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GENERAL PROVISIONS

§ 150.01 SCOPE OF CHAPTER.

(A) The provisions of this chapter and of the regulatory codes herein adopted shall apply to the following:

(1) The location, design, materials, equipment, construction, reconstruction, alteration, repair, maintenance, moving, demolition, removal, use, and occupancy of every building or structure or any appurtenances connected or attached to such building or structure.

(2) The installation, erection, alteration, repair, use, and maintenance of plumbing systems, consisting of house sewers, building drains, waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof.

(3) The installation, erection, alteration, repair, use, and maintenance of mechanical systems, consisting of heating, ventilating, air conditioning, and refrigeration systems, fuel burning equipment, and appurtenances thereof.

(4) The installation, erection, alteration, repair, use, and maintenance of electrical systems and appurtenances thereof.

(B) The adoption of this building code and the codes herein adopted by reference are in accordance with G.S.§ 143-138(e) making the regulatory codes herein adopted applicable to dwellings and

outbuildings used in connection therewith and to apartment buildings used exclusively as the residence of not more than two families.
('87 Code, § 150.01) (Ord. passed 12-2-74)

§ 150.02 NC STATE BUILDING CODE ADOPTED BY REFERENCE.

The most current edition of the North Carolina State Building Code, including the North Carolina Building Code, North Carolina Residential Code, North Carolina Fire Code, North Carolina Plumbing Code, North Carolina Mechanical Code, North Carolina Fuel and Gas Code, North Carolina Energy Conservation Code, North Carolina Administrative Codes and Policies, North Carolina Modular Construction Regulations North Carolina Existing Building Code, North Carolina Manufactured Home Code and all appendices therein, as adopted by the International Code Council and as adopted and amended by the North Carolina Building Code Council, is hereby adopted by reference as fully as though set forth herein as the Building Code of the town, to the extent such code is applicable for safe and stable design, methods of construction, minimum standards, and use of materials in buildings or structures erected, enlarged, altered, repaired, or otherwise constructed or reconstructed within the town and its extra-territorial jurisdiction.
('87 Code, § 150.02) (Ord. passed 12-2-74; Am. Ord. passed 8-1-11)

§ 150.03 NC ELECTRICAL CODE ADOPTED BY REFERENCE.

The most current edition of the North Carolina Electrical Code, (NFPA 70, National Electrical Code), and all appendices, as adopted by the North Carolina Building Code Council and as amended, is hereby adopted by reference as fully as though set forth herein as the Electrical Code for the town and its extra-territorial jurisdiction.
(Ord. passed 8-1-11)

§ 150.04 (RESERVED).

§ 150.05 (RESERVED).

§ 150.06 (RESERVED).

§ 150.07 AMENDMENTS TO CODES.

Amendments to the code adopted by reference in this chapter, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time such amendments are effective and enforceable in the state of North Carolina.
(Ord. passed 8-1-11)

§ 150.08 COMPLIANCE WITH CODES.

(A) All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished, or moved shall conform to the requirements, minimum standards, and other provisions of either the North Carolina State Building Code, General Construction Volume I or the North Carolina Uniform Residential Building Code, whichever is applicable, or of both if both are applicable.

(B) Every building or structure intended for human habitation, occupancy, or use shall have plumbing, plumbing systems, or plumbing fixtures installed, constructed, altered, extended, repaired, or reconstructed in accordance with the minimum standards, requirements, and other provisions of the North Carolina Plumbing Code (North Carolina State Building Code, Volume II, Plumbing).

(C) All mechanical systems consisting of heating, ventilating, air conditioning, and refrigeration systems, fuel burning equipment, and appurtenances shall be installed, erected, altered, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Heating Code (North Carolina State Building Code, Volume III, Heating).

(D) All electrical wiring, installations, and appurtenances shall be erected, altered, repaired, used, and maintained in accordance with the minimum standards, requirements, and other provisions of the North Carolina Electrical Code (North Carolina State Building Code, Volume IV, Electrical).
(‘87 Code, § 150.08) (Ord. passed 12-2-74) Penalty, see § 150.99

§ 150.09 COPIES OF CODE FILED WITH TOWN MANAGER.

An official copy of each regulatory code adopted in this subchapter, and official copies of all amendments thereto, shall be kept on file in the office of the Town Manager. Such copies shall be the official copies of the codes and the amendments.
('87 Code, § 150.09) (Ord. passed 12-2-74)

§ 150.10 REGISTRATION OF CONTRACTORS; BOND.

(A) Every person carrying on the business of building contractor, plumbing contractor, heating-air conditioning contractor, or electrical contractor within the town shall register at the office of the Inspection Department, giving his or her name and place of business.

(B) Every person required to register at the office of the Inspection Department under division (A) of this section shall also give a good and sufficient bond in the sum of $1,000 to be approved by the Town Attorney, conditioned upon faithful performance of duty in doing any work which he or she may have contracted to do, and shall indemnify the town against loss in any manner whatsoever for any unskilled or negligent work or conduct in the performance of the duties imposed by the provisions of this chapter or any regulatory code herein adopted, or any damage to any utility lines, streets, or sidewalks in the town, or for the use of defective or improper material in such work, or for any damage which may accrue to any person by reason of any default of the contract, or for the payment of any inspection or other fees required by this chapter.
('87 Code, § 150.10) (Ord. passed 12-2-74) Penalty, see § 150.99

PERMITS

§ 150.25 PERMITS REQUIRED; APPLICATION.

(A) *General regulations.*

(1) No person shall commence or proceed with the construction, reconstruction, alteration, repair, movement to another site, removal, or demolition of any building or structure; the installation, extension, or general repair of any plumbing system; the installation, extension, alteration, or general repair of any heating or cooling equipment system; or the installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment without first securing from the Inspection Department any and all permits required by the State Building Code, this section, and any other state or local laws applicable to the work.

(2) A permit shall be in writing and shall contain a provision that the work done shall comply with the State Building Code and all other applicable state and local laws. No permits shall be issued unless the plans and specifications are identified by the name and address of the author thereof, and if

state law requires that plans for certain types of work be prepared only by a registered architect or registered engineer, no permit shall be issued unless the plans and specifications bear the state seal of a registered architect or of a registered engineer. When any provision of state law or of any ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for the work shall be issued unless the work is to be performed by such a duly licensed contractor.

(3) No permit issued under G.S. §§ 143-136 through 143-143.2 or §§ 143-151.8 through 143-151.21 shall be required for any construction, installation, repair, replacement, or alteration costing $5,000 or less in any single-family residence or farm building unless the work involves: the addition, repair, or replacement of load bearing structures; the addition (excluding replacement of same size and capacity) or change in the design of plumbing; the addition, replacement, or change in the design of heating, air conditioning, or electrical wiring, devices, appliances, or equipment; the use of materials not permitted by the North Carolina Uniform Residential Building Code; or the addition (excluding replacement of like grade of fire resistance) of roofing. Violation of this section shall constitute a misdemeanor. (G.S. § 160A-417)

(B) *Plumbing permit*. No person shall commence or proceed with the installation, extension, or general repair of any plumbing system without a written permit therefor from the Plumbing Inspector. However, no permit shall be required for minor repairs or replacements on the house side of a trap to an installed system of plumbing if the repairs or replacements do not disrupt the original water supply or the waste or ventilating systems. Local Board of Health approval of property for septic tanks is required where a sewage system cannot be connected to the town sewer.

(C) *Heating-air conditioning permit*. No person shall commence or proceed with the installation, extension, alteration, or general repair of any heating or cooling equipment system without a written permit from the Heating-Air Conditioning Inspector. However, no permit shall be required for minor repairs, minor burner services, or filter replacements of warm air furnaces or cooling systems.

(D) *Electrical permit*. In accordance with G.S. § 143-143.2, no person shall commence or proceed with the installation, extension, alteration, or general repair of any electrical wiring, devices, appliances, or equipment without a written permit therefor from the Electrical Inspector. However, no permit shall be required for minor repair work such as the replacement of lamps or the connection of portable devices to suitable receptacles which have been permanently installed. Further, no permit shall be required for the installation, alteration, or repair of the electrical wiring, devices, appliances, and equipment installed by or for an electrical public utility corporation for the use of such corporation in the generation, transmission, distribution, or metering of electrical energy or for the use of such a corporation in the operation of signals or the transmission of intelligence.
('87 Code, § 150.20) (Ord. passed 12-2-74) Penalty, see § 150.99

§ 150.26 PLANS AND SPECIFICATIONS.

(A) Detailed plans and specifications shall accompany each application for a permit when the estimated total cost of the building or structure is in excess of $20,000 and for any other building or structure where plans and specifications are deemed necessary by the appropriate inspector in order for

him or her to determine whether the proposed work complies with the appropriate regulatory codes. Plans shall be drawn to scale with sufficient clarity to indicate the nature and extent of the work proposed, and the plans and specifications together shall contain information sufficient to indicate that the work proposed will conform to the provisions of this chapter and the appropriate regulatory codes. Where plans and specifications are required, a copy of the same shall be kept at the work until all authorized operations have been completed and approved by the appropriate inspector.

(B) Written application shall be made for all permits required by this chapter and shall be made on forms provided by the Inspection Department. The application shall be made by the owner of the building or structure affected or by his or her authorized agent or representative, and, in addition to such other information as may be required by the appropriate inspector to enable him or her to determine whether the permit applied for should be issued, the application shall show the following:

(1) Name, residence, and business address of owner.

(2) Name, residence, and business of authorized representative or agent, if any.

(3) Name and address of the contractor, if any, together with evidence that he or she has obtained a certificate from the appropriate state licensing board for such contractors, if this is required for the work involved in the permit for which application is made.

(C) In all cases of removal or demolition of a building or structure, a good and sufficient bond in the sum of $500 shall be posted by the property owner or by his or her contractor at the time of application for a permit to insure complete removal or demolition including all rubble and debris. Failure on the part of the property owner or his or her contractor to completely demolish, remove, and clear the premises after 30 days notice by the Building Inspector shall be cause for forfeiture of the bond. ('87 Code, § 150.21) (Ord. passed 12-2-74) Penalty, see § 150.99

§ 150.27 ISSUANCE; LIMITATIONS.

(A) *Issuance*. When proper application for a permit has been made and the appropriate inspector is satisfied that the application and the proposed work comply with the provisions of this chapter and the appropriate regulatory codes, he or she shall issue such permit, upon payment of the proper fee provided in § 150.28.

(B) *Limitations on issuance*.

(1) No building permit shall be issued for any building or structure, the estimated total cost of which is more than $20,000, unless the work is to be performed by a licensed general contractor.

(2) If state law requires that plans for certain types of work be prepared only by a registered architect or registered engineer, no building permit shall be issued for any building or structure, unless the plans and specifications bear the state seal of a registered architect or a registered engineer.

(3) Where any provision of state law, this chapter, or other ordinance requires that work be done by a licensed specialty contractor of any kind, no permit for such work shall be issued unless it is to be performed by such licensed specialty contractor.

(4) Where detailed plans and specifications are required under this chapter, no building permit shall be issued, unless such plans and specifications have been provided.
('87 Code, § 150.22) Penalty, see § 150.99

§ 150.28 FEES.

(A) Fees for permits shall be based upon the total estimated cost of the proposed work, including all subcontracts, if any, but in no case shall the total estimated cost be less than the market value of similar completed work in the town, as determined by the appropriate inspector.

(B) Permit fees shall be as follows:

(1) Building permit fees (see schedule of fees in the office of the Building Inspector).

(2) Plumbing permit fees (see schedule of fees in the office of the Plumbing Inspector).

(3) Heating-air conditioning permit fees (see schedule of fees in the office of the Heating-Air Conditioning Inspector).

(4) Electrical permit fees (see schedule of fees in the office of the Electrical Inspector).
('87 Code, § 150.23) (Ord. passed 12-2-74)

§ 150.29 TIME LIMITATIONS ON VALIDITY.

All permits issued under this chapter shall expire by limitation six months after the date of issuance if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit which has expired shall thereafter be performed until a new permit therefor has been secured.
(G.S. § 160A-418) ('87 Code, § 150.24) Penalty, see § 150.99

§ 150.30 CHANGES IN WORK AFTER ISSUANCE.

After a permit has been issued, no changes or deviations from the terms of the application plans and specifications or permit, except where changes or deviations are clearly permissible under the State Building Code, shall be made, until specific written approval of such changes or deviations has been obtained from the appropriate inspector.
(G.S. § 160A-419) ('87 Code, § 150.25) (Ord. passed 12-2-74) Penalty, see § 150.99

§ 150.31 REVOCATION.

The appropriate inspector may revoke and require the return of any permit by notifying the permit holder in writing, stating the reason for such revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with requirements of this chapter and the appropriate regulatory codes; or for false statements or misrepresentations made in securing such permits.
(G.S. § 160A-422) ('87 Code, § 150.26) (Ord. passed 12-2-74))

§ 150.32 COMPLIANCE WITH ZONING CODE.

(A) If the Inspection Department is charged with enforcement of the zoning code, then no permit for alteration, repair, or construction of any building or structure shall be issued unless the plans and specifications show that the building or structure, and its proposed use, will be in compliance with applicable provisions of the zoning code.

(B) If the Inspection Department is not charged with enforcement of the zoning code, then no permit for alteration, repair, or construction of any building or structure shall be issued until a zoning permit has first been issued by the appropriate official charged with enforcement of the zoning code.
('87 Code, § 150.27) (Ord. passed 12-2-74)

§ 150.33 PERMIT FOR REPLACEMENT AND DISPOSAL OF ROOFING MATERIALS.

(A) A permit shall be required for the removal and replacement of roofing if the cost of removing and replacing roofing exceeds $1,500.

(B) The application for the permit required in division (A) of this section shall state the disposal site for the replaced roofing, and the designated disposal site shall be included on the face of the permit.

(C) The permit shall be issued by the County Inspection Department in accordance with and be controlled by the provisions contained in G.S. Chapter 153A, Article 18, Part 4.

(D) The violation of this chapter shall be a misdemeanor punishable by a fine not to exceed $500 or imprisonment of not more than 30 days, or both fine and imprisonment.

(E) In addition to the criminal penalties provided herein, a County Building Inspector is hereby authorized to institute an appropriate action of proceeding to prevent, restrain, correct, or abate the violation of this section as well as issue stop orders as provided by G.S. § 153A-361.
(Ord. passed 11-1-93)

UNSAFE BUILDINGS

§ 150.45 INSPECTION; NOTICE TO OWNER TO CORRECT.

When the Inspector finds any defects in a building, finds that the building has not been constructed in accordance with the applicable state and local laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his or her duty to notify the owner or occupant of the building of its defects, hazardous conditions, or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions, or violations of law in the property he or she owns.
(G.S. § 160A-425) ('87 Code, § 150.35) Penalty, see § 150.99

§ 150.46 CONDEMNATION OF ESPECIALLY DANGEROUS BUILDINGS.

(A) Every building which shall appear to the Inspector to be especially dangerous to life because of its liability to fire or because of bad condition of walls, overloaded floors, defective construction, decay, unsafe wiring or heating system, inadequate means of egress, or other causes, shall be held to be unsafe, and the Inspector shall affix a notice of the dangerous character of the structure to a conspicuous place on the exterior wall of the building. (G.S. § 160A-426)

(B) If any person shall remove any notice that has been affixed to any building or structure by the Inspector that states the dangerous character of the building or structure, he or she shall be guilty of a misdemeanor. (G.S. § 160A-427)
('87 Code, § 150.36) Penalty, see § 150.99

§ 150.47 FAILURE OF OWNER.

(A) If the owner of a building or structure that has been condemned as unsafe pursuant to § 150.46(A) shall fail to take prompt corrective action, the Inspector shall give him or her written notice, by certified or registered mail to his or her last known address or by personal service:

(1) That the building or structure is in a condition that appears to constitute a fire or safety hazard or to be dangerous to life, health, or other property;

(2) That a hearing will be held before the Inspector at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the Inspector may issue such order to repair, close, vacate, or demolish the building or structure as appears appropriate.

(B) If the name or whereabouts of the owner cannot after due diligence be discovered, the notice shall be considered properly and adequately served if a copy thereof is posted on the outside of the building or structure in question at least ten days prior to the hearing and a notice of the hearing is published in a newspaper having general circulation in the town at least once not later than one week prior to the hearing. (G.S. §160A-428)

(C) If, upon a hearing held pursuant to the notice prescribed in divisions (A) and (B) above, the Inspector shall find that the building or structure is in a condition that constitutes a fire or safety hazard or renders it dangerous to life, health, or other property, he or she shall make an order in writing, directed to the owner of such building or structure, requiring the owner to remedy the defective conditions by repairing, closing, vacating, or demolishing the building or structure or taking other necessary steps, within a period, not less than 60 days, that the Inspector may prescribe. However, where the Inspector finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible. (G.S. § 160A-429)
('87 Code, § 150.37) Penalty, see § 150.99

§ 150.48 APPEAL BY OWNER.

Any owner who has received an order under § 150.47(C) may appeal from the order to the Town Council by giving notice of appeal in writing to the Inspector and to the Town Manager within ten days following issuance of the order. In the absence of an appeal, the order of the Inspector shall be final. The Town Council shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
(G.S. § 160A-430) ('87 Code, § 150.38)

§ 150.49 ENFORCEMENT PROCEDURES AGAINST OWNER.

If the owner of a building or structure fails to comply with an order issued pursuant to § 150.47(C) from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court.
(G.S. §160A-431) ('87 Code, § 150.39) Penalty, see § 150.99

PROPERTY NUMBERING SYSTEM

§ 150.60 ADOPTION OF NUMBERING MAP.

The property numbering map entitled "Property Numbering Map, Town of Haw River, Haw River, North Carolina" and dated July 1974, is hereby adopted as the official property numbering map of the town, and all property numbers assigned shall be assigned in accordance with this numbering map. No

other property numbers shall be used or displayed in the town except numbers assigned in accordance with the official numbering map which shall be kept on file in the office of the Town Manager.
('87 Code, § 154.01) (Ord. passed 8-5-74) Penalty, see § 10.99

§ 150.61 NUMBERING SYSTEM.

(A) On the property numbering map there shall be a designated north-south axis and an east-west axis; the north-south axis will be the Haw River, the east-west axis will be the U.S. Highway 70. All avenues, streets, and alleys running generally north and south shall be numbered from the east-west axis consecutively to the corporate limits or the extremity of the avenue, alley, or street. Avenues, streets, or alleys running generally east and west shall be numbered from the north-south axis in the same manner. Wherever possible, 100 numbers shall be allowed to each block so that the number of each consecutive block shall commence with consecutive hundreds and one.

(B) One whole number shall be assigned for every 50 feet of ground whether improved property or vacant lot on every street within the corporate limits except in the area designated on the property numbering map as the business area in which one whole number shall be assigned for every 25 feet of ground whether improved or not. Even numbers shall be assigned to the left side of the street and odd numbers to the right side going away from the axis toward the corporate limits.
('87 Code, § 154.02) (Ord. passed 8-5-74)

§ 150.62 DISPLAY OF NUMBERS.

Every owner of improved property shall purchase and display in a conspicuous place on his or her property the number assigned which shall be of a type approved by the Town Council.
('87 Code, § 154.03) (Ord. passed 8-5-74) Penalty, see § 10.99

§ 150.63 NUMBERS FOR FUTURE BUILDINGS.

All residence and business buildings erected after the adoption of this chapter shall be assigned a number in accordance with the property map, and the building owners shall purchase and display the number as provided in § 150.62.
('87 Code, § 154.04) (Ord. passed 8-5-74) Penalty, see § 10.99

§ 150.64 DEFACING OF NUMBERS.

It shall be unlawful for any person to alter, deface, or take down any number placed on any property in accordance with this chapter, except for repair or replacement of the number.
('87 Code, § 154.05) (Ord. passed 8-5-74) Penalty, see § 10.99

INSPECTION DEPARTMENT

§ 150.75 ORGANIZATION.

