment approval is a prerequisite whenever the proposed development or proposed use combined with the allowable encroachment of the floodway fringe and with any previously placed or previously approved encroachment in the floodway will increase the base flood elevation by more than one foot. The increase in base flood elevation due to the allowable encroachment of the floodway fringe is listed in the floodway data table in the flood insurance study prepared by the Federal Emergency Management Agency (FEMA).
- (2) *Application process.* Application for an amendment to the official flood zoning map shall be processed in the same manner as an amendment to the official zoning map. The applicant shall be responsible for submitting the proposed amendment and supporting documentation to the Federal Emergency Management Agency (FEMA) for its approval. The application for flood zone map amendments shall be deemed incomplete if not accompanied by a letter of approval from FEMA.
- (3) *Conformance to state statutes.* The official flood zoning map and all amendments thereto shall be filed in accordance with G.S. 143-215.56(c).

(d) *Requirements for text amendments.*

- (1) *Submission of application.* Applications to amend the text of this chapter shall be submitted to the planning department.
 - (2) *Planning and zoning board procedure.* Applications for text amendments shall be processed, considered and voted upon in the same procedure as that required for zoning map amendments.
 - (3) *Planning and zoning board recommendation.* The planning and zoning board shall make a recommendation to the town council concerning the proposed text amendment.
 - (4) *Application approval.* The town council shall approve or disapprove the text amendment after receipt of the recommendation from the planning and zoning board.
 - (5) *Amendments to soil erosion and sedimentation control requirements.* The town shall incorporate revisions required by the commission within eight months following receipt of the required revisions. If standards and provisions of this chapter currently meet or exceed the required revisions, the commission shall be so notified within 90 days of their receipt.
 - (6) *Amendments to the watershed protection/stormwater management regulations.* Amendments to the watershed protection-stormwater management regulations found in this chapter shall be submitted to the division of water quality for necessary review and environmental management commission approval, when the state has statutory oversight, prior to adoption by town council. All amendments are effective upon adoption by the town council unless otherwise noted.
- (e) *Amendments to the designated water supply watershed maps.*
- (1) *Authorization to amend.* The water supply watershed maps may be amended in cases where:
 - a. A new water supply watershed is established;
 - b. A watershed critical area boundary is changed;
 - c. A watershed critical area tier line is shifted; or
 - d. A water supply watershed classification is changed.
 - (2) *Application process.* Applications for water supply watershed map amendments shall be processed in accordance with the same procedures used for zoning map amendments.

(Ord. of 1-6-2000, § 3-12; Ord. of 7-6-2006, § 3-12.2; Ord. of 8-2-2007, § 3-12.4(G); Ord. of 11-4-2010)

Sec. 30-302. - Conditional use districts and special use permits.

- (a) *Purpose of conditional use districts.* If the regulations and restrictions of a zoning district permitting a proposed use are inadequate to ensure the compatibility of the proposed development with the immediately surrounding neighborhood in accordance with the principles of this chapter and applicable adopted plans, the property owner may apply for rezoning to a conditional use district bearing the same designation as a standard zoning district but subject to additional conditions. The owner shall in such application specify the nature of the proposed development; and the owner or the town or its agencies shall propose conditions to ensure compatibility between the development and the surrounding neighborhood. Conditions shall be limited to those that address the conformance of the development and use of the site to this chapter and an officially adopted comprehensive plan and those that address the impacts reasonably expected to be generated by the development or use of the site. A statement analyzing the reasonableness of the proposed rezoning shall be prepared for each petition for a rezoning to a conditional use district. Specific conditions applicable to these districts may be proposed by the petitioner or the town and its agencies, but only those conditions mutually approved by the town and the petitioner may be incorporated into the zoning regulations.
- (b) *General requirements.*

- (1) *Conditional use district application.* A conditional use district application shall be considered only upon request by the property owner.
 - (2) *Other regulations apply.* Within a conditional use district, all standards and requirements of the corresponding zoning district shall be met, except to the extent that the conditions imposed are more restrictive than those standards.
 - (3) *Uses within district.* Within an approved conditional use district, no use shall be permitted except pursuant to the conditions imposed on the conditional use district in the approval of the rezoning.
 - (4) *Conditions.* The conditions imposed may limit the uses which are permitted on the property to some one or more uses otherwise permitted in the zone. Such conditions may further specify the location on the property of the proposed use, the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special-purpose areas, the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public purposes, and other such matters as the applicant may propose as conditions upon the request.
 - (5) *Noncompliance to district conditions.* Any violation of a condition included in the approval of a conditional use district shall be treated the same as any other violation of this chapter and shall be subject to the same remedies and penalties as any such violation. Any violation of such a condition shall be deemed to be the same type of violation as the use of a property for a use not permitted under the district regulations, for the reason that any use permitted in a conditional use district is permitted only subject to the specified conditions.
- (c) *Procedure.* Applications for conditional use districts shall be processed, considered, and voted upon in the same procedure as that required for zoning map amendments.
- (d) *Special use permits.*
- (1) *Approval procedure.* Applications for special use permits shall be processed in accordance with the procedures used for the review of applications for zoning map amendments, except that no Planning and Zoning Board public hearing shall be required. All evidence presented at the public hearing in regard to applications for special use permits shall be under oath. The chairman of the board or any member temporarily acting as chairman shall administer oaths to witnesses.
 - (2) *Conditions for approval.* An application for a special use permit shall be approved by the town council if and only if the town council finds that:
 - a. The proposed use is represented by an "S" in the column for the district in which it is located on the permitted use schedule in section 30-331
 - b. The proposed conditions meet or exceed the development standards found in article IX.
 - c. Either the use as proposed, or the use as proposed subject to such additional conditions as the owner or planning and zoning board may propose or the town council may impose, is consistent with the purposes of the district and compatible with surrounding uses.
 - d. The special use permit shall be granted when each of the following findings of fact has been made by the town council:
 1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted;
 2. That the use meets all required conditions and specifications;
 3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
 4. That the location and character of the use, if developed according to the plan submitted, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the jurisdiction and its environs.