(A) The Inspection Department shall consist of a Building Inspector, a Plumbing Inspector, a Heating-Air Conditioning Inspector, an Electrical Inspector, and such other inspectors or deputy or assistant inspectors as may be authorized by the Town Council. The Town Council may, in its discretion, designate a Department Head.

(B) On and after the applicable date set forth in the schedule in G.S. § 160A-411, no town shall employ an inspector to enforce the State Building Code as a member of the town Inspection Department who does not have one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his or her qualifications to hold such position:

(1) A probationary certificate, valid for one year only;

(2) A standard certificate; or

(3) A limited certificate which shall be valid only as an authorization for him or her to continue in the position held on the date specified in G.S. § 143-151.13(c) and which shall become invalid if he or she does not successfully complete in-service training specified by the Qualification Board within the period specified in G.S. § 143-151.13(c).

(C) An inspector holding one of the above certificates can be promoted to a position requiring a higher level certificate only upon issuance by the Qualification Board of a standard certificate or probationary certificate appropriate for such new position.
(G.S. § 160A-411.1) ('87 Code, § 150.50)
Statutory reference:
Inspection Department, see G.S. § 160A-411

§ 150.76 DUTIES AND POWERS OF INSPECTORS.

(A) It shall be the duty of the Inspection Department to enforce all of the provisions of this chapter and of the regulatory codes adopted herein, and to make all inspections necessary to determine whether or not the provisions of this chapter and such codes are being met. The North Carolina State Building Code, Volume I, General Construction, and the North Carolina Uniform Residential Building Code shall be enforced by the Building Inspector. The North Carolina Plumbing Code shall be enforced by the Plumbing Inspector. The North Carolina Heating Code shall be enforced by the Heating-Air Conditioning Inspector. The North Carolina State Electrical Code shall be enforced by the Electrical Inspector.

(B) Other duties and responsibilities of the Inspection Department and of the inspectors therein shall be to enforce within the town state and local laws relating to: the construction of buildings and other

structures; the installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems; the maintenance of buildings and other structures in a safe, sanitary, and healthful condition; and other matters that may be specified by the Town Council. These duties shall include the receipt of applications for permits and the issuance or denial of permits, the making of any necessary inspections, the issuance or denial of certificates of compliance, the issuance of orders to correct violations, the bringing of judicial actions against actual or threatened violations, the keeping of adequate records, and any other actions that may be required in order adequately to enforce those laws. The Town Council shall have the authority to enact reasonable and appropriate provisions governing the enforcement of those laws.
(G.S. § 160A-412)

(C) Inspectors are also authorized, empowered, and directed to enforce all the provisions of this chapter and the regulatory codes herein adopted.

(D) Inspectors shall have the right of entry on any premises within the jurisdiction of the Inspection Department, at all reasonable hours, for the purpose of inspection or other enforcement action, upon presentation of proper credentials. (G.S. § 160A-420)

(E) Whenever any building or structure or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner or in substantial violation of any state or town building law, or in a manner that endangers life or property, the appropriate inspector may order the specific part of the work that is in violation or presents such a hazard to be immediately stopped. The stop order shall be in writing, directed to the person doing the work and shall state the specific work to be stopped, the specific reasons therefor, and the conditions under which the work may be resumed.

(1) The owner or builder may appeal from a stop order involving alleged violation of the State Building Code or any approved local modification thereof to the North Carolina Commissioner of Insurance or his designee within a period of five days after the order is issued. Notice of appeal shall be given in writing to the Commissioner of Insurance or his designee, with a copy to the Town Inspector. The Commissioner of Insurance or his designee shall promptly conduct a hearing at which the appellant and the Inspector shall be permitted to submit relevant evidence. The Commissioner of Insurance or his designee shall as expeditiously as possible provide a written statement of the decision setting forth the facts found, the decision reached, and the reasons for the decision. Pending the ruling by the Commissioner of Insurance or his designee on an appeal no further work shall take place in violation of a stop order. In the event of dissatisfaction with the decision, the person affected shall have the options of:

(a) Appealing to the Building Code Council; or

(b) Appealing to the Superior Court as provided in G.S. § 143-141.

(2) The owner or builder may appeal from a stop order involving alleged violation of a local zoning ordinance by giving notice of appeal in writing to the Board of Adjustment. The appeal shall be heard and decided within the period established by the ordinance, or if none is specified, within a reasonable time. No further work shall take place in violation of a stop order pending a ruling.

(3) Violation of a stop order shall constitute a Class 1 misdemeanor.
(G.S. § 160A-421) ('87 Code, § 150.51)
Statutory reference:
Duties and responsibilities, see G.S. § 160A-412
Failure to perform, see G.S. § 160A-416

§ 150.77 CONFLICTS OF INTEREST.

No member of the Inspection Department shall be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of any building within the town's jurisdiction or any part or system thereof, or in the making of plans or specifications therefor, unless he or she is the owner of such building. No member of the Inspection Department shall engage in any work which is inconsistent with his or her duties or with the interests of the town.
(G.S. § 160A-415) ('87 Code, § 150.52) Penalty, see § 150.99

§ 150.78 RECORDS AND REPORTS.

The Inspection Department shall keep complete and accurate records in convenient form of all applications received, permits issued, inspections and reinspections made, defects found, certificates of compliance granted, and all other work and activities of the Inspection Department. These records shall be kept in the manner and for the periods prescribed by the State Department of Cultural Resources. Periodic reports shall be submitted to the Town Council and to the State Commissioner of Insurance as they shall by ordinance, rule, or regulation require.
(G.S. § 160A-433) ('87 Code, § 150.53) Penalty, see § 150.99

§ 150.79 INSPECTION PROCEDURE.

(A) *Inspections of work in process.* The Inspection Department shall inspect all buildings and structures and work therein for which a permit of any kind has been issued as often as necessary in order to determine whether the work complies with this chapter and the appropriate codes. When deemed necessary by the appropriate inspector, materials and assemblies may be inspected at the point of manufacture or fabrication, or inspections may be made by approved and recognized inspection organizations. However, no approval shall be based upon reports of such organizations, unless the same are in writing and certified by a responsible officer of such organization. All holders of permits, or their agents, shall notify the Inspection Department and the appropriate inspector at each of the following stages of construction, so that approval may be given before work is continued:

(1) *Foundation inspection.* To be made after trenches are excavated and the necessary reinforcement and forms are in place and before concrete is placed. Drilled footings, piles, and similar types of foundations shall be inspected as installed.

(2) *Framing inspection*. To be made after all structural framing is in place and all roughing-in of plumbing and electrical and heating has been installed, after all fire blocking, chimneys, bracing and vents are installed, but before any of the structure is enclosed or covered. Poured-in-place concrete structural elements shall be inspected before each pour of any structural member.

(3) *Fireproofing inspection*. To be made after all areas required to be protected by fireproofing are lathed, but before the plastering or other fireproofing is applied.

(4) *Final inspection*. To be made after the building or structure has all doors hung and fixtures set and is ready for occupancy, but before the building is occupied.

(B) *Calls for inspection*. Request for inspections may be made to the office of the Inspection Department or to the appropriate inspector. The Inspection Department shall make inspections as soon as practicable after requests are made therefor, provided such work is ready for inspection at the time the request is made.

(1) Reinspections may be at the convenience of the Inspector. No work shall be inspected until it is in proper and completed condition ready for inspection. All work which has been concealed before the inspection and approval shall be uncovered at the request of the Inspector and placed in condition for proper inspection. Approval or rejection of the work shall be furnished by the appropriate inspector in the form of a notice posted on the building or given to the permit holder or his or her agent.

(2) Failure to call for inspections or proceeding without approval at each stage of construction shall be deemed a violation of this chapter.

(C) *Street or alley lines*. Where the applicant for a permit proposes to erect any building or structure on the line of any street, alley, or other public place, he or she shall secure a survey of the line of the street, alley, or other public place adjacent to the property upon which the building or structure is to be erected before proceeding with construction of the building or structure. It shall be the duty of the Building Inspector to see that the building does not encroach upon the street, alley, or other public place.

(D) *Certificates of compliance*. At the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection, and if he or she finds that the completed work complies with all applicable state and local laws and with the terms of the permit, he or she shall issue a certificate of compliance. No new building or part thereof may be occupied, no addition or enlargement of an existing building may be occupied, and no existing building that has been altered or moved may be occupied, until the Inspection Department has issued a certificate of compliance. A temporary certificate of compliance may be issued permitting occupancy for a stated period of specified portions of the building that the Inspector finds may safely be occupied prior to final completion of the entire building. Violation of this section shall constitute a misdemeanor. (G.S. § 160A-423)

(E) *Periodic inspections*. The Inspection Department shall make periodic inspections, subject to the Board of Commissioner's directions, for unsafe, unsanitary, or otherwise hazardous and unlawful conditions in structures within its territorial jurisdiction. In addition, it shall make inspections when it

has reason to believe that such conditions may exist in a particular structure. In exercising this power, members of the Department shall have a right to enter on any premises within the jurisdiction of the Department at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials. (G.S. § 160A-424)
('87 Code, § 150.54)
Statutory reference:
Inspection of work in process, see G.S. § 160A-420
Certificates of compliance, see G.S. § 160A-423

§ 150.80 VIOLATIONS OF REGULATIONS NOT LEGALIZED BY OVERSIGHT OF INSPECTOR.

No oversight or dereliction of duty on the part of any inspector or other official or employee of the Inspection Department shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code herein adopted.
('87 Code, § 150.55)

§ 150.81 RIGHT TO APPEAL.

Unless otherwise provided by law, appeals from any order, decision, or determination by a member of the Inspection Department pertaining to the State Building Code or other state building laws shall be taken to the Commissioner of Insurance or other official specified in G.S. § 143-139, by filing a written notice with him or her and with the Inspection Department within a period of ten days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law.
(G.S. § 160A-434) ('87 Code, § 150.97)

§ 150.99 PENALTY.

(A) Whoever violates any provision of this chapter shall be subject to a fine of not more than $50 or imprisonment for not more than 30 days. ('87 Code, § 150.99)

(B) Whenever any violation is denominated a misdemeanor under the provisions of this chapter, the town, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved. (G.S. § 160A-432) ('87 Code, § 150.98)

CHAPTER 151: MINIMUM HOUSING STANDARDS

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GENERAL PROVISIONS

§ 151.01 FINDING, PURPOSE.

(A) Pursuant to G.S. § 160A-441, it is hereby found and declared that there exist in the town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe or unsanitary and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the town.

(B) In order to protect the health, safety and welfare of the residents of the town as authorized by G.S. Chapter 160A, Article 19, Part 6, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160A-444.
(Ord. passed 9-2-97)

§ 151.02 DEFINITIONS.

(A) Whenever the words "dwelling, dwelling unit, rooming house, rooming unit or premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

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

BASEMENT. A portion of a building which is located partly underground, having direct access to light and air from windows located above the level of the adjoining ground.

CELLAR. A portion of a building located partly or wholly underground having an inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

DETERIORATED. A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

DILAPIDATED. A dwelling is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this chapter at a cost not in excess of 50% of its value, as determined by finding of the Inspector.

DWELLING. Any building, including mobile or modular homes, which is wholly or partly used or intended to be used for living or sleeping by human occupants; provided that temporary housing as hereinafter defined shall not be regarded as a ***DWELLING***.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

EXTERMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping or by other recognized and legal pest elimination methods approved by the Inspector.

GARBAGE. The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

HABITABLE ROOM. A room or enclosed floor space used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

INFESTATION. The presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

INSPECTOR. A Housing Inspector of the town or any agent of the ***INSPECTOR*** who is authorized by the ***INSPECTOR***.

MULTIPLE DWELLING. Any dwelling containing more than two dwelling units.

OCCUPANT. Any person over one year of age, living, sleeping, cooking or eating in, or having actual possession of a dwelling unit or rooming unit.

OPERATOR. Any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

OWNER. Any person who alone, jointly or severally with others:

(a) Shall have title to any dwelling or dwelling unit, with or without accompanying actual possession thereof or

(b) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the owner, or an executor, executrix, administrator, administratrix, trustee or guardian or the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter, and of rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

PLUMBING. Includes all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, mechanical garbage disposal units, mechanical sink grinder, waste

pipes, water closets, sinks, installed clothes washing machines, catch basin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. The town or any officer who is in charge of any department or branch of the government of the town or of Alamance County or the state of North Carolina relating to health, fire, building regulations or other activities concerning dwellings in the town.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

ROOMING HOUSE. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of the owner or operator.

RUBBISH. Combustible and noncombustible waste materials except garbage and ashes, and the term shall include paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

SUPPLIED. Paid for, furnished or provided by, or under the control of, the owner or operator.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

UNFIT FOR HUMAN HABITATION. Conditions exist in a dwelling which substantially violates or does not comply with the minimum standards of fitness or requirements established by this chapter.
(Ord. passed 9-2-97)

REGULATIONS

§ 151.15 DWELLINGS AND DWELLING UNITS.

Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with the minimum standards of fitness for human habitation and the requirements of §§ 151.20 through 151.22 of this chapter. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with the minimum standards of fitness for human habitation and the requirements of §§ 151.20 through 151.22 of this chapter.
(Ord. passed 9-2-97)

§ 151.16 STRUCTURAL CONDITION.

(A) Walls, partitions or supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, and shall not have holes or cracks which might admit rodents.

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(C) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(D) Steps, stairs, landings, porches, or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

(E) Adequate facilities for egress in case of fire or panic shall be provided.

(F) Interior walls and ceilings of all rooms, closets and hallways shall be finished of suitable materials, which will, by use of reasonable household methods, promote sanitation and cleanliness and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

(G) The roof flashing, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

(I) There shall be no use of the ground for floors or wood floors on the ground.

(J) Mobile homes shall be underpinned.
(Ord. passed 9-2-97)

§ 151.17 BASIC EQUIPMENT AND FACILITIES.

(A) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer or other approved sewage disposal system.

(2) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply.

(3) All required plumbing fixtures shall meet the standards of the North Carolina Plumbing Code and shall be maintained in a state of good repair and in good working order.

(4) All required plumbing fixtures shall be located within the dwelling unit and be accessible to the occupants of same. The water closet and tub and shower shall be located in a room or rooms affording privacy to the user.

(B) *Heating system.* Every dwelling and dwelling unit shall have facilities for providing heat in accordance with either subsection (1) or (2) below:

(1) *Central and electric heating systems.* Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling unit to which it is connected with a minimum temperature of 68°F measured at a point three feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, each dwelling and dwelling unit shall be provided with sufficient fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms with a minimum temperature of 68°F measured three feet above the floor during ordinary winter conditions.

(C) *Electrical system.*

(1) Every dwelling and dwelling unit shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wa11-type electric convenience receptacles, connected in such manner as determined by the State Electric Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wa11-type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wa11-type electric convenience receptacles.

(2) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural daylight is not sufficient.

(3) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed in accordance with the State Electrical Code.
(Ord. passed 9-2-97)

§ 151.18 VENTILATION.

(A) *General.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area measured between stops for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window or any room and such light obstructing structures are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face

directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window, in the top of such room, the total window area of such skylight shall equal at least 15% of the total floor area of such room where windows are not practical, a habitable room must be equipped with a mechanical ventilation system which affords air and ventilation.

(B) *Habitable rooms*. Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room shall be equal to at least 45% of the minimum window area size or minimum skylight-type window size as required, or shall have other approved, equivalent ventilation. (Ord. passed 9-2-97)

§ 151.19 SPACE, USE AND LOCATION.

(A) *Room sizes*. Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 30 square feet of floor area for each occupant under 12 years of age.

(B) *Ceiling height*. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet.

(C) *Floor area calculation*. Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling unit may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as part of the floor area computing the total area of the room to determine maximum permissible occupancy.

(D) *Cellar*. No cellar shall be used for living purposes.

(E) *Basements*. No basement shall be used for living purposes unless:

(1) The floor and walls are substantially watertight.

(2) The total window area, mechanical ventilation system, total openable window area and ceiling height are equal to those required for habitable rooms.

(3) The window area of every habitable room is entirely above the grade adjoining such window area, except where the window or windows face a stairwell, window well or accessway.

(F) Any dwelling must have a minimum of 850 square feet of floor area.
(Ord. passed 9-2-97)

§ 151.20 SAFE AND SANITARY MAINTENANCE.

(A) *Exterior foundation walls and roofs*. Every foundation wall, exterior wall and exterior roof shall be substantially weathertight and rodent proof; shall be kept in sound condition and good repair; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

(B) *Interior floors, walls and ceilings*. Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

(C) *Windows and doors*. Every window, exterior door, basement or cellar door and hatchway shall be substantially weathertight, watertight and rodent proof and shall be kept in sound working condition and good repair.

(D) *Stairs, porches and appurtenances*. Every outside and inside stair, porch and any appurtenance thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon and shall be kept in sound condition and good repair.

(E) *Bathroom floors*. Every bathroom floor surface and water closet compartment floor surface shall be kept in sound condition and good repair.

(F) *Supplied facilities*. Every supplied facility, piece of equipment or utility which is required under this chapter shall be so constructed or installed that it will function safely and effectively and shall be maintained in a satisfactory working condition.

(G) *Drainage*. Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(H) *Noxious weeds*. Every yard and all exterior property areas shall be kept substantially free of species of weeds or plant growth which are noxious or detrimental to health.

(I) *Egress*. Every dwelling unit shall be provided with adequate means of egress as required by the North Carolina State Building Code.
(Ord. passed 9-2-97)

§ 151.21 CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) *Screens*. In every dwelling unit, for protection against mosquitoes, flies and other insects, all outside windows used for ventilation purposes and doors opening to the outside shall be adequately screened from April 15 to October 15.

(B) *Rodent control*. Every basement or cellar window used or intended to be used for ventilation and every other opening to a basement which might provide an entry for rodents shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

(C) *Infestation*. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the only one infested. Whenever infestation is caused by failure of the owner to maintain a dwelling in a rodent proof or reasonably insect proof condition, extermination shall be the responsibility of the owner. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(D) *Rubbish storage and disposal*. Every dwelling and every dwelling unit shall be supplied with approved containers and covers for storage of rubbish as required by town ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.
(Ord. passed 9-2-97)

§ 151.22 ROOMING HOUSES AND GROUP QUARTERS.

All of the provisions of this chapter and all of the minimum standards and requirements of this chapter shall be applicable to rooming houses and group quarters and to every person who operates a rooming house, group quarter or who occupies or lets to another for occupancy any rooming unit in any rooming house or group quarters, except as provided in the following divisions of this section:

(A) *Water closet, hand lavatory and bath facilities*. At least one water closet, lavatory basin and bathtub or shower properly connected to an approved water and sewer system and in good working condition shall be supplied for each four rooms within a rooming house or group quarters wherever said facilities are shared. All such facilities shall be located within the residence building served and shall be directly accessible from a common hall or passageway and shall be not more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

(B) *Minimum floor area for sleeping purposes*. Every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant

12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(C) *Sanitary conditions*. The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings and for the sanitary maintenance of every other part of the rooming house; and he or she shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house or group quarter is contained is leased or occupied by the operator.

(D) *Sanitary facilities*. Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (A) of this section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms and which are accessible from a common hall and without going outside the rooming house or through any other room therein.
(Ord. passed 9-2-97)

§ 151.23 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

(A) *Public areas*. Every owner of a dwelling containing two or more dwelling units shall be responsible for maintaining in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

(B) *Cleanliness*. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which he or she occupies and controls.

(C) *Rubbish and garbage*. Every occupant of a dwelling and dwelling unit shall dispose of all his or her rubbish and garbage in a clean and sanitary manner by placing it in the supplied storage facilities. In all cases the owner shall be responsible for the availability of rubbish and garbage storage facilities.

(D) *Supplied plumbing fixtures*. Every occupant of a dwelling unit shall keep all supplied plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.

(E) *Care of facilities, equipment and structure*. No occupant shall willfully destroy, deface or impair any of the facilities or equipment or any part of the structure of a dwelling or dwelling unit.
(Ord. passed 9-2-97)

INSPECTIONS

§ 151.35 DUTIES OF HOUSING INSPECTOR.

(A) It shall be the duty of the Housing Inspector:

(1) To investigate the dwelling conditions and to inspect dwelling and dwelling units located in the town in order to determine which dwellings and dwelling units are unfit for human habitation and for the purpose of carrying out the objectives of this chapter with respect to such dwellings and dwelling units;

(2) To take such action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing which is deteriorated;

(3) To keep a record of the results of inspections made under this chapter and an inventory of those dwellings that do not meet the minimum standards of fitness herein prescribed and,

(4) To perform such other duties as may be herein prescribed.

(B) The Housing Inspector is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this chapter, including the following powers in addition to others herein granted:

(1) To investigate the dwelling conditions in the town in order to determine which dwellings therein are unfit for human habitation;

(2) To administer oaths and affirmations, examine witnesses and receive evidence;

(3) To enter upon premises for the purpose of making examinations and inspections; provided, such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; and,

(4) To appoint and fix the duties of such officers, agents and employees as he or she deems necessary to carry out the purposes of this chapter.
(Ord. passed 9-2-97)

§ 151.36 DUTY OF OWNERS AND OCCUPANTS.

For the purpose of making inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming units and premises. The owner or occupant of every dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the Inspector free access to such dwelling, dwelling unit or rooming unit and its premises at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a

dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of such dwelling or dwelling unit and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.
(Ord. passed 9-2-97)

§ 151.37 CERTIFICATE OF OCCUPANCY.

(A) (1) *Inspection of vacant units.*

(a) In order to comply with the purposes of this code, the Inspector is hereby directed and authorized to inspect all dwelling units as they become vacant or at such time as the occupancy of the unit is changed; and should he or she find violations, it shall be his or her duty to proceed as under the terms of this code.

(b) That in order to aid the Inspector in determining the vacancy of dwelling units, the Water Department of the town and the Duke Power Company will make available daily reports of requests for meter disconnections, removals and changes in the meter registration. That prior to the reconnecting, reinstallation or meter registration change, a certificate of occupancy must be first issued by the Inspector.

(c) That in such cases where the owner is not the occupant of the dwelling unit but where the water or electrical meter is registered in the owner's name, the owner or his or her agent shall notify the Inspector at such time as the dwelling unit shall become vacant and secure a certificate of occupancy before the dwelling unit is reoccupied.

(d) That in such cases where there are neither water nor light connections in the dwelling unit, the owner or his or her agent shall notify the Inspector at such time as the dwelling unit shall become vacant and secure a certificate of occupancy before the dwelling unit is reoccupied. The restrictions and certificates in this division (A)(1) apply to housing only.

(2) *Procedure for certificate of occupancy.*

(a) *Criteria for issuance.* In order to receive a certificate of occupancy, the owner or his or her authorized agent must show that his or her building and/or use is in compliance with the applicable codes and any other applicable laws.

(b) *Temporary certificate.* A temporary or limited certificate may be issued when the building is incomplete or compliance with minor requirements is delayed or for other reasons as long as safety to the occupants is secured. The time limit on the certificate will depend on individual circumstances.

(c) *Revocation.* The certificate may be revoked when:

1. Materially false information is given on the application.

2. Unsafe or unlawful conditions of building, occupancy or use resulting from:

a. Physical conditions of the building, premises, its systems or facilities.

b. Occupancy or use inconsistent with the building design and/or construction as required by the Building Code.

c. Violation of Zoning Ordinances.

3. The certificate has been issued in error.

4. Violations of Subdivision Ordinances.

5. Violations of Health Department laws.

(B) A certificate of occupancy issued by the Building Official is required in advance of:

(1) Occupancy or use of a building hereafter erected, altered or moved; or

(2) Change of use of any building or land.

(3) A certificate of occupancy, either for the whole or a part of a building, shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alteration of such building or part shall have been completed in conformity with the provisions of this chapter. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this chapter. If the certificate of occupancy is denied, the Building Official shall state in writing the reasons for refusal, and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the Town Hall.
(Ord. passed 9-2-97)

ADMINISTRATION AND ENFORCEMENT

§ 151.50 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice hearing*. Whenever a petition is filed with the Inspector by a public authority or by at least five residents of the town charging that any dwelling or dwelling unit is unfit for human habitation, or whenever it appears to the Inspector, upon inspection, that any dwelling or dwelling unit is unfit for human habitation, he or she shall, if his or her preliminary investigation disclose a basis for such charges and containing a notice that a hearing will be held before the Inspector

at a place therein fixed not less than ten nor more than 30 days after the serving of said complaint. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint. Notice of such hearing shall also be given to at least one of the persons signing a petition relating to such dwelling. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(B) *Procedure after hearing*. After such notice and hearing, the Inspector shall state in writing his or her determination whether such dwelling or dwelling unit is unfit for human habitation, and, if so, whether it is deteriorated or dilapidated. If the Inspector determines that the dwelling or dwelling unit is deteriorated, he or she shall state in writing his or her findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter within a specified period of time not to exceed 90 days. Such order may also direct and require the owner to vacate and close such dwelling or dwelling unit until such repairs, alterations and improvements have been made. If the Inspector determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support such determination and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve such dwelling or dwelling unit to comply with the minimum standards of fitness established by this chapter, or else vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(C) *Failure to comply with order*.

(1) *In personam remedy*. If the owner of any deteriorated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close the same within the time specified therein, or if the owner of a dilapidated dwelling or dwelling unit shall fail to comply with an order of the Inspector to repair, alter or improve or to vacate and close and remove or demolish the same within the time specified therein, the Inspector shall submit to the Town Council at its next regular meeting a resolution directing the Town Attorney to petition the superior court for an order directing such owner to comply with the order of the Inspector, as authorized by G.S. § 160A-446(g).

(2) *In rem remedy*. After failure of an owner of a deteriorated or dilapidated dwelling or dwelling unit to comply with an order of the Inspector within the time specified therein, if injunctive relief has not been sought or has not been granted as provided in subsection (1), the Inspector shall submit to the Town Council an ordinance ordering the Inspector to cause such dwelling or dwelling unit to be repaired, altered, improved, vacated, closed, removed or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to place a placard on such dwelling as provided by G.S. § 160A-443 and this section.

(D) *Appeals for orders of Inspector*. An appeal from any decision or order of the Inspector may be taken by any person aggrieved thereby. Any appeal from the Inspector shall be taken within ten days from the rendering of the decision or service of the order and shall be taken by filing with the Inspector

and with the Town of Haw River Board of Adjustment a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When appeal is from a decision of the Inspector refusing to allow the person aggrieved thereby to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Inspector certifies to the Board, after the notice of appeal is filed with him or her that by reason of the facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her requirement would cause imminent peril to life or property, in which case the requirement shall not be suspended except by a restraining order which may be granted for due cause shown upon not less than one days written notice to the Inspector, by the Board, or by a court of record upon petition made pursuant to G.S. § 160A-446(f) and division (D) of this section. The Board shall fix a reasonable time for the hearing of all appeals, shall give due notice to all the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make such decision or order appealed from, and may make such decision and order as in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Inspector, but the concurring vote of five members of the Board shall be necessary to reverse or modify decision or order of the Inspector. The Board shall have power also in passing upon appeals, in any case where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured and substantial justice done. Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(E) *Petition to Superior Court by owner*. Any person aggrieved by an order issued by the Inspector or a decision rendered by the Board shall have the right, within 30 days after issuance of the order or rendering of the decision, to petition the Superior Court for a temporary injunction restraining the Inspector pending a final disposition of the cause, as provided by G.S. § 160-446(f).
(Ord. passed 9-2-97)

§ 151.51 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

Complaints or orders issued by the Inspector shall be served upon persons either personally or by registered or certified mail, but if the whereabouts of such persons are unknown and the same cannot be ascertained by the Inspector in the exercise of reasonable diligence, the Inspector shall make an affidavit to that effect, and the serving of such complaint or order upon such person may be made by publishing the name once each week for two successive weeks in a newspaper circulating in the town. Where service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected by the complaint or order.
(Ord. passed 9-2-97)

§ 151.52 IN REM ACTION BY INSPECTOR; PLACARDING.

(A) After failure of an owner of a dwelling or dwelling unit to comply with an order of the Inspector issued pursuant to the provisions of this chapter, and upon adoption by the Town Council of an ordinance authorizing and directing him or her to do so as provided by G.S. § 160A-443 (5) and § 151.50(C)(2) of this chapter, the Inspector shall proceed to cause such dwelling or dwelling unit to be repaired, altered or improved to comply with the minimum standards of fitness established by this chapter, or to be vacated and closed and removed or demolished, as directed by the ordinance of the Town Council and shall cause to be posted on the main entrance of such dwelling or dwelling unit a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a misdemeanor.

(B) Each such ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property is located and shall be indexed in the name of the property owner in the grantor index, as provided by G.S. § 160A-443 (5).
(Ord. passed 9-2-97)

§ 151.53 COSTS, LIEN ON PREMISES.

As provided by G.S. § 160A-443(6), the amount of the cost of any repairs, alterations or improvements, or vacating and closing, or removal or demolition, caused to be made or done by the Inspector pursuant to § 151.52 of this chapter shall be a lien against the real property upon which such cost was incurred. Such lien shall be filed, have the same priority, and be enforced and the costs collected as provided by G.S. Chapter 160A, Article 10.
(Ord. passed 9-2-97)

§ 151.54 ALTERNATIVE REMEDIES.

Neither this chapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this chapter by criminal process as authorized by G.S.§ 14-4 and § 151.56 of this chapter and the enforcement of any other remedy or remedies provided herein or in other ordinances or laws.
(Ord. passed 9-2-97)

§ 151.55 CONFLICTS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the town, the provision which established the higher

standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the town shall prevail.
(Ord. passed 9-2-97)

§ 151.56 VIOLATIONS.

(A) It shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any dwelling or dwelling unit, with respect to which an order has been issued pursuant to section of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

(B) The violation of any provision of this chapter shall constitute a misdemeanor, as provided by G.S. § 14-4.
(Ord. passed 9-2-97)

CHAPTER 152: FLOOD DAMAGE PREVENTION

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GENERAL PROVISIONS

§ 152.01 STATUTORY AUTHORIZATION.

The legislature of the state has in G.S. Ch. 143, Art. 21, Part 6; Ch. 160A, Art. 19, Parts 3, 5, and 8; and Ch. 160A, Art. 8, delegated to local government the responsibility units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Town Council does ordain this chapter.
(Ord. passed 8-7-06)

§ 152.02 FINDINGS OF FACT.

(A) The flood-prone areas within the jurisdiction of the town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood-prone areas of uses vulnerable to floods or other hazards.
(Ord. passed 8-7-06)

§ 152.03 STATEMENT OF PURPOSE.

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

(A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert floodwaters or which may increase flood hazards to other lands.
(Ord. passed 8-7-06)

§ 152.04 OBJECTIVES.

The objectives of this chapter are:

(A) To protect human life and health;

(B) To minimize expenditure of public money for costly flood control projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business losses and interruptions;

(E) To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges that are located in flood-prone areas;

(F) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas; and

(G) To ensure that potential buyers are aware that property is in a special flood hazard area.
(Ord. passed 8-7-06)

§ 152.05 DEFINITIONS.

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

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

ADDITION (TO AN EXISTING BUILDING). An extension or increase in the floor area or height of a building or structure.

APPEAL. A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter.

AREA OF SHALLOW FLOODING. A designated AO Zone on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one to three feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. See ***SPECIAL FLOOD HAZARD AREA (SFHA)***.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE). A determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal or state or other source using FEMA-approved engineering methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.

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

BUILDING. See ***STRUCTURE***.

CHEMICAL STORAGE FACILITY. A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

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

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

ELEVATED BUILDING. A nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

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

EXISTING MANUFACTURED HOME PARK or ***MANUFACTURED HOME SUBDIVISION.*** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities,

the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the community.

FLOOD or ***FLOODING.*** A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation of runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as Zone A.

FLOOD INSURANCE. The insurance coverage provided under the national flood insurance program.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

FLOOD INSURANCE STUDY (FIS). An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The ***FLOOD INSURANCE STUDY*** report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

FLOOD-PRONE AREA. See ***FLOODPLAIN***.

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

FLOOD ZONE. A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

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

FLOODPLAIN ADMINISTRATOR. The individual appointed to administer and enforce the floodplain management regulations.

FLOODPLAIN DEVELOPMENT PERMIT. Any type of permit that is required in conformance with the provisions of this chapter, prior to the commencement of any development activity.

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

FLOODPLAIN MANAGEMENT REGULATIONS. This chapter and other zoning ordinances, subdivision regulations, building code, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

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

FREEBOARD. The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater that the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The base flood elevation plus the freeboard establishes the regulatory flood protection elevation.

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

HAZARDOUS WASTE FACILITY. As defined in G.S. Ch. 130A, Art. 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

HIGHEST ADJACENT GRADE (HAG). The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HISTORIC STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of the Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a local inventory of historic landmarks in communities with a certified local government (CLG) program; or

(4) Certified as contributing to the historical significance of a historic district designated by a community with a certified local government (CLG) program.

Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

LOWEST ADJACENT GRADE (LAG). The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

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

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

MANUFACTURED HOME PARK OR SUBDIVISION. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

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

MEAN SEA LEVEL. For purposes of this chapter, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

NEW CONSTRUCTION. Structures for which the start of construction commenced on or after the effective date of the original version of this chapter and includes any subsequent improvements to such structures.

NON-ENCROACHMENT AREA. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the flood insurance study report.

POST-FIRM. Construction or other development for which the start of construction occurred on or after the effective date of the initial flood insurance rate map for the area.

PRE-FIRM. Construction or other development for which the start of construction occurred before the effective date of the initial flood insurance rate map for the area.

PRINCIPALLY ABOVE GROUND. At least 51% of the actual cash value of the structure is above ground.

PUBLIC SAFETY AND/OR NUISANCE. Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

RECREATIONAL VEHICLE (RV). A vehicle, which is:

(1) Built on a single chassis;

(2) 400 square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

REFERENCE LEVEL. The top of the lowest floor for structures within special flood hazard areas designated as Zone Al-A30, AE, A, A99 or AO.

REGULATORY FLOOD PROTECTION ELEVATION. The base flood elevation plus the freeboard. In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard. In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

REMEDY A VIOLATION. To bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected

development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

RIVERINE. Relating to, formed by, or resembling a river, including tributaries, streams, brooks, and the like.

SALVAGE YARD. Any nonresidential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

SOLID WASTE DISPOSAL FACILITY. As defined in G.S. § 130A-290(a)(35), any facility involved in the disposal of solid waste.

SOLID WASTE DISPOSAL SITE. As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 152.07.

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

STRUCTURE. A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred. See definition of substantial improvement.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost

equals or exceeds 50% of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

VARIANCE. A grant of relief from the requirements of this chapter.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION (WSE). The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

WATERCOURSE. A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. ***WATERCOURSE*** includes specifically designated areas in which substantial flood damage may occur.
(Ord. passed 8-7-06)

§ 152.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extra-territorial jurisdictions (ETJ) if applicable, of the town and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.
(Ord. passed 8-7-06)

§ 152.07 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the state and FEMA in its flood insurance study (FIS) and its accompanying flood insurance rate maps (FIRM), for Alamance County dated September 6, 2006, which are adopted by reference and declared to be a part of this chapter.
(Ord. passed 8-7-06)

§ 152.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with § 152.07.
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.09 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this chapter and other applicable regulations.
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.10 ABROGATION AND GREATER RESTRICTIONS.

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. passed 8-7-06)

§ 152.11 INTERPRETATION.

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

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.
(Ord. passed 8-7-06)

§ 152.12 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding

or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.
(Ord. passed 8-7-06)

§ 152.13 EFFECT ON RIGHTS AND LIABILITIES.

This chapter in part comes forward by re-enactment of some of the provisions of the flood damage prevention chapter enacted November 2, 1987 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of this chapter enacted on November 2, 1987, as amended, which are not reenacted herein are repealed.
(Ord. passed 8-7-06)

§ 152.14 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this chapter; provided, however, that when construction is not begun under such outstanding permit within a period of six months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this chapter.
(Ord. passed 8-7-06)

ADMINISTRATION

§ 152.25 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The County Building Inspector, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this chapter.
(Ord. passed 8-7-06)

§ 152.26 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(A) *Application requirements*. Application for a floodplain development permit shall be made to the Floodplain Administrator prior to any development activities located within special flood hazard

areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 152.07, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 152.07;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 152.07;

(e) The base flood elevation (BFE) where provided as set forth in § 152.07; § 152.27(K) and (L); or § 152.43;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(g) Certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:

(a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to mean sea level to which any nonresidential structure in Zone AE, A or AO will be flood-proofed; and

(c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood-proofed.

(3) If flood-proofing, a flood-proofing certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood-proofing measures.

(4) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include but are not limited to:

(a) The proposed method of elevation, if applicable, such as fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls;

(b) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with § 152.41(D)(3), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

(5) Usage details of any enclosed areas below the regulatory flood protection elevation.

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(7) Copies of all other local, state and federal permits required prior to floodplain development permit issuance (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, and the like).

(8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure § 152.41(F) and (G) of this chapter are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) *Permit requirements*. The floodplain development permit shall include, but not be limited to:

(1) A description of the development to be permitted under the floodplain development permit.

(2) The special flood hazard area determination for the proposed development per available data specified in § 152.07.

(3) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(4) The regulatory flood protection elevation required for the protection of all public utilities.

(5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(7) The flood openings requirements, if in Zones A, AO, AE or A1-30.

(C) *Certification requirements.*

(1) *Elevation certificates.*

(a) An elevation certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) An elevation certificate (FEMA Form 81-31) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

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

(2) *Flood-proofing certificate.* If nonresidential flood-proofing is used to meet the regulatory flood protection elevation requirements, a flood-proofing certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the flood-proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood-proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit

approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(3) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per § 152.41(C).

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) *Certification exemptions*. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/flood-proofing certification requirements specified in divisions (C)(1) and (2):

(a) Recreational vehicles meeting requirements of § 152.41(F)(1);

(b) Temporary structures meeting requirements of § 152.41(G); and

(c) Accessory structures less than 150 square feet meeting requirements of § 152.41(H). (Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.27 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

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

(A) Review all floodplain development applications and issue permits for all proposed development within special flood hazard areas to assure that the requirements of this chapter have been satisfied.

(B) Advise permittee that additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, and the like) may be required, and require that copies of such permits be provided and maintained on file with the floodplain development permit.

(C) Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the national flood insurance program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 152.44 are met.

(F) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with § 152.26(C).

(G) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been flood-proofed, in accordance with § 152.26(C).

(H) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with § 152.26(C).

(I) When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with §§ 152.26(C) and 152.41(B).

(J) Where interpretation is needed as to the exact location of boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(K) When base flood elevation (BFE) data has not been provided in accordance with § 152.07, obtain, review, and reasonably utilize any base flood elevation (BFE) data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to § 152.43(B)(2), in order to administer the provisions of this chapter.

(L) When base flood elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with § 152.07, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this chapter.

(M) When the lowest ground elevation of a parcel or structure in a special flood hazard area is above the base flood elevation, advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. Maintain a copy of the letter of map amendment (LOMA) issued by FEMA in the floodplain development permit file.

(N) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection.

(O) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(P) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(Q) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(R) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(S) Follow through with corrective procedures of § 152.28.

(T) Review, provide input, and make recommendations for variance requests.

(U) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with § 152.07 of this chapter, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

(V) Coordinate revisions to FIS reports and FIRMs, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).
(Ord. passed 8-7-06)

§ 152.28 CORRECTIVE PROCEDURES.