- (3) *Greater restrictions.* In granting a special use permit, the town council may impose more restrictive requirements upon such permit as it may deem necessary in order that the purpose and intent of this chapter are served.
- (4) *Permit denial.* If the town council fails to make the findings required by subsection (b) of this section or makes other findings inconsistent with the required findings, then such proposed permit shall be denied.
- (5) *Permit applicability.* Any special use permit so authorized shall be perpetually binding upon the property included in such permit unless subsequently changed or amended through application for a new or amended special use permit or until a use otherwise permitted in the district is established.
- (6) *Compliance with approved permit.* No building or other subsequent permit or approval shall be issued for any development on property subject to a special use permit except in accordance with the terms of the permit and the district.
- (7) *Submission of site plans.* Site plans for any development made pursuant to any special use permit shall be submitted for review in the same manner as other development plans required by this chapter.
- (8) *Minor modifications.* In approving such site plans, the town council may make minor modifications to the requirements of such special use permit where such modification will result in equal or better performance and provided that the objective and purpose of the requirements and conditions of the special use permit are maintained.
- (9) *Amendment of permit.* The town council may change or amend any special use permit subject to the same consideration as provided for in this chapter for the original issuance of a special use permit.
- (10) *Timing of amendment proposal.* No proposal to change or amend any special use permit shall be considered within a one year period after the date of the original authorization of such permit or within a one year period after the hearing of any previous proposal to change or amend any such permit.
- (11) *Effect of invalidity.* If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, such special use permit shall be null and void and of no effect.
- (12) *Noncompliance with permit conditions.* If after receiving a notice of violation for violation of the terms or conditions of a special use permit, the owner fails to correct such violations within a reasonable time, then the special use permit may, after a hearing, be revoked by the town council. The town council shall revoke such permit on all or part of a development if it finds that there has been a violation that: was intentional; or continued for an unreasonable time after the owner had notice thereof; or was substantially inconsistent with the purposes of the district and continued for any time after the owner had notice thereof and the opportunity to cure. All of the other remedies of this chapter for a zoning violation shall apply to a violation of the terms of a special use permit. Civil ~~and/or criminal~~ penalties may accrue pending the correction of a violation of a special use permit, notwithstanding the fact that the owner may correct the violation within a reasonable time for purposes of the revocation provisions of this subsection.

(Ord. of 1-6-2000, § 3-13; Ord. of 7-6-2006, § 3-13.1)

DIVISION 1. - GENERALLY

Sec. 30-329. - Districts established.

In order to achieve the purposes of this chapter as set forth, all property within the jurisdiction of the town except property owned by the Piedmont Triad International Airport Authority, is divided into districts with the designations and purposes listed in section 30-330.

(Ord. of 1-6-2000, § 4-1)

Sec. 30-330. - District descriptions.

(a) *General use districts.*

- (1) *Agricultural.* The AG, agricultural district, is primarily intended to accommodate uses of an agricultural nature, including farm residences and farm tenant housing. It also accommodates scattered non-farm residences on large tracts of land. It is not intended for major residential subdivisions. The district is established for the following purposes:
 - a. To preserve and encourage the continued use of land for agricultural, forest and open space purposes;
 - b. To discourage scattered commercial and industrial land uses;
 - c. To concentrate urban development in and around area growth centers, thereby avoiding premature conversion of farmland to urban uses; and
 - d. To discourage any use which, because of its character, would create premature or extraordinary public infrastructure and service demands.
- (2) *Rural preservation, RPD rural preservation district.* The RPD, rural preservation district, is intended to accommodate rural developments designed to preserve rural character, significant man-made features, ~~and environmentally sensitive areas, and scenic views.~~ The district permits ~~conservation, open space, recreational, agricultural, and residential, and limited neighborhood business and office~~ uses that are part of a unified design.
- (3) *Single-family residential.* In the following districts the number refers to the minimum lot size in thousands of square feet.
 - a. *RS-40, residential single-family district.* The RS-40, residential single-family district is primarily intended to accommodate single-family detached dwellings on large lots in areas without access to public water and wastewater services. The district is established to promote single-family detached residences where environmental features, public service capacities or soil characteristics necessitate very low density single-family development. The overall gross density in RS-40 areas will typically be 1.0 unit per acre or less.
 - b. *RS-30, residential single-family district.* The RS-30, residential single-family district is primarily intended to accommodate low density single-family detached dwellings on large lots in areas without access to public water and wastewater services. The overall gross density in RS-30 areas will typically be 1.3 units per acre or less.
- ~~(4) *RM, residential multifamily district.* The RM, residential multifamily district is primarily intended to accommodate twin homes, townhouses, cluster housing and similar residential uses in areas without access to public water and wastewater services. The overall gross density in RM areas shall be limited to one unit per acre or less.~~
- (4) *TC-R, town core- residential district.* The TC-R, town core- residential district is primarily intended to accommodate single-family detached, single-family attached, twin-homes, townhouses, cluster

housing, and similar residential uses. The overall gross density in TC-R areas shall be limited to a maximum of two units per acre.

(5) *Office, commercial, and industrial.*

- a. *LO, limited office district.* The LO, limited office district is primarily intended to accommodate low intensity medical, professional, administrative and government office uses on small to mid-sized sites near residential areas.
- b. *GO-M, general office moderate intensity.* The GO-M, general office moderate intensity district is primarily intended to accommodate moderate intensity office and institutional uses, and supporting service and retail uses.
- c. *NB, neighborhood business district.* The NB, neighborhood business district is primarily intended to accommodate very low intensity office, retail and personal service uses within residential areas. The district is established to provide convenient locations for businesses which serve the needs of surrounding residents without disrupting the character of the neighborhood. It is not intended to accommodate retail uses which primarily attract passing motorists. Compatibility with nearby residences is reflected in design standards for both site layout and buildings.
- d. *LB, limited business district.* The LB, limited business district is primarily intended to accommodate moderate intensity shopping and services close to residential areas. The district is established to provide locations for businesses which serve nearby neighborhoods. The district is typically located near the intersection of collectors or thoroughfares in areas which are otherwise developed with residences.
- e. *GB, general business district.* The GB, general business district is primarily intended to accommodate a wide range of retail, service and office uses. The district is typically located along thoroughfares in areas which have developed with minimal front setbacks.
- f. *HB, highway business district.* The HB, highway business district is primarily intended to accommodate those retail service and distributive uses which are typically located along thoroughfares. The district is established to provide locations for establishments which require high visibility and good road access, or which cater primarily to passing motorists. Developments in this district generally have substantial front setbacks.
- g. *SC, shopping center district.* The SC, shopping center district is primarily intended to accommodate a wide range of high intensity retail and service developments meeting the shopping needs of the community and the region. The district is established on large sites to provide locations for major developments which contain multiple uses, shared parking and drives, coordinated signage and high-quality landscaping.
- h. *CP, corporate park district.* The CP, corporate park district is primarily intended to accommodate office, warehouse, research and development and assembly uses on large sites in a planned, campus-like setting compatible with adjacent residential uses. The district may also contain retail and service uses which customarily locate within planned employment centers.
- i. *LI, light industrial district.* The LI, light industrial district is primarily intended to accommodate limited manufacturing, wholesaling, warehousing, research and development and related commercial/service activities which, in their normal operations, have little or no adverse effect upon adjoining properties.
- j. *HI, heavy industrial district.* The HI, heavy industrial district is primarily intended to accommodate a wide range of assembling, fabricating and manufacturing activities. The district is established for the purpose of providing appropriate locations and development regulations for uses which may have significant environmental impacts or require special measures to ensure compatibility with adjoining properties.

(6) *Public and institutional, PI public and institutional district.* The PI, public and institutional district is intended to accommodate mid- and large-sized public, semipublic and institutional uses which have a substantial land use impact or traffic generation potential. It is not intended for smaller public and institutional uses customarily found within residential areas.

~~(7) *Rural preservation, RPD rural preservation district.* The RP, rural preservation district is intended to accommodate rural developments designed to preserve rural character, significant manmade features, and environmentally sensitive areas. The district permits open space, recreational, agricultural, residential, and limited neighborhood business and office uses that are part of a unified design.~~

(b) *Planned unit development districts.*

(1) *PD-R planned unit development, residential.* The PD-R district is intended to accommodate a variety of housing types developed on large tracts in accordance with a unified development plan. The PD-R district also accommodates neighborhood business and office uses which primarily serve nearby residents.