(A) *Violations to be corrected.* When the Floodplain Administrator finds violations of applicable state and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) *Actions in event of failure to take corrective action.* If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of this chapter;

(2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.

(C) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this chapter, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than 60 calendar days, nor more than 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

(D) *Appeal.* Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.29 VARIANCE PROCEDURES.

(A) The Board of Adjustment, hereinafter referred to as the Appeal Board, shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the Appeal Board may appeal such decision to the Court, as provided in G.S. Chapter 7A.

(C) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(2) Functionally dependant facilities if determined to meet the definition as stated in § 152.05 of this chapter, provided provisions of § 152.29(I)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages.

(3) Any other type of development, provided it meets the requirements stated in this section.

(D) In passing upon variances, the Appeal Board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under § 152.05 of this chapter as a functionally dependant facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the base flood elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the base flood elevation will result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the state upon request.

(I) *Conditions for variances*:

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(J) A variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met.

(1) The use serves a critical need in the community.

(2) No feasible location exists for the use outside the special flood hazard area.

(3) The reference level of any structure is elevated or flood-proofed to at least the regulatory flood protection elevation.

(4) The use complies with all other applicable federal, state and local laws.

(5) The town has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.
(Ord. passed 8-7-06)

FLOOD HAZARD REDUCTION

§ 152.40 GENERAL STANDARDS.

In all special flood hazard areas the following provisions are required:

(A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within

the components during conditions of flooding. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, and the like), hot water heaters, and electric outlets/switches.

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of new construction as contained in this chapter.

(I) Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.

(J) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in § 152.29(J). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or flood-proofed to at least the regulatory flood protection elevation and certified according to § 152.26(C) of this chapter.

(K) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(M) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(N) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.41 SPECIFIC STANDARDS.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in § 152.07, or § 152.27(K) and (L), the following provisions, in addition to § 152.40, are required:

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 152.05 of this chapter.

(B) *Nonresidential construction.* New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 152.05 of this chapter. Structures located in A, AE and A1-30 Zones may be flood-proofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the flood-proofing elevation shall be in accordance with § 152.46(C). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 152.26(C), along with the operational and maintenance plans.

(C) *Manufactured homes.*

(1) New or replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 152.05 of this chapter.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the state of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of § 152.41(D)(1), (2), and (3).

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood-prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(D) *Elevated buildings*. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;

(3) Shall include, in Zones A, AO, AE, and Al-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria;

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

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

(E) *Additions/improvements*.

(1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(2) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s) shall be considered a separate building and only the addition must comply with the standards for new construction.

(F) *Recreational vehicles*. Recreational vehicles shall either:

(1) Be on site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

(2) Meet all the requirements for new construction.

(G) *Temporary nonresidential structures*. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning

notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;

(2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(3) The time frame prior to the event at which a structure will be removed (such as a minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

(H) *Accessory structures*. When accessory structures (sheds, detached garages, and the like) are to be placed within a special flood hazard area, the following criteria shall be met:

(1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(2) Accessory structures shall not be temperature-controlled;

(3) Accessory structures shall be designed to have low flood damage potential;

(4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(5) Accessory structures shall be firmly anchored in accordance with § 152.40(A);

(6) All service facilities such as electrical shall be installed in accordance with § 152.40(D); and

(7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with § 152.41(D)(3).

(8) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood-proofing certificate. Elevation or flood-proofing certifications are required for all other accessory structures in accordance with § 152.26(C).
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.42 [RESERVED]

§ 152.43 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the special flood hazard areas designated as Approximate Zone A and established in § 152.07, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to §§ 152.40 and 152.41, shall apply:

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

(B) The BFE used in determining the regulatory flood protection elevation shall be determined based on one of the following criteria set in priority order:

(1) If base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or flood-proofed in accordance with standards in § 152.27(K) and (L).

(2) All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference per § 152.07 to be utilized in implementing this chapter.

(3) When base flood elevation (BFE) data is not available from a federal, state, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in § 152.05.
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.44 STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a special flood hazard area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(A) Standards outlined in §§ 152.40 and 152.41; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.45 FLOODWAYS AND NON-ENCROACHMENT AREAS.

(A) Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in § 152.07. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in §§ 152.40 and 152.41, shall apply to all development within such areas:

(B) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:

(1) The proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

(2) A conditional letter of map revision (CLOMR) has been approved by FEMA. A letter of map revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(C) If § 152.45(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

(D) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

(1) The anchoring and the elevation standards of § 152.41(C); and

(2) The no encroachment standard of § 152.45(A).
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.46 STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).

Located within the special flood hazard areas established in § 152.07, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to the requirements of § 152.40, all new construction and substantial improvements shall meet the following requirements:

(A) The reference level shall be elevated at least as high as the depth number specified on the flood insurance rate map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of two feet if no depth number is specified.

(B) Nonresidential structures may, in lieu of elevation, be flood-proofed to the same level as required in § 152.46(A) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per §§ 152.26(C) and 152.41(B).

(C) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
(Ord. passed 8-7-06) Penalty, see § 152.99

§ 152.99 PENALTY.

(A) Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50 or imprisoned for not more than 30 days, or both.

(B) Each day such violation continues shall be considered a separate offense.

(C) Nothing herein contained shall prevent the Town Council from taking such other lawful action as is necessary to prevent or remedy any violation.
(Ord. passed 8-7-06)

CHAPTER 153: MANUFACTURED HOMES

Section

153.01 Purpose
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153.03 Manufactured home to be contained within manufactured home park
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§ 153.01 PURPOSE.

The purpose of this chapter is to provide areas within the corporate and extraterritorial limits of the town for development of manufactured home parks. These areas should be so developed as to provide safe and sanitary living conditions for park occupants and to be convenient to employment, shopping centers, schools, and other community facilities. The regulations set forth in this chapter are designed to provide for planned manufactured home park development.
('87 Code, § 152.01) (Ord. passed 8-5-74; Am. Ord. passed 1-8-86; Am. Ord. passed 5-1-00)

§ 153.02 DEFINITIONS.

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

DEVELOPER. Any person, firm, trust, partnership, association, or corporation engaged in development or proposed development of a manufactured home park.

MANUFACTURED HOME. A dwelling that:

(1) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own permanent chassis;

(2) Exceeds 40 feet in length and eight feet in width;

(3) Is constructed in accordance with the National Manufactured Home Construction and Safety Standards; and

(4) Is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings. The term does not include recreational vehicles.

(a) *Class A*. A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

1. Is occupied only as a single-family dwelling.

2. Has a length not exceeding four times its width, with length measured along the longest axis and width measured perpendicular to the longest axis at the narrowest part.

3. Has a minimum of 800 square feet of enclosed and heated living area.

4. Has exterior siding, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following: vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint); cedar or other wood siding; wood grain, weather resistant press board siding; stucco siding; or brick or stone siding.

5. Has a roof pitch minimum vertical rise of three feet for each 12 feet of horizontal run.

6. All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.

7. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit are installed or constructed in accordance with the standards set by the North Carolina State Building Code, attached firmly to the primary structure and anchored securely to the ground. Stairs shall be used in conjunction with a porch or entrance platform with a minimum of 24 square feet.

(b) *Class B*. A manufactured dwelling constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that meet or exceed criteria (7) for Class A manufactured homes above.

(c) *Class C*. Any manufactured dwelling that does not meet the definitional criteria of a Class A or Class B manufactured dwelling above.

MANUFACTURED HOME PARK. Any site or tract of land upon which two or more manufactured homes occupied for dwelling or sleeping purposes are located, regardless of whether a charge is made for this service.

MANUFACTURED HOME PARK PLAN. A plan prepared showing all existing conditions and the proposed site development.

MANUFACTURED HOME PARK PERMIT. A permit issued by the Building Inspector upon direction of the Town Council to a developer for construction, operation, or alteration of a manufactured home park. The permit shall be issued only after review of and recommendations on all plans by the Planning Board. If the Planning Board does not act within 45 days, their approval of the plan is implied.

MANUFACTURED HOME SPACE. A plot of ground within a manufactured home park designed for the accommodation of one manufactured home in accordance with the requirements set forth in this chapter.

NATURAL OR ARTIFICIAL BARRIER. Any river, pond, canal, roadway, railroad, levee, embankment, fence, hedge, tree row, or similar obstruction which limits access or visibility.

PERMITTEE. Any person to whom a special use permit is issued to maintain or operate a manufactured home park under the provisions of this chapter.

STRUCTURAL ADDITIONS . Any roofed, canopied, enclosed porch, room, or structure which is used in connection with the manufactured home. A concrete slab porch, with no walls or roof, shall not be considered a ***STRUCTURAL ADDITION***.
('87 Code, § 152.02) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00)

§ 153.03 MANUFACTURED HOME TO BE CONTAINED WITHIN MANUFACTURED HOME PARK.

It shall be unlawful for any person to place or maintain any manufactured home for living or sleeping purposes on any premises of the town unless it is contained within a manufactured home park which complies with the provisions of this chapter and all other ordinances of the town.
('87 Code, § 152.03) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00) Penalty, see § 153.99

§ 153.04 APPLICATION FOR MANUFACTURED HOME PARK PERMIT.

(A) An application for a manufactured home park permit and all accompanying plans and supporting data shall be filed in triplicate with the Planning Board at least two weeks prior to a regular meeting of the Board. The application shall be in writing, signed by the applicant, and shall include the following:

(1) The name and address of the applicant.

(2) The location and description of the boundaries of the property.

(3) A complete manufactured home park plan showing all existing conditions and proposed site development as required in § 153.05, including preliminary plans of all buildings, improvements, and facilities constructed or to be constructed within the manufactured home park.

(4) Any other information requested by the Planning Board to determine the proposed park's compliance with legal requirements, the effect which the proposed park may have on its environment, and the compatibility of the adjacent area for park development within the framework of long-range land development objectives.

(B) Any expenses incurred in preparation of a manufactured home park plan and supporting information and data shall be borne by the applicant.

(C) If the proposed manufactured home park conforms to the terms of this chapter, the Planning Board shall approve it and recommend that the Town Council direct issuance of a manufactured home park permit.
('87 Code, § 152.04) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00)

§ 153.05 MANUFACTURED HOME PARK PLAN.

(A) The manufactured home park plan shall show or propose all requirements listed in this section. In addition, upon issuance of a manufactured home park permit, all of these requirements shall be complied with before an occupancy permit is issued.

(1) All manufactured home parks shall be developed on a parcel of land not less than six acres in size and shall contain no more than five manufactured homes per gross acre.

(2) Each manufactured home space shall consist of a minimum of 8,000 square feet and a minimum width of 50 feet frontage on a driveway, unless the lot is within a curve or cul-de-sac where the lot square footage is 8,000 square feet. In these instances, the minimum lot width is 40 feet.

(3) Manufactured homes shall be parked one to a space. Manufactured homes and structural additions thereto shall not be placed closer than 20 feet to a driveway or public street; nor shall they be placed closer than ten feet to any boundary of a manufactured home space; nor shall they be placed closer than 20 feet to any building; nor shall they be placed closer than 20 feet to any adjacent property used for, zoned for, or to be used for single-family dwelling purposes; nor shall they be placed closer than 15 feet to any adjacent property used for, zoned for, or to be used for other than single-family dwelling purposes.

(4) The park shall be located on a we11-drained and properly graded site.

(5) All manufactured home spaces shall abut on an interior driveway of no less than 20 feet in width which shall have unobstructed access to a public street or highway and shall be constructed of concrete, asphalt, gravel, crushed stone, macadam, or marl and treated with dust-preventative materials and be property maintained at all times. Walkways at least four feet wide shall be provided to permit reasonable direct access to service buildings. All main walks shall be continuous and constructed of concrete, asphalt, or fine stone, providing a safe, stable footing.

(6) Each manufactured home space shall be provided with at least two off-drive parking spaces. These spaces shall be no farther away than 50 feet from it. In addition, there shall be provided one off-drive parking space for each two manufactured home spaces in the manufactured home park. Each off-drive parking space shall be at least nine feet wide and at least 20 feet long. No automobile parking shall be allowed in other than the parking areas specified in the manufactured home park plan, and areas so specified shall be off the drive.

(B) When an arrangement other than that specified by division (A)(3) of this section can be shown to provide more useful open space without infringing upon the privacy of manufactured home dwellers or neighboring property owners, or when screening devices can be shown to compensate for any slight reductions in space between manufactured home spaces or space between a manufactured home space and another building or property, the Planning Board may recommend approval of a manufactured home park permit if, in its opinion, the manufactured home park plan submitted is equal to or better than an arrangement which would conform to division (A)(3) of this section. In this case, the manufactured home park plan shall be forwarded to the Town Council with a favorable recommendation for approval by the Town Council.

(C) All existing manufactured home parks at the time of adoption of amendments so specified above shall be exempt from the terms of divisions (A)(1) and (A)(2), but all manufactured home parks constructed after the adoption date shall comply with the terms of divisions (A)(1) and (A)(2) not withstanding the requirements so stipulated under § 153.07.
('87 Code, § 152.05) (Ord. passed 8-5-74; Am. Ord. passed 1-9-86; Am. Ord. passed 5-1-00)) Penalty, see § 153.99

§ 153.06 GENERAL REQUIREMENTS FOR MANUFACTURED HOME PARKS.

(A) *Minimum size of manufactured homes*. No manufactured home placed in a manufactured home park shall have less than 800 square feet of interior floor space or fail to contain a built-in bathroom with water closet, lavatory, and shower or tub which are in working condition.

(B) *Sewage and water supply systems*. Each manufactured home space shall be provided with and each manufactured home connected to the sanitary sewage and water supply systems of the town or shall in the absence of public sewage and water and with approval of the County Director of Health be connected to a private well and septic tank, constructed under standards required by the County Health Department and county manufactured home park ordinance. Each manufactured home so parked in accordance with this chapter must have an individual meter connected to an electrical supply and must have an approved fuse disconnect at the metered location.

(1) In those areas where public water or sewage is not available, the manufactured home park lot size will be in accordance with the Alamance County Manufactured Home Park Ordinance and the county health regulations.

(2) In those areas where the town is in the process of constructing water and/or sewer lines, the manufactured home park plans must indicate where the connections will be made.

(C) *Lighting*. All interior drives and walkways within the park shall be lighted at night with electric lamps of no less than 100 watts each, spaced at intervals of no more than 100 feet, or equivalent lighting as approved by the town. Lighting shall be the responsibility of the park owner.

(D) *Refuse collection facilities*. One metal garbage can with tight-fitting cover and a capacity of at least 20 gallons and no more than 27 gallons shall be provided for each manufactured home space. Garbage cans shall be located no farther than 100 feet from any manufactured home space. The cans shall be kept in sanitary condition at all times by the owner of the park. Garbage collection will be the town's responsibility for those manufactured home parks inside the town limits; however, the town reserves the right to discontinue the service with a 90 day notice to park owners. For those manufactured home parks outside the town limits, the park owner is responsible for the collection and removal of solid waste. The park owner may provide conveniently located dumpsters. The dumpsters shall be set up so not to allow children access or cause a rodent/vermin problem.

(E) *Service, administrative, and other buildings*.

(1) Within a manufactured home park, one manufactured home may be used as an administrative office. Other administrative and service buildings, housing sanitation and laundry facilities, or any other such facilities shall be of permanent structure, complying with all applicable ordinances and statutes regarding buildings, electrical installations, and plumbing and sanitation systems.

(2) Service buildings shall be well lighted at all times of the day and night and shall be well ventilated, with screened openings, shall be constructed of such moisture-proof material, including painted woodwork, as shall permit repeated cleaning and washing, and shall be maintained at a temperature of at least 68°F during the period from October 1 through May 1. The floors of service buildings shall be of water-impervious material.

(3) No building shall be located closer than 20 feet to any manufactured home.

(4) All service buildings and the grounds of the park shall be kept clean and free from any condition that will menace the health of any occupant or the public or will constitute a nuisance. This shall be the responsibility of the owner of the manufactured home park.

(F) *Structural additions*. All structural additions to manufactured homes, other than those which are built into the unit and designed to fold out or extend from it, shall be erected only after a building permit shall have been obtained, and the additions shall conform to the building code of the town where applicable. The building permit shall specify whether the structural addition may remain permanently, must be removed when the manufactured home is removed, or must be removed within a specified

length of time after the manufactured home is removed. Structural alterations existing at the time of passage of this chapter shall be removed within 30 days after the manufactured home which they serve is moved unless attached to another manufactured home on the same site within that period.

(G) *Fire protection*. No open fires shall be permitted.

(H) *Management*. In each manufactured home park, the permittee or duly authorized attendant or caretaker shall be in charge at all times to keep the manufactured home park, its facilities, and equipment in a clean, orderly, safe, and sanitary condition. All property which is allowed to count for meeting the density requirements of this chapter shall be kept clear of all underbrush, and grass on the property shall not be allowed to exceed eight inches in height.

(I) *Register of occupants*. It shall be the duty of each permittee to keep a register containing a record of all manufactured home owners and occupants located within the park including the date of arrival.

(J) *Occupancy permit*. The Building Inspector shall issue an occupancy permit when all provisions of this section have been met and before any manufactured home is parked.
('87 Code, § 152.06) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00) Penalty, see § 153.99

§ 153.07 EXISTING MANUFACTURED HOME PARKS.

(A) All manufactured home parks existing at the time of the adoption of this chapter shall be required to provide a minimum ratio of land per manufactured home space of one acre of land for every 12 manufactured home spaces at the time additional manufactured home spaces are added . When additional manufactured home spaces are added to any manufactured home park existing on the effective date of this chapter, and any amendments, land shall be provided in a minimum ratio of one acre of land for every three manufactured home spaces added until such time as the total area of the entire manufactured home park contains five manufactured home spaces per gross acre. All manufactured home spaces added thereafter shall be provided with land in a minimum ratio of one acre of land for every five manufactured home spaces.

(B) All manufactured home parks in the town existing at the time of the adoption of this chapter shall be exempt from the terms of § 153.05(A)(2) through (6) and (B), but all manufactured home spaces added to existing manufactured home parks shall comply with § 153.05.
('87 Code, § 152.08) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00) Penalty, see § 153.99

§ 153.99 PENALTY.

(A) Violation of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50 or imprisoned for not more than 30 days.

(B) Each day the violation continues shall be considered a separate offense.

(C) In addition, if the Building Inspector shall find that a park operating under a manufactured home park permit is violating the terms of this chapter or any special conditions set forth in the manufactured home park permit, he or she may revoke the permit, and further operation of the park without the permit shall be considered a separate offense.

(D) The owner, manager, operator, or tenant of any manufactured home park, or any other person who commits, participates in, assists in, or maintains such violation in any manufactured home park may each be found guilty of a separate offense and suffer the penalties provided in division (A) of this section. The owner or tenant of any manufactured home outside any manufactured home park, or any person who rents, leases, or otherwise furnishes land for a manufactured home, or any other person who contributes to violation of this chapter may be each found guilty of a separate offense and suffer the penalties herein provided.

(E) Nothing herein contained shall prevent the town from taking other lawful action as is necessary to prevent or remedy any violation.
(‘87 Code, § 152.99) (Ord. passed 8-5-74; Am. Ord. passed 5-1-00)

CHAPTER 154: SUBDIVISIONS

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GENERAL PROVISIONS

§ 154.01 TITLE.

This chapter shall be known as the *Subdivision Ordinance* of the town of Haw River, North Carolina.
(Ord. passed 12-2-96)

§ 154.02 STATUTORY AUTHORIZATION.

This chapter is adopted under the authority and provisions of the G.S. §§ 160A-371 et seq.
(Ord. passed 12-2-96)

§ 154.03 JURISDICTION.

This chapter shall govern all subdivisions of land within the corporate limits of the town and within the extraterritorial planning jurisdiction, as it now exists or may hereinafter be established.
(Ord. passed 12-2-96)

§ 154.04 PURPOSE.

The purpose of this chapter is to promote the public health, safety and general welfare by providing for the orderly subdivision of land in the town. Among other reasons, this chapter is deemed necessary to assure the appropriate layout and use of land; provide safe, convenient and economic circulation of vehicular traffic; provide for the dedication or reservation of street right-of-way, installation of streets and utilities; avoid undue concentrations of population; and ensure proper legal description, identification, monumentation and recordation of property boundaries.
(Ord. passed 12-2-96)

§ 154.05 SCOPE.

(A) This chapter shall govern the platting and recording of any subdivision of land lying within the town and its area of extraterritorial jurisdiction.

(B) This chapter is applicable to all divisions or redivisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development, and shall include all divisions of land involving the dedication of a new street or a change in an existing street.
(Ord. passed 12-2-96)

§ 154.06 DEFINITIONS.

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

BUILDING SETBACK LINES. A line parallel to the street right-of-way line or front property line, side property lines and rear property line of a lot. Buildings and structures shall not be erected within the area between the lot lines and the ***BUILDING SETBACK LINES***.

CORNER LOT. A lot abutting upon two or more streets at their intersection.

DOUBLE FRONTAGE LOT. A continuous lot between two streets assessable from both of the streets upon which it fronts. Corner lots are not included unless they front on three streets.

EASEMENTS. A grant by the property owner for use by the public, a corporation or a person of a strip of land for a specific purpose.

GROUP DEVELOPMENT. A group of two or more principal structures built on a single lot or parcel of land, not subsequently to be subdivided into conventional streets and lots, and designed for occupancy by separate families, business firms or other enterprises.

LARGE LOT SUBDIVISION. A subdivision in which all lots are 40,000 or more square feet in size.

LOT. A portion of a subdivision or any other parcel of land intended as a unit for the transfer of ownership or for development.

LOT DEPTH. The distance of a line connecting the midpoints of the front and rear lines of a lot.

LOT WIDTH. The distance between the sidelines of a lot measured on a line drawn perpendicular to the line used in measuring the lot depth and bisecting the line at its midpoint.

OFFICIAL PLANS AND ORDINANCES. Any plans and ordinances officially adopted by an appropriate governmental body to guide and implement orderly physical development.

PLANNED UNIT DEVELOPMENT. The unconventional subdivision and development of land, not subsequently to be subdivided into conventional streets and lots, and designed for occupancy and ownership by separate families, business firms or other enterprises with significant areas of common properties owned and maintained by private ownership associations.

SITE EVALUATION. The investigation shall include the evaluation of the following factors: topography and landscape position, soil characteristics, morphology, soil wetness, soil depth, restrictive horizons and available space. Soil profiles shall be evaluated at the site by borings or other means of excavation to at least 48 inches or to an unsuitable characteristic, and a determination shall be made as to the suitability of the soil to treat and support septic tank effluent.
(Ord. passed 12-2-96)

§ 154.07 AMENDMENT PROCEDURE.

This chapter may be amended from time to time by the Town Council as provided by G.S. § 160A-364, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The Planning Board shall have 45 days within which to submit its recommendation. If the Planning Board fails to submit a recommendation within the specified time, it shall be deemed to have approved the amendment.
(Ord. passed 12-2-96)

§ 154.08 FEES.

(A) Fees for the following services may be established by the Town Council:

(1) Review of preliminary plans;

(2) Review of construction plans;

(3) Review of final plat;

(4) Recording fee; and

(5) Construction observation fee.

(B) The schedule of fees adopted by the Town Council, and as the said Board may from time to time amend or modify them, will be available in written form from the Town Clerk.
(Ord. passed 12-2-96)

§ 154.09 CLUSTER DEVELOPMENT.

(A) *Definition.* Cluster development is a variation or exception to the lot size requirements specified in the Chapter 155, the town's zoning ordinance. If approved, the subdivider can cluster or group dwelling units on part of the tract and allow the remaining part of the lot to remain in open space. This is strictly a method of transferring density. It does not allow any uses that are not specifically listed in Chapter 155 of this code.

(B) *Plat and site approval required.*

(1) *Plat.* Any proposed cluster project, whether it is a single-family detached dwelling unit, duplex, townhouse or condominium project, shall have a preliminary and final plat approved by the Planning and Zoning Board and the Town Council.

(2) *Site plan.* Any proposed project shall have a site plan that shows the following information:

(a) The location of the buildings, streets, alleys, walks, parking areas, recreation areas, tree covers and plantings.

(b) Number and show the dimensions of all building sites, streets and utility easements to be dedicated to the public.

(c) All areas on the site plan other than public streets, easements or private building sites shall be shown and designed as common areas.

(3) *Landscape plan.* A landscape plat for all projects shall show all existing and proposed plant materials. The plan shall indicate the size and type of existing plant material and the size and type of plants to be planted.
(Ord. passed 12-2-96)

SUBDIVISION PLATS

§ 154.25 APPROVAL REQUIRED.

(A) Prior to the subdivision of a tract or parcel of land, a plat shall be prepared, approved and recorded pursuant to the provisions of this chapter. No plat shall be required for the division of land described under §§ 154.72 and 154.73.

(B) The County Recorder shall not file or record a plat of land within the territorial jurisdiction of this chapter which has not been approved in accordance with this chapter or certified as an exception to this chapter.

(C) No administrative agent of the town shall issue any permit for the construction of any building, approval of electrical installation or other improvement requiring a permit upon any land for which a subdivision plat is required, unless and until the requirements of this chapter have been complied with and approval granted in accordance with this chapter.

(D) No street shall be recommended for maintenance by the State Department of Transportation or the town upon any land for which a plat is required, unless and until the requirements have been complied with and approval granted in accordance with this chapter.

(E) As set forth in G.S. §§ 160A-374, the approval of a subdivision plat pursuant to this chapter shall not be deemed to constitute or effect the acceptance by the town, the State Department of Transportation or other public agency of the dedication of any street, utility line or other public facility site shown on the plat.
(Ord. passed 12-2-96)

§ 154.26 PREAPPLICATION CONFERENCE WITH SUBDIVISION ADMINISTRATOR RECOMMENDED.

It is recommended that the subdivider meet with the Subdivision Administrator in a preapplication conference to discuss informally the provisions of this chapter and the subdivision of the land contemplated by the subdivider.
(Ord. passed 12-2-96)

§ 154.27 PRELIMINARY PLANS.

(A) The subdivider shall submit six copies (prepared by a surveyor or engineer licensed in North Carolina) of the preliminary plan to the Subdivision Administrator 14 days prior to Planning and Zoning Board Meeting.

(B) Preliminary plans shall be prepared at a minimum scale of one inch to 200 feet. Preliminary plans shall include, but not be limited to, the information shown in Appendix A.

(C) If no street right-of-way dedication or reservation is involved and no street improvements are required to be made by the subdivider according to the provisions of this chapter, the Subdivision Administrator may waive the requirement for the preliminary plan.

(D) Approval of the preliminary plan shall be valid for one year and shall authorize the subdivider to proceed with the preparation of construction plans for the improvements.
(Ord. passed 12-2-96)

§ 154.28 CONSTRUCTION PLANS.

(A) The subdivider shall submit a minimum of five copies of the construction plans for required street and community utility improvements to the Subdivision Administrator.

(B) Construction plans, including plan and profile, shall be prepared as required by this section. The ratio of profile scales shall be ten to one, horizontal to vertical. The plans shall be at scales of 1 inch to 20 feet, 1 inch to 30 feet, 1 inch to 40 feet or 1 inch to 50 feet.

(C) Plans and profiles shall be drawn on standard size sheets 24 inches by 36 inches. Sufficient data for field construction shall be presented on the construction plans, including, but not limited to, the information shown in Appendix B.

(D) If street and community utility improvements are not required in a subdivision by the provisions of this chapter, construction plans shall not be required.

(E) Approval of the construction plans authorizes the subdivider to proceed with the construction of improvements and preparation of the final plat.
(Ord. passed 12-2-96)

§ 154.29 FINAL PLATS.

(A) The subdivider shall submit two mylars and five copies of the final plat to the Subdivision Administrator.

(B) The final plat shall be prepared in accordance with the requirements of this section and G.S. § 47-30, as amended. The plats shall be prepared at a scale of not less than one inch to 100 feet on reproducible cloth, linen, film or other permanent material and shall be a standard sheet size of 20 inches by 24 inches. Final plats shall include, but not be limited to, the information shown in Appendix C.

(C) The following certificates shall be on the final plat and properly completed by the appropriate persons prior to submission to the Town Council for final plat approval.

(1) Certificate of ownership and dedication.

I (we are) the owner(s) of the property shown and described hereon, which was conveyed to me (us) by deed recorded in Book _____, Page _____, and that I (we) hereby acknowledge this plat and allotment to be my (our) free act and deed and hereby establish the minimum building lines, and dedicate to public use as streets, alleys, crosswalks, easements, parks and other spaces forever as shown or indicated. That I (we) also dedicate forever to the appropriate agency all utilities as shown on the accompanying documentation and warrant all such utilities and improvements to be free of defects in workmanship and materials for a period of 24 months following the date of this certification or the Council may require a surety bond. Further, I (we) certify that the property as shown hereon is within the subdivision regulation jurisdiction of the town of Haw River.

_____ _____
Owner Date

_____ _____
Owner Date

(2) Certificate of accuracy.

I hereby certify that under my direction and supervision this plat, shown and described hereon, was drawn from an actual survey, deed reference recorded in Book _____, Page _____,; that the error of closure as calculated by latitudes and departures is 1:_____; and that this plat was prepared in accordance with G.S. § 47-30, as amended. Witness my hand and seal this day _____ of _____ _____, 20___.

_____ _____
Engineer or Land Surveyor Registration Number

(3) Certificate of a notary public.

Subscribed and sworn to before me this _____ day of _____ , 20___.

_____ _____
Notary Public Date my commission expires

(4) Certificate of registration.

The foregoing certificate(s) of _____ a Notary (or notaries) Public of the governmental units designated is (are) certified to be correct. Filed for registration on the _____ day of __ _____, 20__ , at ___ __m., and duly recorded in the office of the Recorder of this County in Books or Plats Number _____, Page _____.

_____ By_____
Recorder Deputy

(5) Certificate of approval of water and sewer facilities.

I hereby certify that the water and sewer facilities proposed for installation in this subdivision fully meet the requirements of all applicable rules and regulations.

_____ _____
Director, Alamance County Date
Health Department

(6) Certificate of approval of required improvements.

The undersigned hereby certify that the required improvements have been made on this property in an acceptable manner and in accordance with the specifications of the subdivision code of the town and other applicable regulations, or that a performance or surety guarantee bond in the amount of $____ has been posted with the town to assure completion of all required improvements in case of default on the part of the subdivider.

(a) Approval of required improvements:

_____ _____
North Carolina State Date
Department of Transportation

_____ _____
Subdivision Administrator Date
Town of Haw River, North Carolina

(b) Performance or surety guarantee bond.

_____ _____
Subdivision Administrator Date
Town of Haw River, North Carolina

(7) Certificate of approval by the Town Council.

This subdivision plat has been found to comply with the provision of the subdivision regulations of the town and is approved this date by the Town Council for recording in the office of the Recorder.

_____
Mayor, Town of Haw River

Attest:

_____ _____
Subdivision Administrator Date
Town of Haw River

(D) No final plat shall be approved until all improvements are installed or their execution guaranteed as set forth in this chapter and all certificates required on final plats have been properly completed and signed.

(E) The appropriate members of the technical staff shall review plans and plats for compliance with the provisions and intent of this chapter. The findings and recommendations of the technical staff shall be assembled by the Subdivision Administrator. The Subdivision Administrator shall notify the subdivider of the action by the technical staff with promptness as soon as action is taken and within a maximum of 60 days after the receipt of the plans or plats.

(F) The subdivider may appeal to the Town Council if the technical staff review finds the plans or plats not to be in compliance with the provisions and intent of this chapter. The appeal must be made by the subdivider in writing within 60 days after notification by the Subdivision Administrator. The written appeal shall include in detail the justification for the appeal.

(G) The Town Council shall review the findings and recommendations of the technical staff as the appeal by the subdivider prior to rendering a final decision on the plats and plans.

(H) Final approval of the plat shall be given by the Town Council, as required by the G.S. § 160A-373. The approved plat shall be endorsed by the Mayor. If plats are disapproved, the reasons for disapproval shall be noted in the minutes of the Town Council.

(I) The Subdivision Administrator shall return a copy of the recorded final plat to the subdivider after recordation.
(Ord. passed 12-2-96)

§ 154.30 REVIEW PROCEDURE FOR MINOR SUBDIVISION PLATS.

(A) *Objective*. An abbreviated process shall be permitted to simplify and speed up the review procedure for handling minor subdivision plats without undermining the objective of the subdivision regulations.

(B) *Minor subdivision defined*. A minor subdivision shall include all subdivisions that:

(1) Front on an existing road;

(2) Contain ten lots or less; and

(3) Have access to water and sewer if inside the town limits.

(C) *Review procedure*.

(1) The subdivider shall submit a sketch development plan to the Subdivision Administrator. At this stage, the Administrator and the subdivider shall informally review the proposed subdivision to insure it meets the requirements of a minor plat.

(2) After this initial review has been completed, the subdivider shall prepare a final plat as specified in § 154.29 and submit it to the Planning and Zoning Board for their review and approval.

(3) The Town Council shall approve or disapprove the final plat at their next regular meeting.

(D) *Final plat requirements*. The abbreviated procedure for minor plats does not change the requirements for final plats as specified in § 154.29.

(E) *Appeal procedure*. If the subdivider disagrees with the decision of the Planning and Zoning Board or does not receive a response within 30 days, the subdivider may appeal to the Town Council at their next regular meeting.
(Ord. passed 12-2-96)

DESIGN STANDARDS

§ 154.40 GENERAL REQUIREMENTS.

(A) Land shall be subdivided in accordance with good land planning practices, including adequate consideration of the natural topography and drainage features and the type of development proposed.

(B) Land shall be subdivided in compliance with pertinent official development plans and ordinances.
(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.41 STREETS.

(A) Street names shall not duplicate or closely approximate phonetically, existing street names in the county, and street names of existing streets shall be projected where applicable.

(B) Streets shall be designed in coordination with existing and proposed streets in the surrounding area providing for the continuation of appropriate streets.

(C) Means of ingress and egress for adjoining property shall be provided in the layout of streets.

(D) If land is to be subdivided into tracts larger than typical building lots, streets and roads shall be graphically arranged on the preliminary plan so as to allow for future resubdivision and opening of streets.

(E) Cul-de-sacs or other dead-end streets designed to be permanently closed shall be no longer than 800 feet and shall be provided at the closed end with sufficient right-of-way for vehicular circulation. Circular right-of-way at the closed end shall conform to requirements set forth in "Subdivision Roads Minimum Construction Standards," published July 1, 1985 by the North Carolina Department of Transportation and as it may be subsequently amended.

(F) Parkways or double streets may be required to traverse a drainage, watercourse or stream. The width of the right-of-way shall be adequate to accommodate the flow of storm water.

(G) Parallel access streets may be required along existing or proposed arterials and major collectors to afford separation of local traffic from through traffic.

(H) The widths of right-of-way and roadway surfacing on streets adjacent to existing or proposed nonresidential properties may be increased up to 15 feet to insure the free flow of traffic without interference by vehicles entering or leaving the property.

(I) Private streets or reserve strips shall not be platted in any subdivision.

(J) Street and road rights-of-way shall be reserved and dedicated as follows:

(1) Arterials and major collectors shall be reserved in compliance with official street plans if direct access to the property is to be prohibited. If direct access to the property is to be permitted, such rights-of-way shall be dedicated in compliance with official street plans.

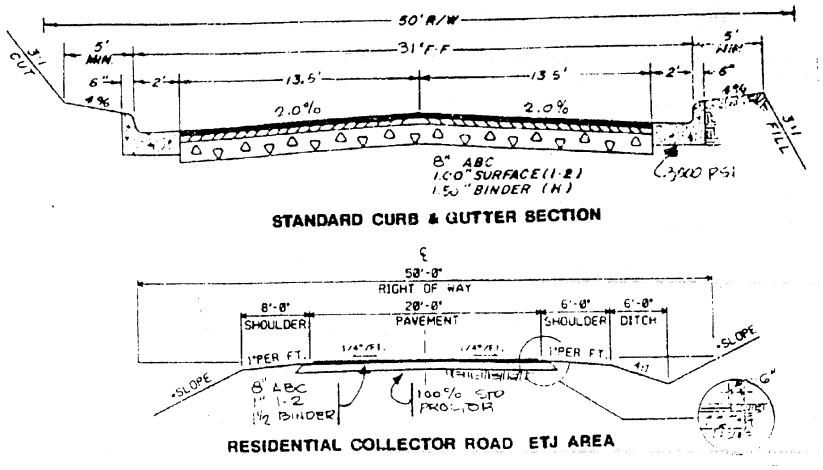
(2) Rights-of-way for minor collectors and local streets shall be dedicated in compliance with official street plans and the provisions of this chapter.

(K) Subdivision streets shall conform to the following requirements and minimum standards of design.

Design Speed	*Maximum Grade*	*Minimum Stop Sight Distance*
40 m.p.h.	7%	275 feet

(1) Design speed may be reduced in mountainous areas, as defined by the State Department of Transportation.

(2) Grades steeper than the above maximum grade are allowable in mountainous areas, as defined by the State Department of Transportation. Grades for 100 feet each way from intersections shall not exceed 5%, and grades less than 0.5% shall not be used. All changes in grade shall be connected by vertical curves of minimum length equal to 3.5 times the algebraic difference in rates of grade for minor collectors and 20 times the algebraic difference for local streets.



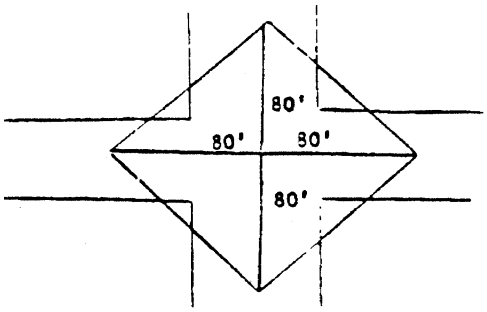
(1) The following minimum standards shall apply to street intersections.

(1) Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than a 60° angle.

(2) Intersections, whether full or tee intersections, shall not occur at less than the distance indicated:

Street Type	*Minimum Distance Between Intersections*
Arterial	1,000 feet
Major Collector	800 feet
Minor Collector	400 feet
Local	200 feet

(3) Right-of-way on each corner at an intersection shall be enlarged by constructing a triangle. One point of the triangle shall be the intersection of the center lines of the two streets abutting the corner lot. The other point on minor collectors and local streets and shall be located on the center lines of the two streets abutting the corner lot. The minimum distance from center line intersections for arterials and major collectors shall be determined by the State Department of Transportation.



(4) Sight distance at each intersection shall not be obstructed and shall be enlarged by constructing a triangle. One point of the triangle shall be the intersection of the center lines of the two streets abutting the corner lot, and the other points shall be located a minimum of 100 feet distance along the center lines of the two streets abutting the corner lot except as otherwise determined by the State Department of Transportation.

(M) Curb and gutter is mandatory on new subdivision streets.
(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.42 BLOCKS.

Blocks shall be laid out with due consideration given to the traffic circulation pattern and the contemplated use.

(A) Blocks shall have sufficient width to provide two tiers of lots of minimum size, except blocks may be one lot in width where reverse frontage lots are required to separate development from through traffic on arterials and major collectors or to separate residential development from nonresidential.

(B) Along each side of each street the distance between through streets shall fall between the minimum and maximum specified below, provided that the minimum distance specified shall not prevent access from adjoining a property to a street.