(2) *PD-M planned unit development, mixed.* The PD-M district is intended to accommodate residential, commercial and light industrial uses developed on large tracts in accordance with a unified development plan.

(c) *Conditional use districts.*

(1) *Districts established.* A conditional use district, bearing the designation CU, is hereby established as a companion district for every district established in this section. These districts are CU-AG, CU-RS-40, CU-RS-30, CU-TC-R, CU-LO, CU-GO-M, CU-NB, CU-LB, CU-GB, CU-HB, CU-SC, CU-CP, CU-LI, CU-HI, CU-PI, CU-PD-R, CU-PD-M and CU-RPD. All regulations which apply to a general use zoning district also apply to the companion conditional use district. All other regulations, which may be offered by the property owner and approved by the jurisdiction as part of the rezoning process, also apply.

(2) *Application.* The conditional use district classification will be considered only upon request of the property owner for rezoning.

(d) *Overlay districts.* Overlay districts establish certain area regulations which are in addition to the underlying general use, planned unit development or conditional use districts.

(1) *GWA, general watershed area district.* The GWA overlay district is intended to set forth regulations for the protection of public drinking water supplies and are applicable to all lands which drain toward such supplies and are outside of the WCA overlay district. These regulations are specified in divisions 2 and 3 of article X.

(2) *FH, flood hazard district.* The FH overlay district is intended to set forth regulations which will minimize the damage done by floods. These regulations are specified in article XII.

(3) *HD, historic district.* The HD overlay district is intended to set forth regulations which will help maintain the historic integrity of certain areas in the town. These regulations are specified in division 10 of article VII.

(4) *SR, scenic corridor district.* The SR overlay district is intended to set forth regulations which will enhance the attractiveness of major thoroughfares which enter and/or pass through the town. These regulations are specified in division 10 of article VII.

(5) *AR, airport district.* The AR overlay district is intended to prohibit the erection of structures which would, by virtue of their height, interfere with operations at Piedmont Triad International Airport. The district is also intended to keep residential densities near the airport very low so as to minimize the negative effects of aircraft noise on homes. Regulations for the AR overlay district are specified in division 10 of article VII.

(Ord. of 1-6-2000, § 4-2; Ord. of 5-6-2004, § 4-2.1)

Sec. 30-331. - Permitted uses.

(a) *Permitted use schedule.*

(1) *Tabulation of permitted uses.* Within each zoning district indicated on the official zoning map and subject to all requirements and conditions specified in this chapter, land, buildings, and structures shall only be used and buildings and structures shall only be erected which are intended or designed to be used for uses listed in the permitted use schedule below. In the appropriate columns of the permitted use schedule below, uses permitted by right in the various districts are indicated with a "P," uses requiring a special use permit are indicated by an "S," uses permitted by right subject to meeting additional development standards as set forth in article IX are indicated with a "D," and uses requiring a manufactured housing overlay zone are indicated with a "Z." The column on the far right labeled "LUC" indicates the land use classification of each use as it relates to planting yard requirements found in division 4 of article IX.

(2) *Formulation of permitted use schedule.*

- a. The Standard Industrial Classification Manual 1987 was utilized in the preparation of this table and shall be referred to as a guide for purposes of interpretation by the enforcement officer. SIC codes are used to refer to SIC classifications. Entries with 0000 in the Reference SIC column do not correspond to any classification in the SIC manual.
- b. When a use is not listed in the permitted use schedule below, the enforcement officer shall classify it with that use in the table most similar to it. The SIC manual shall serve as a guide in classifying any unlisted use. If the enforcement officer should determine that a use is not listed and is not similar to a use in the permitted use schedule below, than said use is prohibited.
- c. Rental and leasing of any commodity shall be permitted under the same classification and in the same districts as are sales of that commodity, unless rental or leasing of that commodity is listed separately in the permitted use schedule below.
- d. If an industrial plant or facility involves two (or more) manufacturing activities with different SIC codes on the same zone lot, the industrial plant shall be permitted only in those zoning districts where the more restricted activity is permitted. (For example, an industrial plant preparing canned peanuts and also manufacturing the cans is allowed in those zoning districts permitting can manufacturing.)

(b) *Mixed uses.* Two or more permitted uses may occupy the same principal building.

(c) *Prohibited uses.* Within certain overlay districts, some uses are prohibited, regardless of the uses permitted in the underlying zoning district. The following uses are prohibited in the overlay districts listed.

- (1) *Scenic corridor overlay district.* Class A, B, and C manufactured dwellings are prohibited in the scenic corridor overlay district. See section 30-591
- (2) *Airport overlay district.* Multifamily housing and single-family housing on lots less than 40,000 square feet are prohibited in the airport overlay district. See section 30-593
- (3) *Flood hazard area.* Storage or processing of materials that are flammable, corrosive, toxic or explosive, or which could otherwise be injurious to human, animal or plant life in time of flood shall be prohibited from the flood hazard areas. See section 30-1367(d)(2).

PERMITTED USE SCHEDULE

	ZONING DISTRICTS
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USE TYPE	Ref. S i C	A G	R S 4 0	R S 3 0	L O	R M TC- R	G O M	N B *	L B *	G B *	H B *	S C *	C P *	L I *	H I	P I	L U C
AGRICULTURAL USES																	
Agricultural production (crops)	0100	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	1
Agricultural production (livestock)	0200	P	D	D											D		1
Animal feeder/breeder	0210																1
Animal services (livestock)	0751	P												P	P		3
Animal services (other)	0752	P					D		D	D	D	D	D	P	P		3
Fish hatchery	0920	P												P	P		4
Forestry	0810	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	1
Horticultural specialities	0180	P									P			P	P		2
Veterinary service (livestock)	0741	P												P	P		3
Veterinary service (other)	0742	P					D		D	D	D	D	D	P	P		3
MINING USES																	
Mining and quarrying	1000																5
RESIDENTIAL USES																	
Boarding and rooming house, less than nine residents	7021	S			P												2

Subdivision, major - residential	0000	P	P	P	P		P												
Subdivision, minor - residential	0000	P	P	P	P	P	P												
Temporary shelter	0000																	P	2
Townhouse dwelling	0000					P													2
Two-family dwelling (twin home or duplex)	0000	P			P	P	P												1
ACCESSORY USES AND STRUCTURES																			
Accessory dwelling unit (manufactured dwelling)	0000	S	S	S	S	S	S												
Accessory dwelling unit (modular or meeting N.C. Residential Building Code)	0000	D	D	D	D	D	D												
Accessory uses and structures (customary)-see div. 2 of this article	0000	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Caretaker dwelling	0000	D			D	D	D	D	D	D	D	D	D	D	D	D	D	D	D
Emergency shelter	0000	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Home occupation (including renting of rooms)	0000	D	D	D		D	D	D											
Flying field, private	0000	D																D	D
Junked motor vehicle	0000	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D
Migrant labor housing	0000	D																	
Recycling collection point	0000	P			P		P	P	P	P	P	P	P	P	P	P	P	P	P