Street Type	*Distance* *Minimum Regular Subdivision*	*Maximum Large-lot Subdivision*
Arterial (1,000 feet)	----------	----------
Major Collector (800 feet)	----------	----------
Minor Collector (600 feet)	2,000 feet	2,000 feet
Local (400 feet)	1,400 feet	1,800 feet

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.43 LOTS.

Lots shall be designed in shape, size and location with due regard to topographic conditions, features of the surrounding area, contemplated use and official plans and ordinances.

(A) Every lot shall front or abut on a public street.

(B) Double frontage and reverse frontage lots shall be avoided, except where required to separate development from through traffic on arterial and major streets or to separate residential development from nonresidential development.

(C) Side lot lines shall be substantially at right angles or radial to street lines.

(D) All lots shall conform with the minimum standards noted below and the minimum standards contained in any applicable zoning ordinance, building code or other such regulation.

(1) In calculation of lot areas, lot depths and lot widths, land within any street right-of-way or railroad right-of-way shall not be considered.

(2) Corner lots shall have an extra width of 20% of the average lot width within the subdivision, but no corner lot shall be required to exceed 100 feet in width.

(3) Land subject to flooding or land which may aggravate the flood hazard or increase the danger to life or property if developed, and land uninhabitable for other reasons, shall not be considered in determining the minimum lot area or maximum lot depth as herein specified. The criteria as developed by the state shall be used.

(4) A strip of land 40 feet in width, in addition to the minimum required lot depth and width, shall be provided between all railroads, arterial and major streets, nonresidential properties and like uses, and properties of existing or proposed residential development. This strip shall be a part of the lots and reserved permanently for screening conflicting uses of land.

(5) Nonresidential lots shall be of suitable area and dimension to accommodate the development anticipated and shall be of sufficient area to include off-street service facilities and off-street vehicular parking for patrons and employees. The minimum area of lots with sewer and water facilities shall be approved by the Director of the County Health Department on the basis of anticipated use, type of sewer and water facilities proposed and site analysis.

(6) Residential lots shall conform to the following minimum standards.

(a) The width of residential lots shall be no less than 400 of the depth of the lot, but no lot shall be required to be more than 150 feet in width.

(b) On-site sewer and water facilities shall be approved by the Director of the County Health Department.

(c) Any residential lot located within a watershed of a stream designated for public water supply shall be a minimum of 40,000 square feet where on-site wastewater disposal is used. Maps indicating those watersheds are available in the County Health and Planning Departments.

(d) The minimum lot area for residential lots with on-site facilities shall be determined by the results of soil surveys and investigations, site evaluations and other appropriate criteria and tests, but in no case shall a lot be smaller than specified by the County Health Regulations or the town's zoning ordinance.
(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.44 BUILDING SETBACK LINES.

The building setback from the lot line shall be no less than the following distances.

Setback line	*Distance*
From the front property line on streets	
Arterial	As Zoned
Major collector	As Zoned
Minor collector	As Zoned
Local	As Zoned
From the side property line abutting streets	As Zoned
From the side property line not abutting streets	As Zoned
From the rear property line	As Zoned

(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.45 EASEMENTS.

(A) Utility easements, when and where required, shall be a minimum of 20 feet in width along rear lot lines and subdivision boundaries and ten feet in width along side lot lines. Where possible, these easements shall be centered on lot lines providing ten feet on each side of the rear lot line and five feet on each side or the side lot line. An easement of ten feet along a subdivision boundary is sufficient if there is an easement of like or greater size on the opposite side of the boundary.

(B) Where a drainage way, watercourse or stream traverses or borders a subdivision, it shall be shown on the preliminary plan and the final plat conforming with the lines of the watercourse and at a width adequate to accommodate the flow of storm water.

(1) Watercourse boundaries as drawn on preliminary plans and final plats are to be interpreted as approximations of actual boundaries. For example, a 20 foot watercourse shall be deemed to extend approximately ten feet on each side of the center of water flow, unless otherwise specified.

(2) Where a subdivider proposes to create a new watercourse in order to relocate an existing watercourse or to handle road runoff, a drainage easement along the proposed new watercourse shall be indicated on the preliminary plan and the final plat. Any channels, diversions or other improvements needed to carry water to or along this new course shall be constructed or guaranteed prior to final plat approval.

(3) A strip of land 40 feet in width shall be reserved permanently between all railroads, arterial and major streets, nonresidential properties and like uses, and properties of existing proposed residential development.
(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.46 RESERVATION OF PUBLIC FACILITY SITES.

It is in the public interest that land proposed for public facility sites by officious development plans within or partially within property being subdivided shall be reserved for specific public use. In order to more effectively coordinate public and private plans, developers of land shown to have public use on official plans of the town are encouraged to develop their preliminary subdivision plans recognizing the potential public use of these sites. Developers are encouraged to negotiate with public agencies involved toward the end of acquiring the public sites in order that the integrity of public plans may be maintained.
(Ord. passed 12-2-96)

IMPROVEMENTS

§ 154.60 IMPROVEMENTS PREREQUISITE TO FINAL APPROVAL.

(A) No subdivision plans shall be granted final approval until the required improvements have been made in accordance with the provisions of this chapter.

(B) Final plats may be approved prior to the completion of required improvements upon the guarantee of the improvements by the subdivider within an 18 month period. The town may accept performance or surety guarantee bonds in the amount of one and one-half times the cost of making the required improvements, whereby these improvements shall be made without cost to the public or subsequent purchasers of the property in the event of default on the part of the subdivider.
(Ord. passed 12-2-96)

§ 154.61 REQUIRED IMPROVEMENTS.

Within the jurisdiction of this chapter, construction or guarantee by bond of the following improvements shall be required prior to final plat approval.

(A) Rights-of-way shall be cleared and grubbed in accordance with the requirements set forth in the most recent published requirements of the State Department of Transportation.

(B) Street grading and drainage shall be completed in accordance with the approved construction plans and in accordance with the most recent published requirements of the State Department of Transportation.

(C) All materials, the construction of the shoulder and base course and pavement surface shall meet the requirements set forth in the most recent published requirements of the State Department of Transportation. (See Appendix D).

(1) In all subdivisions except those which had received preliminary plan approval prior to the adoption of this chapter, paving of streets is required. (See Appendix D).

(2) All unsurfaced disturbed portions of street rights-or-way shall be stabilized by seeding, fertilizing and mulching or by another equally effective method.
(Ord. passed 12-2-96)

§ 154.62 EROSION AND SEDIMENT CONTROL.

Subdividers are advised to submit erosion and sediment control plans of all land disturbing activities covering more than one acre to the State Sedimentation Control Commission beginning March 1, 1975 and to conform to the most recent published requirements of this Commission.
(Ord. passed 12-2-96)

§ 154.63 JURISDICTION OF ADJOINING MUNICIPALITIES.

Within the subdivision regulation jurisdiction of any municipality whose governing body agrees by resolution to the provisions of this chapter, the required improvements, such as grading and surfacing of streets and installing storm drainage and community water and sewer facilities, shall be in accordance with the requirements and standards specified by the respective municipalities.
(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.64 REMOVAL OF DEBRIS.

(A) All fallen trees, stumps, junk and rubbish of any nature resulting from the grading of streets or the clearing of lots in the subdivision shall be completely buried, destroyed or removed from the subdivision site.

(B) All debris, fallen trees, junk and other accumulations of a nature that will impede the passage of waters in their downstream course or cause flooding shall be removed from the channel and banks of any stream, creek or drainage way of the subdivision site.
(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.65 STREET SIGNS.

Street name signs shall be erected by the subdivider at each street intersection. Street name signs shall conform to those adopted and in use by the town.
(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.66 MONUMENTS AND MARKERS.

Monuments and markers shall be located and installed as required and in accordance with the rules and regulations of the North Carolina Manual of Practice for Land Surveying, Volume I, and G.S. §§ 39-32.1 through 39-32.4, as amended. Monuments and markers shall be of the design and type described in these rules and regulations.
(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.67 COMMUNITY UTILITIES.

(A) Where an established public water system is available in the extraterritorial jurisdiction to a subdivision and water lines may be extended from it to all lots in the subdivision at a cost equal to or less than the cost of installing a well on each lot in the subdivision, the subdivider shall be required to provide each lot in the subdivision with access to a water line connected to the public water system. All lots within the town jurisdiction shall connect to the town water system.

(B) Where an established public sewage system is available and sewer lines may be extended from it to all lots in the subdivision at a cost equal to or less than the cost of installing a septic tank and nitrification lines on each lot in the subdivision, the subdivider shall be required to provide each lot in the subdivision with access to a sewer line connection to the public sewage system. All lots within the town limits shall connect to the town sewer system.

(C) Further, the subdivider is encouraged to cooperate with utility companies in the installation of underground telephone and electrical systems.
(Ord. passed 12-2-96) Penalty, see § 154.99

§ 154.68 LANDSCAPING.

Landscaping as set forth in Chapter 155 shall apply.
(Ord. passed 12-2-96)

ADMINISTRATION AND ENFORCEMENT

§ 154.80 SUBDIVISION ADMINISTRATOR.

(A) This chapter shall be administered by the Subdivision Administrator with the assistance of the technical staff.

(B) The Subdivision Administrator shall be appointed by the Town Manager. The powers and duties of the Subdivision Administrator shall be to implement the provisions of this chapter with the assistance of the appropriate technical staff. The responsibilities of the Subdivision Administrator shall include conferring with subdividers, reviewing plans and plats of land subdivision, coordinating and collaborating with the technical staff on the plans and plats, making field investigations of plans and improvements and presenting the plans and plats with findings and recommendations to the Town Administrator as required by the provisions and intent of this chapter.
(Ord. passed 12-2-96)

§ 154.81 TECHNICAL STAFF.

(A) The technical staff shall include the Subdivision Administrator, the Town Manager and representatives from the County Board of Health, Town Planning Board, County Board of Education, County Soil and Water Conservation District supervisors, Haw River Recreation Commission, State Department of Transportation and other agencies and specialists as deemed necessary by the Subdivision Administrator to properly implement the provisions and intent of this chapter.

(B) The responsibilities of the representatives of the technical staff shall include reviewing the plans and plats and performing the necessary field work and investigation.
(Ord. passed 12-2-96)

§ 154.82 EXCEPTIONS.

(A) The following shall not be included nor be subject to the regulations prescribed by this chapter:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as described in this chapter.

(2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.

(3) The public acquisition by purchase of strips of land for the widening or opening of streets.

(4) The division of a tract in single ownership, the entire area of which is no greater than two acres, into not more than three lots, where no right-of-way dedication is involved and where the resultant lots equal or exceed the standard described in this chapter.

(5) The division of a tract or parcel of land into not more than two lots within a two-year period, where no right-of-way dedication is involved and where the resultant lots equal or exceed the standards described in this chapter.

(6) The division of a cemetery into grave sites.

(B) Plats not subject to the provisions of this chapter may be recorded provided the owner desiring to record such plats shall obtain a certificate of exception from the Subdivision Administrator and shall present this certificate to the Recorder as proof that the exception conditions are present.

(C) Certificate of exception.

I (we) hereby certify that I am (we are) the owners of the property shown and described hereon, which was conveyed to me (us) by deed recording in Book _____, Page _____, which is excepted from application of the Subdivision Ordinance of the Town of Haw River, North Carolina.

_____	_____
Owner	Date
_____	_____
Subdivision Administrator	Date

(Ord. passed 12-2-96)

§ 154.83 VARIANCES.

The following conditions may constitute justification for varying the standards and requirements of this chapter. At the request of the Subdivision Administrator, a subdivider seeking a variation shall make application in writing, stating his or her reasons for seeking a variation.

(A) The standards and requirements of this chapter may be modified in the case of a plan and program for a complete group development or planned unit development, if the development provides adequate public spaces and improvements for pedestrian and vehicular circulation, recreation, light, air, service needs of the tract and continued maintenance of on-site group or public utilities when fully developed and populated, and which also provides those covenants, financial guarantees and other legal provisions to guarantee conformity to and achievement of the total development plan.

(B) Where, because of the natural features or other existing physical conditions peculiar to the site compliance with the standards and requirements of this chapter would cause an unusual and unnecessary hardship to the subdivider, variations may be permitted provided that the variations will not have the effect of nullifying the purpose of these regulations.
(Ord. passed 12-2-96)

§ 154.99 PENALTY.

(A) Any person who, being the owner or agent of the owners of any land located within the subdivision regulation jurisdiction of the town, hereafter subdivides such land in violation of this chapter or transfers or sells any part of such land by reference to, exhibition of or any other use of a plat showing a subdivision of land before such plat has been properly approved under the provisions of this chapter and recorded in the office of the County Recorder, shall be guilty of a misdemeanor punishable by a fine of not more than $50 or imprisonment for not more than 30 days.

(B) This chapter may also be enforced by injunction, order of abatement or other equitable remedy upon application to the courts, as permitted to G.S. § 160A-375.

(C) The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties or from the equitable remedy of injunction.
(Ord. passed 12-2-96)

APPENDIX A: SPECIFICATIONS FOR PRELIMINARY PLANS

§ 1 TITLE DATA.

Required title data shall be as follows:

(A) Date of submission.

(B) Name and address of owner(s).

(C) Name of subdivision. Subdivision names shall not duplicate, or approximate phonetically, existing subdivision names.

(D) Location designation (township, county, state and location map showing the property to be subdivided and surrounding area).

(E) Name and address of designer.

(F) Scale in figures and bar graph.

(G) North arrow.

(H) Preliminary plan notation.

(I) Proposed use of property to be subdivided.

§ 2 EXISTING CONDITIONS.

Existing conditions on property to be subdivided and within 300 feet of property being subdivided are defined as follows:

(A) Street rights-of-way, widths of pavements and names.

(B) Location and size of community utilities including sewer, water, electricity and telephone facilities.

(C) Location and size of bridges, culverts and other storm drainage facilities.

(D) Location, width and purpose of all easements.

(E) Bearings and distances of property boundary.

(F) Surrounding property lines, property owners and subdivisions.

(G) Boundaries and identification of political subdivisions.

(H) Boundaries and identifications of land use districts.

(I) Buildings.

(J) Topography, including water-course, wooded areas and contours at five foot intervals or less.

(K) Location, extent and identification of marginal land, wetland and other county, state and/or federally protected areas.

(L) Driveways and road, in use or abandoned, leading to property.

(M) Other natural or manmade conditions affecting site development.

(N) At the request of the Subdivision Administrator or the technical staff, a list of restrictive covenants (deed restrictions) to be applied to any or all lots in the subdivision.

§ 3 PROPOSED PLANS.

(A) Street alignments, rights-of-ways, names.

(B) Community utilities including water, sewer, electricity, gas and telephone facilities with connections to existing systems shown.

(C) Location and size of bridges, culverts and other storm drainage facilities.

(D) Location, width and purpose of all easements.

(E) Lines, numbers and approximate dimensions of lots and blocks.

(F) Minimum building setback lines.

(G) Public use sites.

(H) Site data, as follows.

(1) Acreage of property to be subdivided.

(2) Acreage of public use sites.

(3) Number of lots.

(4) Acreage lots size.

(5) Square feet of each irregularly-shaped lot.

(6) Lineal feet streets.

(Ord. passed 12-2-96)

APPENDIX B: SPECIFICATIONS FOR CONSTRUCTION PLANS

§ 1 THE PLAN.

The construction plan shall consist of the following:

(A) *Title data.*

(1) Date of submission.

(2) Name and address of owner(s).

(3) Name of subdivision.

(4) Location designation (township, county, state).

(5) Name and address of designer.

(6) Scale in figures and bar graph.

(7) North arrow.

(8) Certificate of approval by the technical staff.
The technical staff finds these construction plans to be in compliance with the provisions and intent of the Subdivision Ordinance of the town and the approved preliminary plan."

_____	_____
North Carolina State Department of Transportation	Date
_____	_____
Subdivision Administrator Town of Haw River, North Carolina	Date

(B) *Street data.*

(1) Physical features and structures in rights-of-way and elsewhere as affected by street construction.

(2) Sufficient data on the center line of proposed streets to readily verify compliance with the provisions of this chapter including horizontal curve data (point of intersection, delta angle, degree of curve, radius curve, length of curve, tangent distance), station equality at intersections, width of existing pavements and rights-of-way and typical street section.

(C) *Utilities*. Utilities, including existing and proposed community water and sewer systems and other underground utilities and appurtenances.

(D) *Storm drainage*. Storm drainage facilities, including the location, size and drainage area bridges, culverts and drain pipes.

§ 2 PROFILE.

(A) *Street data*.

(1) Center line profiles of proposed streets. The profiles shall be extended beyond the property being subdivided sufficiently to verify the feasibility of the proposed street.

(2) Center line vertical curve data and elevations.

(3) Center line profiles of intersection streets (existing and proposed).

(4) Grades.

(5) Station and elevation of intersecting streets.

(6) Existing street and property line elevations.

(7) Street names.

(8) Benchmark, description and elevation.

(B) *Utilities*. Utilities, including existing and proposed community water and sewer systems and other underground utilities and appurtenances.

(C) *Storm drainage*. Storm drainage facilities, including top and invert elevations for catch basins and manholes and percent of grade on storm drainage pipes and culverts.
(Ord. passed 12-2-96)

APPENDIX C: SPECIFICATIONS FOR FINAL PLATS

§ 1 TITLE DATA.

(A) Date of submission.

(B) Name and address of owner(s).

(C) Name of subdivision.

(D) Location designation (township, county, state).

(E) Name and address of engineer or surveyor.

(F) Scale in figures and bar graph.

(G) North arrow.

(H) Final plat notation.

(I) Certificate.

§ 2 SURROUNDING PROPERTIES INFORMATION.

Information on surrounding property shall consist of:

(A) Property lines, property owners and subdivisions;

(B) Rights-of-way, easements, reservations and public use sites located and identified within 300 feet of the property being subdivided.

§ 3 PROPERTY BEING SUBDIVIDED.

(A) Street rights-of-way, widths of pavement and names.

(B) Property boundary lines, including bearing and distance.

(C) Block and lot lines and dimensions.

(D) Minimum building setback lines.

(E) Identification and dimensions of easements, reservations and dedicated areas.

(F) Location, extent and identification of marginal land, wetland and other county, state and/or federally protected areas.

(G) Sufficient data of monuments and markers to determine readily and reproduce on the ground the location, bearing and length of all the above items.
(Ord. passed 12-2-96)

APPENDIX D: DESIGN STANDARDS FOR STREET SUBGRADES AND PAVEMENTS

§ 1 PAVEMENT DESIGNS.

(A) The following are minimum thickness of base and surface course to be used. Design should be chosen from Group I or Group II depending on subgrade soil type.

GROUP I
Good to Excellent

Subgrade Soil Types	Base Course	Pavement Surface
A-1-a, A-1-b, A-3	7" STBC, Type A or C---------	2" SA or I-2
A-2-4, A-2-5, A-2-6	9" STBC, Type A or C---------	1 ½" SA or 1-2
A-2-7	8" ABC or STBC, Type B-----	BST, 1" SA or I-2
	6" ABC or STBC, Type B-----	1 ½" SA or I-2
	3" BCBC, Type HB----------	1 ½" SA or I-2
	3 ⅓" BCBC, Type HB--------	2" SA or I-2
	----------	5" Plain Concrete

GROUP II
Poor to Fair
Subgrade Soil Types

A-4, A-5, A-6, A-7-5	9" STBC, Type A or C------	2" SA or I-2
A-7-6	8" ABC or STBC, Type B----	1 ½" SA or I-2
	10" ABC or STBC, Type B----	BST, 1" SA or I-2
	4" BCBC, Type HB----------	1 ½" SA or I-2
	3" BCBC, Type HB----------	2" SA or I-2
	----------	6" Plain Concrete

Any other pavement design must be reviewed by the N.C. Department of Transportation Division Engineer and by the town staff on an individual basis and approval will be based on sound engineering principles.

§ 2 SUBGRADE.