Rural family occupation	0000	S																	
Satellite dish/communication tower	0000	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D
Swimming pool	0000	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D
Yard sale (no more than three per year)	0000	P	P	P	P	P	P	P											
RECREATIONAL USES																			
Amusement or water parks, fairgrounds	7996											D			D				4
Athletic fields	0000	S	S	S	D		P	D	P	P	P	P	P	P	P	P	P	P	1
Auditorium, coliseum or stadium	0000										P	P		P	P				3
Batting cages	7999											D			D	D			3
Billiard parlors	7999								P	P	P	P							3
Bingogames	7999								P	P	P	P							3
Bowling center	7933									P	P	P		P					3
Club or lodge	8640	S	S	S	S		P	S	P	P	P	P	P	P				P	3
Coin-operated amusement	7993								P	P	P	P							3
Country club with golf course	7997	D	S	S			S				D	D		D	D		D	1	
Dance school	7911							P	P	P	P	P							3
Equestrian facility	7999	S	S															S	2
Fortune tellers, astrologers	7999								P	P	P								3
Go-cart raceway	7999										P			P	P				4

Golf course, miniature	7999									P	P	P	P							3
Golf course	7992	P	S	S								D		D	D		D			1
Golf driving range	7999	S										D			D	D				3
Martial arts instructional schools	7999									P	P	P	P							3
Paintball gaming facility (outdoor)	0000	S										D			D		S			3
Physical fitness center	7991							P		P	P	P	P	P	P					3
Private club or recreation facility, other	7997	S																		3
Public park	7990	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	1
Public recreation facility	7990	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	2
Shooting range, indoor	7999											D	D			D	D			3
Shooting range, outdoor	7999	S																	S	5
Skating rink	7999											P	P	P		P				3
Sport instructional schools	7999									P	P	P	P	D						P
Sports and recreation clubs, indoor	7997									P	P	P	P	P					P	3
Swim and tennis club	7997	D	S	S		S	D					D	D		D	D		D		3
EDUCATIONAL AND INSTITUTIONAL USES																				
Ambluance service	4119					P		P		P	P	P	P	P	P	P	P	P	P	3
Cemetery or mausoleum	0000	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	2
Church	8661	P	D	D	P	D	P	P	P	P	P	P	P	P	P	P	P	P	P	3

Retreat center	0000	S							P	P	P	P			P	3
School administration facility	9411			P		P	P	P	P	P	P	P	P	P	P	3
Specialty hospital	8069					P			P	P					P	3
BUSINESS, PROFESSIONAL AND PERSONAL SERVICES																
Accounting, auditing or bookkeeping	8721			P		P	P	P	P	P	P	P	P			3
Administrative or management services	8740			P		P	P	P	P	P	P	P	P			3
Advertising agency or representative	7310					P	P	P	P	P	P	P	P			3
Advertising, outdoor services	7312								D	D		P	P	P		4
Automobile rental or leasing	7510								P	P			P	P		4
Automobile repair services, major	0000								P	P			P	P		4
Automobile repair services, minor	0000								P	P	P		P	P		3
Automobile parking (commercial)	7521								P	P	P	P	P	P	S	3
Automotive towing and storage services	7549								D	D			D	D		3
Bank, savings and loan, or credit union	6000					D		P	P	P	P	D	P			3
Barbershop	7241					P	P	P	P	P	P	D	P			
Beauty shop	7431					P	P	P	P	P	P	D	P			3
Boat repair	3730								P	P			P	P		4
Building maintenance services	7349								P	P			P	P		3
Car wash	7542								D	D	D		P	P		4
Clothing alteration or repair	0000							P	P	P	P	P				3

Computer maintenance and repair	7378									P	P	P	P	P			3
Computer services	7370						P	P	P	P	P	P	P	P			3
Economic, sociological or educational research	8732			P			P	P	P	P	P	P	P	P			3
Employment agency, personnel agency	7360						P	P	P	P	P	P	P	P			3
Engineering, architect or survey service	8710			P			P	P	P	P	P	P	P	P	P		3
Equipment rental and leasing (no outside storage)	7350									P	P			P	P		3
Equipment rental and leasing (with outside storage)	7350													P	P		4
Equipment repair, heavy	7690														P		4
Equipment repair, light	7690									D	D			P	P		3
Finance or loan office (with drive-through)	6100						P		P	P	P	P	P	P			3
Finance or loan office (without drive-through)	6100			P			P		P	P	P	P	P	P			3
Funeral home or crematorium	7261						P			P	P					S	3
Furniture repair shop	7641									P	P			P	P		3
Hotel or motel	7011						S			P	P	P	P				3
Insurance agency (no on-site claims inspections)	6411			P			P	P	P	P	P	P	P	P			3
Insurance agency (carriers and on-site claims inspections)	6300						P		P	P	P	P	P	P			3

Kennels or pet grooming	0752	P					D		D	D	D	D	D	P	P		3
Landscape and horticultural Services	0780	S												P	P		4
Laundromat, coin-operated	7215							P	P	P	P	P					3
Laundry or dry cleaning plant	7211							P	D	P	P	D	P	P	P		3
Laundry or dry cleaning substation	7212							P	P	P	P	P	P	P			3
Law office	8111			P			P	P	P	P	P	P	P	P			3
Massage parlor, adult	7299									D							3
Medical, dental or related office	8000			P			P	P	P	P	P	P	P	P	P	P	3
Medical or dental laboratory	8071			P			P		P	P	P	P	P	P	P	P	3
Motion picture production	7810									P	P		P	P			3
Noncommercial research organization	8733			P			P	P	P	P	P	P	P	P			3
Office uses not otherwise classified	0000						P	P	P	P	P	P	P	P			3
Pest or termite control services	7342									P	P			P	P		3
Photocopying and duplicating services	7334						P	P	P	P	P	P	P	P			3
Photofinishing laboratory	7384									P	P	P	P	P			3
Photography, commercial	7335									P	P		P	P	P		3
Photograph studio	7221						P	P	P	P	P	P	P				3
Real estate office	6500			P			P	P	P	P	P	P	P	P			3
Recreational vehicle park or campsite	7033										D						4
Refrigerator or large appliance repair	7623									D	D			P	P		3

Rehabilitation or counseling services	8300				P		P	P	P	P	P	P	P	P	P	P	3
Research, development or testing services	8730												P	P	P		3
Septic tank services	7699														P		4
Shoe repair or shoeshine shop	7251							P	P	P	P	P	D				3
Stock, security or commodity broker	6200				P		P	P	P	P	P	P	P	P			3
Taxidermist	7699								P	P							3
Television, radio or electronics repair	7620								P	P	P		P				3
Theater, adult	0000								D								3
Theater (outdoor)	7833																3
Theater (indoor)	7832									P	P	P					3
Tire recapping	7534														P		4
Tourist home (bed and breakfast)	7011	S	S	S	S	D	D	D	P	P							2
Travel agency	4720				P		P	P	P	P	P	P	P	P			3
Truck driving school	8249									P				P	P		3
Truck and utility trailer rental and leasing, light	0000									P	P			P	P		4
Truck tractor and semi rental and leasing, heavy	0000													P	P		5
Truck washing	7542														P		5
Vocational, business or secretarial school	8240						P		P	P	P	P	P	P	P		3