No base course shall be placed on muck, pipe clay, organic matter or other unsuitable material. The N.C. Department of Transportation District Engineer and/or the town staff may require a subgrade soils test to determine the soils classification type. Soil type classifications are based on definitions found in the latest edition of the N. C. Department of Transportation "Minimum Construction Standards for Subdivision Roads."

§ 3 DEFINITIONS.

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

ABC	Aggregate Base Course, No. 7 stone
STBC	Soil Type Base Course
BST	Bituminous Surface Treatment
SA	Bituminous Concrete Surface Course, Type F-1 (Sand Asphalt)
I-2	Bituminous Concrete Surface Course, Type 1-2 NOTE: I-1 May be used in lieu of I-2
BCBC	Bituminous Concrete Base Course, Type HB (Black Base)

§ 4 OTHER BASE COURSES.

Other base courses such as various cement-treated materials may be used in lieu of those herein before mentioned. These materials shall be of sufficient thickness to provide equivalent strength. However, any substitute offered must receive approval prior to use by the N.C. Department of Transportation Division Engineer and by the town staff.

§ 5 MATERIAL AND WORKMANSHIP REQUIREMENTS.

All materials and workmanship shall meet the appropriate requirements set forth in the latest edition of the following publications published by the North Carolina Department of Transportation: Standard Specifications for Roads and Structures; Subdivision Roads, Minimum Construction Standards; and Highway Design Branch, Roadway Standard Drawings, Roadway Design.
(Ord. passed 12-2-96)

CHAPTER 155: ZONING CODE

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GENERAL PROVISIONS

§ 155.001 AUTHORITY AND ENACTMENT CLAUSE.

This chapter establishes zoning regulations in the town of Haw River, North Carolina; provides for the administration, amendment and enforcement of this chapter; and provides for and defines the duties and powers of a Board of Adjustment. Pursuant to and in accordance with the provisions of G.S. Chapter 160A, Article 19, the Town Council does hereby ordain and enact into law the following sections and hereby repeals all ordinances in conflict with this chapter.
(Ord. passed 11-2-15)

§ 155.002 TITLE.

This chapter shall be known as *The Zoning Ordinance of the Town of Haw River, North Carolina* and may be cited as the Zoning Ordinance.
(Ord. passed 11-2-15)

§ 155.003 PURPOSE AND INTENT.

This chapter is designed to guide and regulate the orderly development of the town's physical elements, in accordance with existing land use patterns, population densities and the town's Land

Development Plan (1980). Reasonable consideration has been given to the town's future growth and expansion. The purpose of this chapter is to promote the public health, safety, morals and general welfare; to promote the orderly development of the town; to prevent overcrowding; and to regulate the appropriate location and use of structures and land for trade, industry, residences or purposes other than bona fide farming.
(Ord. passed 11-2-15)

§ 155.004 JURISDICTION.

This chapter applies to all lands within the corporate limits of the town and all extraterritorial zoning areas within which the town exercises jurisdiction.
(Ord. passed 11-2-15)

§ 155.005 INTERPRETATION OF WORDS AND TERMS.

For the purposes of this chapter, certain words and terms shall be interpreted as follows:

(A) Words used in the present tense include the future tense, and words used in the future tense include the present tense.

(B) Words used in the singular number include the plural, and words used in the plural number include the singular.

(C) The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.

(D) The word "lot" includes the word "plot," "parcel" or tract."

(E) The word "building" includes the word "structure."

(F) The words "shall" and "must" are always mandatory.

(G) The word "may" is permissive.

(H) The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

(I) The term "zoning map" shall mean the official zoning map(s) of the town of Haw River, North Carolina.

(J) The words "Haw River Planning Area" or "Planning Area" mean the corporate limits and extraterritorial jurisdiction within which the town of Haw River exercises its planning and zoning authority.

(K) For purposes of interpreting this chapter, certain words, concepts, and ideas are defined in § 155.006 "DEFINITIONS." Except as defined herein, all other words used in this chapter shall have their everyday dictionary definition.
(Ord. passed 11-2-15)

§ 155.006 DEFINITIONS.

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

ABANDONED.

(1) A use shall be deemed to be abandoned when:

(a) The use is physically and objectively discontinued (other than in association with the settlement of an estate or for any use which is seasonal in nature); or

(b) The premises are devoted to another use; or

(c) The characteristic equipment and furnishings of a nonconforming nonresidential use have been physically removed from the premises and have not been replaced by the same or similar equipment within 30 days.

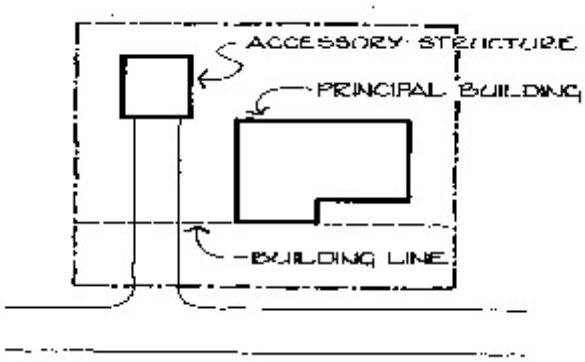
(2) All of the above events are considered abandonment, regardless of the intent of the owner, lessee or occupant and regardless of any circumstances beyond the control of such parties that prevent continuation of the use.

ABATTOIR. A facility used for slaughtering and processing of animals and the refining of their byproducts.

ABUTTING PROPERTIES. Having common property boundaries or lot lines that are not separated by a street, alley, or other vehicular right-of-way such as a railroad.

ACCESS EASEMENT. An easement which grants the right to cross property.

ACCESSORY STRUCTURE. A detached subordinate building, the use of which is incidental to that of the principal building and located on the same lot therewith.



ACCESSORY USE. A structure or use that:

(1) Is clearly incidental to and customarily found in connection with a principal building or use;

(2) Is subordinate to and serves a principal building or a principal use;

(3) Is subordinate in area, extent, or purpose to the principal building or principal use served;

(4) Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and

(5) Is located on the same zone lot as the principal building or use served.

ADJACENT PROPERTY. This term shall mean anything that is contiguous or abutting with the assumption that railroads, roads, and other rights-of-way do not exist.

ADULT BOOKSTORE. A bookstore:

(1) Which receives a majority of its gross income during any calendar year from the sale of publications (including books, magazines and other periodicals) which are distinguished or characterized by their emphasis on matter depicting, describing or relating to sexual activities or anatomical areas, or

(2) Having a preponderance of its publications, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting or relating to sexual activities or anatomical areas.

ADULT CARE HOMES. Adult care homes are residences for aged and disabled adults who may require 24-hour supervision and assistance with personal care needs. People in adult care homes typically need a place to live, some help with personal care (such as dressing, grooming and keeping up with medications), and some limited supervision. Medical care may be provided on occasion, but is not routinely needed. Medication may be given by designated, trained staff. These homes vary in size from family care homes of two to six residents to adult care homes of more than 100 residents. These homes were previously called "domiciliary homes."

ADULT ESTABLISHMENT. An adult bookstore (as defined above), adult motion picture theater, adult mini motion picture theater, adult live entertainment business, or massage business as defined in G.S. 14-202.10.

AGRICULTURE. The use of land for production in the open of cash grains, field crops, vegetables, fruits, berries and nuts, trees, flowers; or raising and keeping of general livestock and poultry or the products thereof or the breeding of such livestock and poultry.

ALLEY. A roadway which affords only a secondary means of access to abutting property.

AMENDMENT. Any change by the Town Council to the text of these regulations or the official zoning map.

AMERICANS WITH DISABILITIES ACT (ADA). Federal law enacted in 1990 to protect individuals with physical or mental disabilities from intentional or unintentional discrimination in housing, employment, education, access to public services, etc.

ANIMAL HOSPITAL. A place where animals or pets are given medical or surgical treatment by a licensed veterinarian.

APPLICANT. Any person seeking approval under these regulations for any form of development or use of land.

APPROVAL AUTHORITY. The Town Council or other board or official designated by ordinance or this section as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

ARCHITECT. A person licensed to practice architecture in the State of North Carolina.

ART GALLERY. A room or structure in which original works of art or limited editions of original art are bought, sold, loaned, appraised or exhibited to the general public.

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

ASSISTED LIVING RESIDENCE. Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. The Department of Human Resources may allow nursing service exceptions on a case-by-case basis. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. North Carolina recognizes three types of assisted living residences: adult care homes, group homes for developmentally disabled adults, and multi-unit assisted housing with services.

ATHLETIC FIELD. Outdoor sites, often requiring equipment, designed for formal athletic competition in field sports (e.g. softball, soccer, football).

AUTO WRECKING. A person or business that provides open storage, disassembling, or salvaging for more than two junked motor vehicles.

AUTOMATIC TELLER MACHINE (ATM). A type of banking and financial services with automated or self-service banking features with no staff or personnel provided.

AUTOMOBILE REPAIR SHOP. A facility which provides for the major repair and maintenance of vehicles and the repair of motors, repair and/or installation of tail pipes and mufflers, brakes, radiators and electrical systems.

AUTOMOBILE REPAIR SERVICES, MAJOR. An establishment primarily engaged in one or more of the following activities:

(1) General repair or service;

(2) Engine repair;

(3) Installation or repair of transmissions;

(4) Installation or repair of automotive glass;

(5) Installation or repair of exhaust systems;

(6) Repair of tops, bodies and interiors; and

(7) Automotive painting and refinishing.

AUTOMOBILE SALES. A surface area other than a street or a building, used for display, sale or rental of new or used automobiles, trucks, trailers or motorcycles where no repair work is done, except minor reconditioning of said motor vehicles or trailers to be displayed, sold or rented on the premises. Such area shall not include salvaged parts, nor shall it include the storage of either new or used motor vehicles or trailers that are not on display or for sale or rent.

AUTOMOBILE WRECKING, JUNK OR SALVAGE YARD. An automobile wrecking, junk or salvage yard is a lot upon which waste or scrap materials are bought, sold, exchanged, stored, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. Such yards by definition include an automobile wrecking lot upon which automobile parts are bought, sold, exchanged, stored, packed, disassembled or handled. Said yards do not include such uses conducted entirely within an enclosed building.

AWNING. A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not a canopy.

BAKERY. A place for preparing, baking and selling baked goods and products prepared on the premises.

BANKING AND FINANCIAL SERVICES. A facility engaged in deposit banking or extending credit in the form of loans.

BAR. An establishment primarily engaged in the retail sale of beer or wine for consumption on the premises. Such establishment must obtain an ABC license for on-premise beer or wine consumption only. The establishment may also be engaged in the retail sale of prepared food for on-premise consumption.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given 100-year period.

BASE FLOOD ELEVATION. The elevation to which structures and uses regulated by this chapter are required to be elevated or flood proofed.

BASEMENT. A story of a building or structure having one-half or more of its clear height below grade. The lowest level or story which has its floor subgrade on all sides. (This definition applies only with respect to flood damage prevention regulations.)

BED AND BREAKFAST. A private home offering bed and breakfast accommodations to eight or fewer persons per night for a period of less than a week.

BERM, EROSION CONTROL. A mound of material and/or ditch the purpose of which is to divert the flow of run-off water.

BERM, LANDSCAPING. A mound or bank of earth the purpose of which is to provide a barrier or to provide insulation.

BICYCLE SALES AND REPAIR. A facility which provides for the repair and maintenance of bicycles and the repair of bicycles.

BLOCK. The land lying within an area bounded on all sides by streets.

BOARD OF ADJUSTMENT. A quasi-judicial body appointed by the Town Council and composed of residents of Haw River and its extraterritorial area which is empowered to hear appeals from decisions of the Enforcement Officer, provide recommendations regarding special use permits, and grant minor variances from the provisions of the Zoning Ordinance. In Haw River the Board of Adjustment and the

Planning Board are comprised of the same individuals, functioning as separate bodies according to the stated function and purpose of the meeting.

BOARDING HOUSE. A dwelling or part thereof in which the owner or operator provides lodging to more than three boarders.

BOTTLING WORK. A facility for the bottling of products for off-site retail sales.

BUFFER. An area of land set aside along the perimeter of a parcel of land in which landscaping is required to provide an aesthetic transition between different land uses and to eliminate or reduce the adverse environmental impact, and incompatible land use impacts.

BUFFER ZONE. The strip of land adjacent to a lake or natural watercourse, the width of which is measured from the edge of the water to the nearest edge of the disturbed area, with the 25% of the strip nearer the land disturbing activity containing natural or artificial means of confining visible siltation.

BUFFER ZONE, LANDSCAPING. A neutral area or strip of land located along property lines that serves to provide a transition between different land uses, eliminating or reducing incompatible land uses.

BUILDABLE OR ZONING LOT. One or more lots of record in one undivided ownership with sufficient total area, sufficient area exclusive of easement, flood hazards, well and septic tank fields, total dimensions, and street access to permit construction thereon of a principal building together with its required parking and planting yards.

BUILDING. Any structure having a roof supported by walls or columns constructed or used for residence, business, industry or other public or private purposes.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the finished grade to the topmost section of the roof.

BUILDING INSPECTOR. An inspector employed by the Alamance County Inspections Department authorized to enforce state building, plumbing, heating and other codes within the Town of Haw River under Alamance County's central permitting system.

BUILDING LINE. A line perpendicular to the lot depth which establishes the horizontal distance between the structure and the front property line excluding the outermost steps, uncovered porches, gutters, and similar fixtures.

BUILDING SEPARATION. The minimum required horizontal distance between buildings.

BUILDING YARD. A building yard is a planting area parallel to a public street designed to provide continuity of vegetation and a pleasing view along the street.

CALIPER. A standard trunk diameter measurement for nursery grown trees taken six inches above the ground for up to and including four-inch caliper size, and 12 inches above the ground for larger sizes.

CANOPY. A permanent roofed structure, including marquees and awnings, either attached to and supported by a building or freestanding.

CAR WASH. A facility for the washing of automobiles, small recreational vehicles, and light trucks.

CARPORT. A roofed structure enclosed on not more than two sides and used for the parking of motor vehicles.

CEMETERY. Land and facilities, including offices and chapels, used for the burial of the dead.

CERTIFICATE OF COMPLIANCE. A statement issued by an authorized member of the Alamance County Inspections Department setting forth that the building, structure and/or use comply with the all applicable provisions of this zoning ordinance and North Carolina building codes and that the building or structure be used for the purposes stated on the certificate.

CHANGE OF USE. A change in the use of a structure or land for which a zoning permit is required.

CHURCH. A facility of a church, temple, synagogue, or other non-profit religious organization operated for worship and which may include religious training or study.

CLUB OR LODGE, PRIVATE. An establishment operated by a corporation or association of persons for social, recreational, fraternal or charitable purposes, but which is not operated for profit or to render a service which is customarily conducted as a business.

COMMON AREA(S). All areas, including private streets, conveyed to an owners' association within a development or owned on a proportional undivided basis in a condominium development.

COMMUNITY CENTER. A building used for recreational, social, educational, and cultural activities, open to the public and usually owned and operated by a public or nonprofit group or agency.

COMPLETION OF CONSTRUCTION OR DEVELOPMENT. The condition after which no further land disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

CONDOMINIUM. Portions of real estate which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

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

CONTIGUOUS AREA. Any area that abuts directly on a subject property or is separated from the subject property by a street or the right-of-way of a railroad or other utility or public service corporation.

CONVENIENCE STORE. Any retail establishment offering for sale gasoline, diesel fuel, kerosene, automotive products, prepackaged food products, household items, and/or other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

COUNTY. Refers to Alamance County, North Carolina.

CURIO SHOP. See ***SOUVENIR SHOP***.

DAY. Any reference to days shall mean calendar days unless otherwise specified. A duration of days shall include the first and last days an activity is conducted and all days in between, unless otherwise specified by state law.

DAY CARE. Any child or adult care arrangement for individuals who receive care away from their primary residence by persons other than their parents, children, grandparents, aunts, uncles, brothers, sisters, first cousins, nieces, nephews, guardians, or full-time custodians, where care is provided on a regular basis at least once per week for more than four but less than 24 hours per day.

DECIDUOUS. A plant or tree with foliage that is shed annually.

DEED RESTRICTION. A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the Alamance County Register of Deeds. Also known as a restrictive covenant.

DETENTION POND. A pond which collects storm water runoff, filters the water, and releases it slowly over a period of hours or days. It does not have a permanent pool and is sometimes referred to as a dry pond or wet weather pond.

DEVELOPER. A person engaging in development.

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

DEVELOPMENT, DENSITY OF. The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new streets, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks shall be used for density calculations.

DISCHARGE POINT. The point at which runoff leaves a tract of land.

DISPOSAL (OF HAZARDOUS OR TOXIC SUBSTANCES). The destruction, discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste or toxic substance into or on any air, land, or water.

DISPOSAL FACILITY. A facility or part of a facility at which hazardous waste or toxic substance is intentionally placed into or on any land or water, and at which hazardous waste or toxic substance remain after closure.

DRAINAGEWAY. Any natural or man-made channel that carries surface runoff from precipitation.

DRAINAGEWAY AND OPEN SPACE AREA, DEDICATED. The area designated for flood plain and open space purposes on a recorded subdivision plat and thereby dedicated to the public for such purposes.

DRIP LINE. A vertical line from a tree canopy or shrub branch extending from the outermost edge to the ground.

DRY CLEANING AND LAUNDRY ESTABLISHMENTS. A building, portion of a building, or premises used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersions in volatile solvents including, but not limited to petroleum distillates, and/or chlorinated hydrocarbons and any process incidental thereto.

DUPLEX DWELLING. A building on one lot arranged and designed to be occupied by two families living independently of each other. See ***TWO-FAMILY DWELLING***.

DWELLING UNIT. One or more rooms designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided therein. Units in dormitories, hotels, motels, and shelters for the homeless or other structures designed for transient residents are not dwelling units.

EASEMENT. A grant of one or more of the property rights by the property owner to, or for use by, the public, a corporation, or other entity.

ELEVATED BUILDING. A non-basement building built to have the top of the elevated floor above the ground by means of fill, solid foundation with openings sufficient to facilitate the unimpeded flow of floodwaters, perimeter walls, pilings, columns (post and piers), shear walls, or breakaway walls.

ENFORCEMENT OFFICER. Either a building inspector with the Alamance County inspections department or the Town of Haw River enforcement officer who enforces zoning, subdivision and other development ordinances of the town.

ENGINEER. A person licensed to practice engineering in the State of North Carolina.

EVERGREEN. A plant or tree with foliage that persists year-round.

FACADE. The exterior wall of a building extending from grade to the top of the parapet, wall, or eaves that is exposed to public view.

FACIS. The general appearance, aspect, or nature of the face of a structure.

FAMILY.

(1) An individual;

(2) Two or more persons related by blood, marriage or adoption living together as a single housekeeping unit and sharing the same domestic facilities, and (unless the dwelling contains an accessory dwelling unit) may also include not more than two unrelated persons; or

(3) A group of not more than four persons who need not be related by blood, marriage, or adoption living together as a single housekeeping unit and sharing the same domestic facilities. The term ***FAMILY*** shall not be construed to include a fraternity or sorority, club, rooming house, institutional group or the like.

FAMILY CARE HOME.

(1) ***FAMILY CARE HOMES*** (also called group homes) are facilities that provide health, counseling, or related services to a small number of persons in a family type environment. Both state and federal laws affect zoning regulation of these facilities. G.S. 168-22, added to the statutes in 1981, provides that certain family care homes must be treated as single-family homes by local zoning ordinances. They cannot be prohibited in a district that allows single-family residences nor can they be subject to any special review requirements, such as a special or conditional use requirement.

(2) To qualify for this treatment, the facility must be designed to provide room, board, and care for six or fewer handicapped persons in a family environment. Handicapped persons include those with physical, emotional, or mental disabilities, but not those who have been deemed dangerous to themselves or to others.

FAMILY (GROUP) CARE HOME A. Pursuant to G.S. 168-21, a home for six or less individuals with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for resident persons with a temporary or permanent physical,

emotional, or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11b).