Convenience store (with gasoline pumps)	5411										P	P	P	P	D	P	P	4	
Convenience store (without gasoline pumps)	5411										P	P	P	P	P	D	P	P	3
Dairy products store	5451										P	P	P	P	P				3
Department, variety or general merchandise	5300										P	P	P	P	P				3
Drugstore	5912										P	P	P	P	P	D			3
Fabric or piece goods store	5949										P	P	P	P	P	P			3
Floor covering, drapery or upholstery	5710												P	P	P		P		3
Florist	5992										P	P	P	P	P				3
Food store	5400										P	P	P	P	P				3
Fuel oil sales	5980																P	P	4
Furniture sales	5712										P	P	P	P	P				3
Garden center or retail nursery	5261												P	P	D		P		3
Gift or card shop	5947										P	P	P	P	P				3
Hardware store	5251										P	P	P	P	P				3
Hobby shop	5945										P	P	P	P	P				3
Home furnishings, miscellaneous	5719										P	P	P	P	P				3
Jewelry store	5944										P	P	P	P	P				3
Live entertainment business, adult	0000												D						3

Tire sales	5531									P	P	P		P			3
Tobacco store	5993							P	P	P	P	P					3
Truck stop	5541										D			P	P		4
Video tape rental and sales	7841							P	P	P	P	P					3
WHOLESALE TRADE																	
Agricultural chemicals, pesticides or fertilizers	5191	D													P		5
Agricultural products, other	5159	D												P	P		4
Ammunition	5099																4
Animals and animal products, other	5159	D													P		5
Apparel, piece goods and notions	5130									P	P		P	P	P		4
Beer, wine or distilled alcoholic beverages	5180												P	P	P		4
Books, periodicals and newspapers	5192									P	P		P	P	P		4
Chemicals and allied products	5169																5
Drugs and sundries	5122									P	P		P	P	P		4
Durable goods, other	5099									P	P		P	P	P		4
Electrical goods	5060									P	P		P	P	P		4
Farm supplies, other	5191	D												P	P		4
Flowers, nursery stock and florist supplies	5193	D								P	P		P	P	P		4

Forest products	5099	D											P	P		5
Furniture and home furnishings	5020							P	P				P	P	P	4
Grain and field beans	5153	D												P		5
Groceries and related products	5140							P	P				P	P	P	4
Hardware	5072							P	P				P	P	P	4
Jewelry, watches, precious stones and metals	5094							P	P				P	P	P	4
Livestock	5154	D												P		5
Lumber and other construction materials	5030															5
Lumber, millwork and veneer	5031												P	P	P	5
Machinery, construction and mining	5082															5
Machinery, equipment and supplies	5080												P	P	P	5
Machinery, farm and garden	5083													P		5
Market showroom (furniture, apparel etc.)	0000							D	D							3
Metals	5051												P	P	P	5
Minerals	5052															5
Motor vehicles	5012													P	P	4
Motor vehicles, parts and supplies	5010												P	P	P	4
Motor vehicles, tires and tubes	5014												P	P	P	4

Trucking or freight terminal	4213																P	P	5
Utility company office	0000						P			P	P	P	P	P	P				3
Utility equipment and storage yards	0000																P	P	5
Utility lines and related appurtenances	0000	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Utility service facility (no outside storage)	0000									P	P		S	P	P				4
Utility substation	0000	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	4
Warehouse (general storage, enclosed)	4220									D	D		P	P	P				4
Warehouse (self-storage)	4225									D	D			P	P				4
Water treatment plant	0000													P	P	P			4
Wireless communications facilities	0000	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D	D

MANUFACTURING AND INDUSTRIAL USES

Aircraft and parts	3720																		5
Ammunition, small arms	3482																		5
Animal feeds (including dog and cat)	2048																		5
Animal slaughter or rendering	0000																		5
Apparel and finished fabric products	2300													P	P	P			4
Arms and weapons	3480														P	P			4
Asbestos, abrasive and related products	3290																		5
Asphalt plant	2951																		5

Secs. 30-332—30-350. - Reserved.

DIVISION 2. - DIMENSIONAL REQUIREMENTS

Sec. 30-351. - Agricultural and single-family districts.

The dimensional requirements for agricultural and single-family districts are found in the table below.

AGRICULTURAL AND SINGLE-FAMILY DISTRICT
DIMENSIONAL REQUIREMENTS

	AG	RS-40	RS-30	RM TC-R ^a
Minimum Lot Size (ft. ²)	40,000	40,000	30,000	
Single-family detached				20,000 8,500
Twin home Two-family dwelling				40,000 17,500
Minimum Lot Development Size, Multifamily, twin home, townhouse dwelling, (ft. ²)				
First 3 dwelling units				60,000 26,500
Additional lot area per unit				20,000 9,000
Minimum Lot Width (ft.)				
Interior lot	150	150	100	50 80
Exterior lot	150	150	100	75 90

Minimum Street Frontage (ft.)	50	50	50	45
Local, subcollector, collector - front				20
Local, subcollector, collector - side				20
Minor thoroughfare, front				30
Major thoroughfare, side				50
Major thoroughfare, front				40
Minor thoroughfare, side				50
Minimum Street Setback (ft.) ^b				
Local, subcollector, collector - front	40/65	40/65	40/65	20
Local, subcollector, collector - side	40/65	40/65	20/45	20
Minor thoroughfare	45/80	45/80	45/80	30
Major thoroughfare	50/95	50/95	50/95	40
Minimum Interior Setbacks (ft.)				
Side yard	15	15	10	5
Front yard	30	30	30	15
Maximum Building Height (ft.) ^c	50	50	50	50
Adjacent to single-family zoning				35
Maximum Building Coverage (% of lot)	30	30	30	
Minimum Building Separation				20

Notes:

- a Overall density shall not exceed two dwelling units per acre.
 - b Setback from right-of-way line or property line/setback from street centerline, whichever is greater.
 - c No more than three full or partial stories entirely above grade.
1. A corner lot has two street setbacks. The setback of lower setback category shall be considered the side street. If both streets are of the same setback category, the property owner shall designate the side street for his lot.
 2. A through lot has two street setbacks but no rear setback.
 3. On a corner lot of record, the side street setback may be reduced, if necessary, to yield a buildable width equal to 60 percent of the lot width.
 4. For any lot of record, the street setback and the rear setback may be reduced, if necessary, to yield a buildable depth equal to 40 percent of the lot depth. The rear setback shall be reduced first, but not below 15 feet and the street setback shall not be reduced by greater than ten feet.

(Ord. of 1-6-2000, § 4-4.1; Ord. of 5-6-2004, table 4-4-1)

Sec. 30-352. - Dimensional requirements for permitted single-family district uses and two-family dwellings in the NB and LO districts.

Minimum lot size (ft ²)	40,000
All lots and structures must meet other requirements of	RS-40

DIVISION 9. - RURAL PRESERVATION DISTRICT

Sec. 30-559. - Applicability.

A development in the rural preservation district (RPD) shall be under unified ownership or control to be developed and improved as a whole under a unified development plan in accordance with the requirements of this chapter.

Sec. 30-560. - Minimum district size and uses allowed.

- (a) *Minimum size.* No RPD shall be approved for a site of less than ten contiguous acres under unified ownership or control.
- (b) *Uses allowed.* The uses allowed in a RPD are those allowed in any RS or RM residential district, the neighborhood business district (NB) and the limited office (LO) district.

Sec. 30-561. - Relationship to other applicable regulations.

Development in the RPD shall be subject to all of the applicable standards, procedures, and regulations of this chapter except as varied or changed by the express terms of this section.

Sec. 30-562. - Development standards.

(a) *Maximum number of lots/dwelling units.*

(1) *Base calculation.* The maximum number of lots/dwelling units shall be determined by calculating the gross acreage of the tract, excluding any street right-of-way, and rounding the result down. ~~as follows:~~

~~a. Calculate the gross acreage of the tract, excluding any existing street right of way;~~

~~b. Subtract three fourths of the area of any drainageways and/or open space; and~~

~~c. Multiply by one and round the result up.~~

(2) *Open space credit.* For every five acres designated as open space and placed under control of an owner's association, land conservancy/trust, or dedicated to the public as open space, in excess of the area required under subsection (m) of this section, one lot/dwelling unit may be added to maximum number allowed under subsection (a)(1) of this section.

~~(3) *Land trust/conservancy and public dedication credit.* For every five acres donated to a land conservancy/trust or dedicated to the public as open space, two lot/dwelling units may be added to maximum number allowed under subsection (a)(1) of this section and those credited under subsection (a)(2) of this section.~~

(b) *Single-family detached dwelling dimensional requirements.* The dimensional requirements for lots and dwellings shall at a minimum meet the following standards:

(1) Minimum lot size: ~~20,000~~ 15,000 square feet.

(2) Minimum width: Interior lot—~~50~~ 60 feet, corner lot—~~70~~ 75 feet.

(3) Minimum street frontage: ~~30~~ 40 feet.

(4) Minimum front local or collector street setback: 20 feet.

(5) Minimum front major or minor thoroughfare street setback: 40 feet.

(6) Minimum side local or collector street setback: ~~15~~ 20 feet.

(7) Minimum side major or minor thoroughfare street setback: 40 feet.

(8) Minimum interior setback: Side—~~5~~ 10 feet, rear—~~15~~ 20 feet.

~~(c) *Single-family attached.* The location and placement of all principal buildings shall meet the standards found in section 30-352~~

~~(d) *Nonresidential and recreational building and structure dimensional requirements.*~~

~~(1) The location and placement for all principal buildings and structures shall meet the standards found in section 30-353 for the NB or LB districts.~~

~~(2) No structure of any type which is in excess of 35 feet in height shall be erected within 50 feet of an existing single family zoning district.~~

(e) *Accessory building and structure dimensional requirements.* The location and placement of all accessory buildings and structures shall conform to the requirements of division 3 of article VII.

(f) *Access.*

- (1) Areas between structures shall be covered by easements where necessary to preserve access and to provide for maintenance and utility service;
- ~~(2) Primary vehicular access to commercial or office development shall not be through intervening residential development; and~~
- (3) No single-family detached lots shall have access to thoroughfares or scenic corridors unless the lot has a minimum street frontage and lot width of 300 feet and a minimum lot size of three acres.

~~(g) *Commercial areas.*~~

- ~~(1) Commercial areas within the RPD shall be arranged to:
 - a. Separate pedestrian and vehicular traffic such that pedestrians can safely walk between stores within a development and from parking areas to stores; and
 - b. Promote pedestrian access from adjacent residential and office areas into commercial areas.~~
- ~~(2) Commercial uses in the RPD shall be located on, shall face, and only have access to an internal local or collector street in the development;~~
- ~~(3) No more than ten percent of the total land area in the RPD may be occupied by or used for commercial purposes; and~~
- ~~(4) Commercial uses in the RPD are permitted if they are designed and located to serve primarily the residents of the development.~~

(h) *Street design.*

- (1) *Local streets.* Local streets within the development shall be located and designed to enhance the local street network and adopted thoroughfare/collector street plan and provide reasonable and efficient access and connections designed to reduce travel time within and through the development so that they do not provide for through access by traffic with origins and destinations outside of the development. Connections to existing public streets and rights-of-way are required. Connecting or through streets shall be public streets. Cul-de-sacs, dead-ends and other nonconnecting streets may be private streets.
- (2) *Collector and thoroughfare streets.* The planning and zoning board may require a collector or thoroughfare street through the development in response to anticipated traffic generated by the development and consistency with the thoroughfare plan. Collector and thoroughfare streets shall be public streets.
- (3) *Internal street network.* The internal street network shall be integrated as part of the pedestrian and bikeway trail network required in subsection (n) of this section.

(i) *Signs.*

- (1) The size, height, setback, location, design, illumination and number of signs shall be specified in the unified development plan.
- (2) All signs shall use a coordinated color, style and lettering scheme.
- (3) Street signs not installed by the jurisdiction must be approved by the town council and shall contain reflective lettering.

~~(j) *Parking.* Off street parking for each use in the development shall be provided in accordance with the standards set forth in this chapter for the same use or uses of similar intensity. The planning and zoning board may reduce the parking spaces if the unified development plan provides convenient pedestrian and/or bicycle access among uses.~~

(k) *Environmentally sensitive areas.* The development shall be designed to limit disturbance in the following areas:

- (1) Land within a floodway or floodway fringe the 100-year flood zone;
 - (2) Wetlands and stream buffers and steep slopes;
 - (3) Slopes greater than 15%;
 - ~~(3) Ground water recharge areas;~~
 - (4) Critical ecological areas including mature tree stands, wildlife habitats, and migration corridors, except for road crossings, utilities, erosion control and watershed protection devices, and recreational facilities.
- (l) *Rural character preservation areas.* The development shall incorporate and be designed to preserve the following areas:
- (1) Active pasture land;
 - (2) Farm house or "home place," farm structures, and other historical structure or archaeological areas;
 - (3) Wood post fences, stone rows and tree lines; ~~and~~
 - (4) Farm roads; ~~and~~
 - (5) Scenic vistas, including views of pasture/ open space, mature tree stands and/or specimen trees, woodlands, or historic structures and landscapes.

Areas identified to preserve rural character may be included as open space, under the provisions found in subsection (m) of this section, or included in a lot or lots provided that the areas or structures are identified on the sketch and unified development plan (and protect through zoning conditions). Farm roads should be used as driveway access to dwelling units or as street access into the development.

- (m) *Open space.* A minimum of 50 percent of the gross land area shall be open space. Open space should be designed to provide for maximum contiguity within and adjacent to the proposed development.
- (n) *Pedestrian and bikeway trail network.*
- (1) *Location and purpose.* The development shall provide a pedestrian/bikeway trail network throughout the development linking:
 - a. Residential areas to the open space, recreation facilities, and nonresidential areas within the development; and
 - b. The development to existing or proposed trails, greenways, and sidewalks, including those shown on the Future Land Use Plan or Pedestrian Plan. ~~an adopted land use plan, trails.~~
 - (2) *Design standards.* The trail network shall be contained within a public or private right-of-way a minimum of 20 feet in width. ~~The trail network shall consist of a public paved sidewalk or a private all-weather walkway.~~ All sidewalks, and all trails shown on the Future Land Use Plan or Pedestrian Plan shall be public, whereas all other trails may be public or private. The width of the travelway shall be a minimum of five feet. When the trail is adjacent to or parallel to a public or private street it shall be separated from the edge of pavement a minimum of six feet. The walkway may be located within a public street right-of-way subject to the approval of the jurisdiction maintaining the public street.
 - (3) *Maintenance.* Maintenance of the trail network shall be the responsibility of an owner's association for all trails located outside public street right-of-way, if or until such time as the jurisdiction assumes maintenance responsibilities. Trails located within public street right-of-way may be maintained by the jurisdiction ~~maintaining the public street~~, subject to the jurisdiction's approval. If the jurisdiction will not assume maintenance, the owner's association shall be responsible for maintenance.

- (o) *Utilities.* Water, sewer, electrical, gas, television and telephone utilities shall be installed in accordance with section 30-863

Sec. 30-563. - Procedures.

- (a) *Development preconference.* The applicant shall meet with the planning staff, preferably on site to discuss the over-all design of the development and identify the environmentally sensitive and rural character preservation areas that should be incorporated into the development plan prior to filing for rezoning.

- (b) *Rezoning process.*

- (1) Prior to submitting an application for rezoning to RPD the applicant shall submit a sketch plan prepared in accordance with appendix B to this Code, excluding individual lot layouts but including:
 - a. The general location and amount of land proposed for single-family residential, ~~multifamily residential, office, commercial, industrial~~, open space, recreational areas, and street use;
 - b. The overall gross density of the development and the specific density of each tract or area shown on the sketch plan. Residential density shall be shown in dwelling units/acre. ~~nonresidential intensity shall be shown in gross floor area (GFA)/acre;~~
 - c. The location of internal local streets that connect to existing streets or rights-of-ways or that provide future connections and general location of all collector and/or thoroughfare streets planned or required that will be part of the development;
 - d. The maximum height of buildings and structures in each such tract or area;
 - e. The location and amount of land in flood hazard areas and any other lands not suitable for development; and
 - f. Proposed watershed protection measures, including their general location, if the development is within a general watershed area.
- (2) The planning and zoning board shall review the sketch plan for consistency with the requirements of article VIII and other applicable standards in this chapter. The planning and zoning board, upon finding such consistency, shall approve the sketch plan for submission with a rezoning application. If the sketch plan is not approved for submission, it shall be returned to the applicant with written reasons for disapproval and/or requests for further information. If it is not approved, the applicant may revise and resubmit the sketch plan.
- (3) The rezoning application shall consist of the following materials:
 - a. A rezoning application prepared in accordance with article VII; and
 - b. The approved sketch plan.
- (4) Once submitted as required herein, the petition for rezoning shall proceed to conclusion in accordance with article VII and other provisions of this chapter. Approval of the rezoning establishes the maximum density and use of each tract or area shown on the sketch plan. Any request for changes in use on a tract or area or an increase in density shall be considered a change in zoning and shall be subject to all applicable procedures.

- (c) *Unified development plan approval.*

- (1) The applicant may submit a unified development plan any time after approval of the sketch plan by the planning and zoning board. A unified development plan may be processed simultaneously with the petition for rezoning.
- (2) The unified development plan shall contain the following materials:

- a. The approved sketch plan with proposed phase lines, if any;
 - b. Land use and density specified in subsection (a) of this section;
 - ~~c. Preliminary plats for the first phase of development including:

 - ~~1. Utilities plan in accordance with appendix B to this Code;~~
 - ~~2. Grading/watershed development plan in accordance with appendix B to this Code;~~
 - ~~3. Landscaping plan, if required, in accordance with appendix B to this Code;~~~~
 - d. Common sign plan in accordance with article IX; and
 - e. Documents which specify proposed setbacks or other regulations governing building placement on the land, height restrictions, architectural controls, and other information which the town council may deem pertinent to plan approval. The applicant may use district regulations provided by this section or may impose regulations specified in other zoning districts. In no case, shall the unified development plan leave any area proposed for development unregulated.
- (3) The ~~town council~~ **planning and zoning board** shall review the unified development plan and determine if it meets all applicable provisions of this chapter and is consistent with the sketch plan. If the unified development plan is approved, it shall be noted on the zoning map by project name and/or file reference number. After approval of a unified development plan, no building or structure may be erected or building permit issued, nor any lots sold, nor any plats recorded unless such building, structure, permit or plat substantially conforms to the unified development plan.
- (d) *Phasing of development.*
- (1) Development may occur in phases; provided, that the following requirements are met:
 - a. All phases shall be shown with precise boundaries on the unified development plan and shall be numbered in the expected order of development;
 - b. All data required for the project as a whole shall be given for each phase shown on the plan;
 - c. Development of the cumulative area of open space in all recorded phases and the total number of dwelling units approved in those phases shall comply with division 4 of article VII;
 - d. A proportionate share of the project's open space and common facilities shall be included in each phase of development; and
 - e. The phasing shall be consistent with the traffic circulation, drainage and utilities plans for the entire development.
 - (2) If an approved unified development plan includes phasing provisions, then:
 - a. No final plat for a phase of the development shall be approved unless all open space and common facilities included in previous phases are substantially complete; and
 - b. No final plat for a phase of a planned unit development shall be approved if there is any uncorrected violation of the unified development plan, a preliminary plat, a final plat or this article in any previous phase.
- (e) *Owner's association documents required.* After approval of a unified development plan, no final plat shall be recorded until the owner's association documents prepared in accordance with division 7 of article VIII are recorded with the register of deeds.

Secs. 30-564—30-589. - Reserved.

Sec. 30-799. - Assurance of completion of improvements.

Where the improvements required by this chapter have not been completed prior to the submission of the plat for final approval, such improvements shall be assured by the owner's filing of an approved ~~surety bond, certified check, or irrevocable letter of credit in an amount to be determined by the jurisdiction and for an approved period not to exceed two years.~~ surety bond issued by any company authorized to do business in this state, letter of credit issued by any financial institution licensed to do business in this state, or other form of guarantee that provides equivalent security to a surety bond or letter of credit. The amount of the performance guarantee shall be one hundred twenty-five percent (125%) of the reasonably estimated cost of completion at the time the performance guarantee is issued. The duration of the performance guarantee shall not exceed two years, unless the Town Council determines that a reasonable, good faith progress toward completion of the required improvements has been demonstrated by the developer, in which case an extension may be authorized or a new performance guarantee may be filed.

Sec. 30-996. - Penalties for destruction of existing vegetation.

Any trees preserved on a development tract in order to meet ordinance requirements or otherwise indicated to be preserved shall meet the standards of section 30-991. Damaging or destroying any tree preservation area that is indicated on any site plan, development plan, preliminary plat, final plat, major special use permit or minor special use permit shall constitute a violation of this chapter. However, damage or destruction of trees by an act of God shall not be subject to the provisions of this section.

- (1) Where any tree with a diameter greater than ten inches measured at a point four and one-half feet above the ground in an area indicated on approved plans to be preserved is damaged, destroyed or removed, such violation shall be penalized as follows:
 - a. A civil penalty in an amount equal to one and one-half times the monetary value of the trees damaged, destroyed or removed. For purposes of such determination the planning director or director's designee shall apply the most current standards of the council of tree and landscape appraisers or a similar method in common use; and
 - b. Trees shall be replaced by new trees of a similar species with at least a two and one-half-inch caliper and a cumulative total caliper at least greater than the original tree.
- (2) Where tree preservation areas are damaged, destroyed or removed and no documentation exists about previous tree cover, such violation shall be penalized as follows:
 - a. A civil penalty of \$2.00 per square foot of disturbed area, not to exceed \$40,000.00 per violation; and
 - b. Replacement vegetation shall be provided in accordance with the buffer landscaping standards of the town.

Any civil penalty must be paid and required replacement trees planted before a certificate of occupancy is issued. Enumeration of these penalties shall not be construed to prohibit the use of any other remedy authorized by ~~ordinance or law~~ this chapter.

(Ord. of 7-1-2004, § 6-3.12; Ord. of 6-4-2009)

Sec. 30-1298. - Violations.

Any of the following shall be a violation of this division and shall be subject to the ~~civil~~ enforcement remedies and penalties provided by this division and by state law.

- (1) *Development without permit.* To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the town of this chapter without all required permits, certificates, or other forms of authorization as set forth in this article.
- (2) *Development inconsistent with permit.* To engage in any development, use, construction remodeling or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other for of authorization granted for such activity.
- (3) *Violation by act or omission.* To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the town or its agent boards upon any required permit, certificate, or other form of authorization of the use, development, or other activity upon land or improvements thereon.
- (4) *Use in violation.* To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this division or any other regulation made under the authority conferred thereby.
- (5) *Continuing a violation.* To continue any of the above violations is a separate and distinct offense each day.

(Ord. of 2-3-2005, § 7-3.11)

Sec. 30-1300. - Remedies.

Any or all of the following procedures may be used to enforce the provisions of this chapter:

- (1) *Injunction.* Any violation of this division or of any condition, order, requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.
- (2) *Civil penalties.* Any person who violates any provision of this division shall be subject to the assessment of a civil penalty under the procedures provided in section 30-1299
- (3) *Denial of permit.* The town manager or his designee shall withhold or deny any permit, certificate, or other authorization on any land, building, structure, or use in which there is an uncorrected violation of a provision of this article, or of a condition or qualification of a permit, certificate, or other authorization previously granted.
- (4) *Conditional permit or temporary certificate.* The town manager or his designee may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by appropriate government authority.
- (5) *Revocation of permit.* The town manager or his designee may revoke and require the return of a permit or certificate by notifying the permit holder in writing, stating the reason for the revocation. Permits or certificates shall be revoked for any substantial departure from the approved application plans, or specifications; refusal or failure to comply with the requirements of state or local law; or for false statements or misrepresentations made in securing the permit or certificate. Any permit or certificate mistakenly issued in violation of any applicable state or local law may also be revoked.
- ~~(6) *Criminal penalties.* Any violation of this chapter shall be a misdemeanor or infraction as provided by G.S. 14-4. Each violation shall be subject to a fine not to exceed \$500.00.~~
- (7) *Notification of the state enforcement officials.*
 - a. *Industrial and related facilities.* When a town manager or his designee discovers an apparent violation of an industrial or related facility's NPDES stormwater discharge permit or that the facility is not operating pursuant to its stormwater pollution prevention plan, the county shall notify the appropriate state officials immediately.

- b. *Construction sites.* If the town manager or his designee discovers an apparent violation of the NPDES stormwater discharge permit required by the state for sites with land disturbing activity greater than one acre, or less if part of a larger project, he shall report the violation immediately to the appropriate state officials.
- c. *Abatement.* When the discharge from the facility interferes significantly with the receiving streams, and the facility fails to take appropriate actions upon notification by the county, the county may take immediate and appropriate measures to control the problem whether or not the facility is violating its NPDES permit and recover the cost from the facility.
- d. *Judicial enforcement.* When any person is in violation of the provisions of this division, the town manager or his designee, through the town attorney, may petition the superior court of justice for the issuance of a restraining order or a preliminary and permanent injunction, which restrains or compels the activities in question.

(Ord. of 2-3-2005, § 7-3.13)

APPENDIX D - DECISION AND APPEALS CHART

DECISION MAKERS

Decision On A...	Enforcement Officer	Historic Preservation Commission	Multi-jurisdictional Development Ordinance Committee	Planning & Zoning Board	Board of Adjustment	Town Council
Minor Subdivision Plat				R*	████	D
Minor Site Plan				R*	████	D
Major Subdivision Plat				R*	████	D
Major Site Plan				R*	████	D
Zoning Boundary (Rezoning)				R	████	D
Historic District Designation		R	████	R	████	D
Certificate of Appropriateness		D	□□□□	□□□□	D	

Floodplain Boundary	D	□□□□	□□□□	□□□□	D	
Floodplain Development Permit	D	□□□□	□□□□	□□□□	D	
Building, Sign, Use/Location Permit	D	□□□□	□□□□	□□□□	D	
Grading Permit	D	□□□□	□□□□	R*	████	D
Special Use Permit				R	████	D
Erosion and Sedimentation Control Plan	D	□□□□	□□□□	R*	████	D
Watershed Development Plan	D	□□□□	□□□□	R*	████	D
Development Ordinance Text Amendment			R	R	████	D
Historic District Text Amendment		R	R	R	████	D
Street Address	D	□□□□	□□□□	□□□□	D	
Street Name	D	□□□□	□□□□	R*	████	D
Enforcement Officer Decision	D	□□□□	□□□□	□□□□	D	
Enforcement Officer Interpretation	D	□□□□	□□□□	□□□□	D	
Zoning Variance					D	

Subdivision Waiver				R*	■■■■	D
Minor Watershed Variance				R*	■■■■	D
Major Watershed Variance				R*	■■■■	R#
Zoning Vested Right				R	■■■■	D
Land Use Plans				R	■■■■	D
Other Plans Not Specified				R	■■■■	D

Legend:

R = Recommendation Made & Forwarded.

■■■■ = Route of Recommendation.

D = Final Decision Made.

□□□□ = Route of Appeal.

* A unanimous vote by the planning and zoning board shall constitute final action unless appealed.

Authority to grant major modifications rests with the North Carolina Environmental Management Commission (EMC). The recommendations of the local Boards and Committees shall be forwarded to the EMC for Review.

(Ord. of 11-4-2010; Ord. of 8-2-2012)

FOOTNOTE(S):

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Editor's note— Printed herein is Appendix 4 to Ordinance of 1-6-2000, which ordinance is codified as chapter 30 of this Code. Amendments to the appendix are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original appendix. Obvious misspellings and punctuation errors have been corrected without notation. For stylistic purposes, headings and catchlines have been made uniform and the same system of capitalization, citation to state statutes and expression of numbers in text as appears in the Code of Ordinances has been used. Additions made for clarity are indicated by brackets.