FAMILY (GROUP) CARE HOME B. Pursuant to G.S. 168-21, a home for seven to 20 individuals with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for resident persons with a temporary or permanent physical, emotional, or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11b).

FEED AND SEED STORE. Establishments primarily engaged in the retail sale of supplies directly related to the day-to-day activities of agricultural production.

FENCE. A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material used as a boundary or means of protection or confinement, but not including a hedge or other vegetation.

FENESTRATION. The arrangement and proportioning of windows and doors, etc. and the architectural decorating and composition of their openings and ornaments.

FLEA MARKET. A commercial operation held on a regular basis and patronized by individual entrepreneurs who transport a variety of merchandise (excluding motor vehicles, motor vehicle parts, tires, and mobile homes) to a common geographical area for the purpose of sale or trade to the general public. This definition does not include sporadic and infrequent yard sales held in residential areas.

FLOOD AND FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.

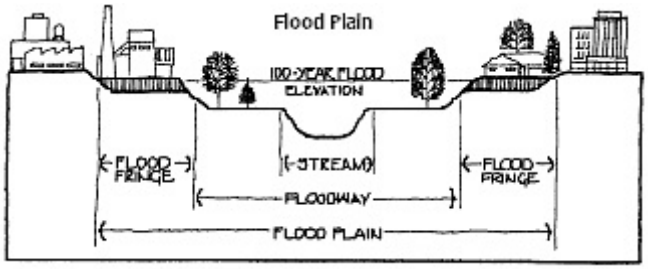
FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of the community, issued by the Federal Insurance Administration, where the boundaries of the area's special flood hazard have been designated as "Zone A, AE, AO, or A1-99."

FLOOD INSURANCE RATE MAP (FIRM). An official map of the community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency (FEMA). The report contains flood profiles, as well as the Flood Boundary/Floodway Map and the water surface elevation of the base flood.

FLOOD FRINGE. An area lying outside the floodway, but within the flood plain.

FLOOD PLAIN. The relatively flat area or low land adjacent to the channel of a river, stream, or watercourse, lake or other body of standing water, which has been or may be covered by flood water.



FLOOD PLAIN, FIVE-HUNDRED YEAR. The channel and area abutting a watercourse which would be covered with water during a 500-year flood as designated by reports and data provided by the Federal Emergency Management Agency.

FLOOD PLAIN, ONE-HUNDRED YEAR. The channel and area abutting a watercourse which would be covered with water during a 100-year flood as designated by reports and data provided by the Federal Emergency Management Agency.

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

FLOOR. The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

FLOOR AREA, GROSS. The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles or any space where the floor-to-ceiling height is less than six feet.

FOUNDRY. An establishment that melts metal and produces castings.

GOLF COURSE. An area designed for golf, including a Par 3 golf course, having at least nine holes, each with a tee, fairway, and green, and may have one or more hazards. A clubhouse, pool and other facilities associated with a country club built around a golf course are considered part of the golf course.

GOLF DRIVING RANGE. An open-air golf practice facility.

GRADE. A reference plane representing the average of finished ground level adjacent to any structure.

GRADING. Any operation or occurrence by which the existing site elevations are changed, or where any ground cover, natural or man-made, is removed, or any buildings or other structures are removed, or any water course or body of water, either natural or man-made, is relocated on any site, thereby creating an unprotected area. The term ***GRADING*** is interchangeable with "land disturbing activity."

GREENWAY. Public open space owned and maintained by the local government, which has been designated on an officially adopted greenway plan.

GROCERY STORE. A retail establishment engaged in the business of selling groceries, meat, fruit, and vegetables.

GROUND COVER. Dense low growing plants other than turf-grass normally reaching an average height of not more than 24 inches at maturity.

GROUND LEVEL. For floodway purposes, the existing average elevation of the land.

GROUP CARE FACILITY.

(1) A ***GROUP CARE FACILITY*** is a transitional housing facility for not more than 20 people licensed by the State of North Carolina, which provides room and board, personal care and rehabilitation services while persons receive therapy and/or counseling for one or more of the following purposes:

(a) To assist them to recuperate from the effects of or refrain from the use of drugs or alcohol;

(b) To provide emergency and temporary shelter for persons in distress such as runaway children and battered individuals; and

(c) To provide shelter and support for older adults and persons who are handicapped.

(2) A ***GROUP CARE FACILITY*** shall not serve primarily as an alternative to incarceration. Such facilities may have accessory uses conducted on the premises, including, but not limited to, schooling of residents, training programs in occupational fields, and production of goods and crafts to be sold off-premises.

GROUP DEVELOPMENT. A development in which, in lieu of division of a tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two or more principal building sites for the purpose of building development for residential, office or manufacturing or industrial uses. In Haw River, a shopping center is not considered a group development for purposes

of granting special use permits. The requirements for special use permits for group developments and shopping centers are different.

GROUP HOME. See ***FAMILY CARE HOME.***

GROUP HOMES FOR DEVELOPMENTALLY DISABLED ADULTS. Group home for developmentally disabled adults means an adult care home which has two to nine developmentally disabled adult residents. Group homes for developmentally disabled adults are divided into the following types:

(1) Homes operated by private non-profit boards;

(2) Governmentally-operated homes;

(3) Private for profit homes; and

(4) Private for profit or private non-profit group homes.

Both private non-profit and private for profit group homes for developmentally disabled adults must apply through and be approved by the county departments of social services and licensed by the Division of Health Service Regulation. The division of social services and the county departments do not have responsibility for approving governmentally-operated (public) group homes; however, this type of group home must be licensed by the Division of Health Service Regulation.

HABILITATION FACILITY. Any facility in which handicapped persons receive habilitation services, rehabilitation services or engage in recreational activities, regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the State of North Carolina and do not provide room and board. This definition does not include the principal uses schools, elementary or schools, secondary. These facilities are intended to serve handicapped persons as defined by state law, in accordance with rights provided by applicable laws.

HAZARDOUS OR TOXIC SUBSTANCE. Any solid waste as defined in G.S. 130A-290(8), or any substance regulated under the Federal Toxic Substance Control Act of 1976, (PL 94-476), as amended from time to time, which because of its quantity, concentration, or physical chemical or infectious characteristic(s) may:

(1) Cause or significantly contribute to an increase in serious irreversible or incapacitating illness, or;

(2) Pose a substantial present or potential threat to the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

HAZARDOUS WASTE GENERATOR. Any person whose act or process produces hazardous waste or toxic substance identified or listed in Part 261 of the North Carolina Hazardous Waste Management Rules or whose act first causes a hazardous waste or toxic substance to become subject to regulation provided that "generator" does not include a facility which accepts hazardous waste or toxic substances for the purpose of treatment, storage, or disposal, and in that process creates a different hazardous waste or toxic substance.

HAZARDOUS WASTE LONG-TERM STORAGE FACILITY. Any facility or any portion of a facility constructed for storage of the residuals of the treatment of hazardous waste, on or in land.

HAZARDOUS WASTE MANAGEMENT. The systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery and disposal of hazardous wastes.

HAZARDOUS WASTE TREATMENT FACILITY. A facility which is established and operated for the recovery, recycling, treatment, storage during collection and prior to treatment, short-term storage after treatment, collection, processing, volume reduction, source separation, or transportation used exclusively in connection with the facility, of hazardous waste; and which facility includes several of the following equipment and processes. Incinerators, rotary kilns, drum handling, washing and crushing facilities, raw waste tank storage, reduction, neutralization, detoxification, wastewater treatment facilities including settling systems, aerobic digester, anaerobic digester, clarifiers, neutralization facilities, solidifying facilities, evaporators, reactions to facilitate "reuse" or recycling, analytical capabilities, and other similar appropriate technologies, activities and processes as may now exist or be developed in the future.

HEDGE. A landscape barrier consisting of a continuous, dense planting of shrubs, not necessarily of the same species.

HISTORICAL STRUCTURE. Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places;

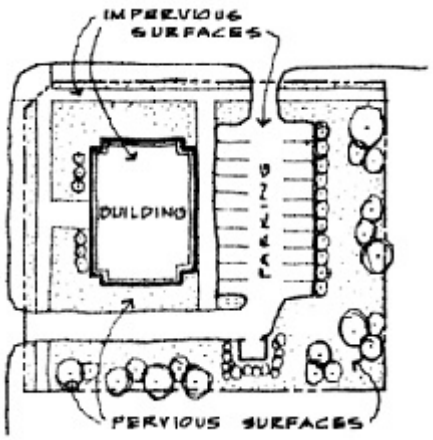
(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified:

(a) By an approved state program as determined by the Secretary of Interior; or

(b) Directly by the Secretary of Interior in states without approved programs.

HOME OCCUPATION. Any use conducted entirely within a dwelling and carried on by the occupants of the dwelling, which use is incidental and secondary to the use of the dwelling for residential purposes and doesn't change its character.

IMPERVIOUS SURFACE COVERAGE. That portion of a lot covered by buildings, structures, paving or other impervious surface materials.



INDEPENDENT LIVING FACILITIES. Absence of health services, covers a broad range of settings in which persons, as a matter of preference and lifestyle, move into adult communities that impose age restrictions, offer social activities, and, often, increased security.

INFILL DEVELOPMENT. The construction of a building on a vacant parcel located in a predominantly built up area.

JUNKED MOTOR VEHICLE. A motor vehicle that does not display a current license plate and is one or more of the following:

(1) Partially dismantled or wrecked;

(2) Cannot be self-propelled or moved in the manner in which originally intended.

JUNK/SALVAGE YARD. The use of more than one acre (43,560 sq. ft.) for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

KENNEL. A use or structure intended and used for the breeding or accommodation of small domestic animals for sale and/or for the training or overnight boarding of animals for persons other than the owner of the lot. This definition shall not include a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals.

LAKE OR NATURAL WATERCOURSE. Any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

LAND-DISTURBING ACTIVITY. See ***GRADING.***

LANDFILL, DEMOLITION AND CONSTRUCTION DEBRIS. A disposal site for stumps, limbs, leaves, concrete, brick, wood and uncontaminated earth. Disposal of any other types of wastes must be approved by the State Division of Health Services.

LANDFILL, SANITARY/SOLID WASTE. A site for solid waste disposal from residential, industrial, or commercial activities.

LANDOWNER. Any owner of a legal or equitable interest in real property, including heirs, devises, successors, assigns, and personal representatives of such owner.

LANDSCAPE ARCHITECT. A person licensed to practice landscape architecture in the State of North Carolina.

LANDSCAPE MATERIAL. Plants such as grass, ground cover, shrubs, vines, hedges, trees and nonliving material such as rock, pebbles, sand, mulch, stepping stones, etc.

LANDSCAPE PLAN. A plan indicating all landscape areas, storm-water retention or detention areas, which qualify to be excluded from maximum permitted lawn area, existing vegetation to be retained, proposed plant material, landscape legend, landscape features, planting specifications and details and all other relevant information in compliance with this article.

LAWN AREA. An area planted with lawn grasses.

LIBRARY, PUBLIC. A publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for use by the general public.

LOT. A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law to be separately owned, used, developed, or built upon.

LOT, CORNER. A lot abutting two or more streets at their intersection.

LOT COVERAGE. The portion of a lot covered by buildings(s) and/or structure(s).

LOT DEPTH. The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

LOT, FLAG. A lot, created by a subdivision, with less street frontage than is required by Article V and composed of a narrow "flagpole" strip extending from the street and a much wider "flag" section lying immediately behind a lot or lots having the required street frontage for a conventional lot. In the case of a flag lot, the lot line at the end of the flag pole lying generally parallel to the street to which the flagpole connects shall be considered to be the front lot line for setback purposes.

LOT LINE. A line or series of connected line segments bounding a lot.

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

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

LOT LINE, SIDE. A lot line other than a front or rear lot line.

LOT OF RECORD. A lot, plot, parcel or tract recorded in the Office of the Register of Deeds in conformance with the ordinance(s) in effect at the time of recordation.

LOT, REVERSE FRONTAGE. A through lot which is not accessible from one of the parallel or nonintersecting streets upon which it fronts.

LOT, THROUGH. A lot abutting two streets that do not intersect at the corner of the lot.

LOT WIDTH. The mean width measured at right angles to its depth at the building line.

MANUFACTURED DWELLING. A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, when erected on site, is 320 or more square feet in floor area, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to utilities, and includes the plumbing, heating, and electrical systems contained therein; or a structure that otherwise comes within the definition of a "manufactured home" under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

(1) *Class "A" Manufactured Homes*. Class A manufactured home is a doublewide or multi-sectioned manufactured housing unit which meets the U.S. Department of Housing and Urban Development manufactured home construction standards and satisfies the following criteria:

(a) Is occupied only as a single-family dwelling;

(b) Has a length not exceeding four times its width, with length measured along the longest axis and width measured perpendicular to the longest axis at the narrowest part;

(c) Has a minimum of 700 square feet of enclosed and heated living area;

(d) Has the towing apparatus, wheels, axles, and transporting lights removed and not included in length and width measurements;

(e) Is set up in accordance with the standards established by the North Carolina Department of Insurance. In addition, a continuous, permanent brick or stone foundation or masonry curtain wall constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for One- and Two-Family Dwellings, unpierced except for required ventilation and access, shall be installed under the perimeter;

(f) Has exterior siding, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction, consisting of one or more of the following:

1. Vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint);

2. Cedar or other wood siding;

3. Wood grain, weather resistant press board siding;

4. Stucco siding; or

5. Brick or stone siding.

(g) Has a roof pitch minimum with a vertical rise of four feet for each 12 feet of horizontal run;

(h) All roof structures shall provide an eave projection no less than six inches, which may include a gutter; and

(i) Stairs, porches, entrance platforms, ramps and other means of entrance and exit installed or constructed in accordance with the standards set by the North Carolina State Building Code,

attached firmly to the primary structure and anchored securely to the ground. Wood stairs shall only be used in conjunction with a porch or entrance platform with a minimum area of 24 square feet. The use of wood stairs only is prohibited at any entrance.

(2) *Class "B" Manufactured Homes*. Class B manufactured home is a singlewide manufactured housing unit which meets the U.S. Department of Housing and Urban Development manufactured home construction standards that meet or satisfies criteria (1)(e) and (1)(g) above for Class A manufactured dwellings.

(3) *Class "C" Manufactured Homes*. Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured dwellings above.

MANUFACTURED DWELLING PARK. A group development site with required improvements and utilities for the long-term location of three or more manufactured dwellings for rental purposes, which development may include services and facilities for the residents.

MANUFACTURED DWELLING SPACE. A designated area of land within a manufactured dwelling park designed for the accommodation of a single manufactured dwelling in accordance with the requirements of this chapter.

MASSAGE THERAPY. Any massage or body work therapy as defined by the North Carolina Massage and Bodywork Therapy Practice Act, G.S. Ch. 90 Art. 36, provided by a person licensed as provided therein to perform such therapy.

MEAT OR POULTRY PROCESSING PLANT. An establishment primarily engaged in the slaughtering of cattle, chicken, hogs, sheep, lambs, and calves for meat to be sold or to be used on the same premises in canning, cooking, curing, and freezing.

MEDICAL OR DENTAL OFFICE. An establishment primarily engaged in furnishing medical and dental services to individuals and licensed for such practice by the state.

MODULAR DWELLING. A dwelling unit that is composed of components substantially assembled in an off-site manufacturing plant, transported to the building site for final assembly on a permanent foundation, and is constructed in compliance with the North Carolina State Building Code. Minimum design standards for modular dwellings specified in G.S. 143-139.1 require:

(1) *Roof pitch*. For homes with a single predominant roofline, the pitch of the roof shall be no less than five feet rise for every 12 feet of run.

(2) *Eave projection*. The eave projections of the roof shall be no less than ten inches, which may not include a gutter around the perimeter of the home, unless the roof pitch is 8/12 or greater.

(3) *Exterior wall*. The minimum height of the exterior wall shall be at least seven feet six inches for the first story.

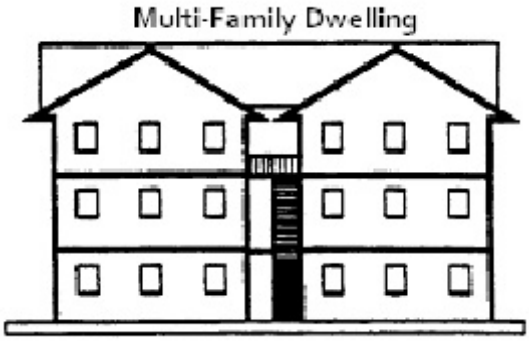
(4) *Siding and roofing materials*. The materials and texture for the exterior materials shall be compatible in composition, appearance, and durability to the exterior materials commonly used in standard residential construction.

(5) *Foundations*. The home shall be designed to require foundation supports around the perimeter. The supports may be in the form of piers, pier and curtain wall, piling foundations, a perimeter wall, or other approved perimeter supports.

MOTOR VEHICLE. Any vehicle that is self-propelled and every vehicle designated to run upon the highways that is pulled by a self-propelled vehicle. For purposes of this definition, the term ***MOTOR VEHICLE*** shall not include vehicles or implements used in farming or construction but shall include all forms of motorized watercraft.

MULCH. Non-living organic materials customarily used in landscape design to prevent erosion and weed infestation, and to retain moisture for use in planting areas.

MULTI-FAMILY DWELLING. A building or portion thereof used or designed as a residence for two or more families living independently of each other with separate housekeeping and cooking facilities for each, and includes apartment, townhouses and condominiums.



MULTI-UNIT ASSISTED HOUSING WITH SERVICES. An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency, through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine charges for housing and personal care services. All residents, or their compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a licensed nurse according to the home care agency's established plan of care. Multiunit assisted housing with services programs are required to register with the Division of Health Service Regulation.

MUSEUM. An institution that is established for the purpose of acquiring, conserving, studying, interpreting, assembling and exhibiting to the public for its instruction or enjoyment, a collection of artifacts of historical interest.

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of this chapter, including any subsequent improvements to such structures.

NONCONFORMING. A lot, structure, sign, or use of land which is now prohibited under the terms of this chapter but was lawful at the date of this chapter's enactment or any amendment or revision thereto.

NONCONFORMING LOT(S). A lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of this chapter or any subsequent amendment.

NONCONFORMING STRUCTURE(S). A structure that does not conform to the requirements of this chapter. The nonconformity may result from adoption of this chapter or any subsequent amendment.

NONCONFORMING USE. A use which was a permitted use on a parcel of land or within a structure but which is not now a permitted use. The nonconformity may result from the adoption of this chapter or any subsequent amendment.

NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES (DENR). A state agency having jurisdiction over environmental permits and activities, as well as permits for drinking water, stormwater and wastewater systems.

NURSING HOME. Nursing homes are facilities that provide nursing or convalescent care for three or more persons unrelated to the licensee, that are for chronic or convalescent patients who are acutely ill and do not require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. ***NURSING HOMES*** provides care for persons who have remedial ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. Adult care homes may be operated as part of a ***NURSING HOME***.

OFFICE. A use or structure in which business or professional services are conducted or rendered.

OUTDOOR OUTFITTING SHOP. A store which offers clothing and equipment, excluding motorized vehicles, for outdoor activities.

OUTPARCELS. Properties or portions of properties left undeveloped at the time of initial development.

OWNER. A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

PARCEL. A piece or area of land formally described and recorded with block and lot numbers, by metes and bounds, by ownership, or in such a manner as to specifically identify the dimensions and/or boundaries.

PEDESTRIAN WAY. A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent streets and properties.

PERSON. Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, or public or private institution, utility, cooperative, interstate body or other legal entity.

PLANNED UNIT DEVELOPMENT. An area of land under unified ownership or control to be developed and improved as a single entity under a unified development plan in accordance with and subject to the requirements of this chapter.

PLANNING BOARD. The Town Planning Board appointed by the Town Council to carry out the duties set forth in G.S.160A-361. In Haw River the Planning Board and the Board of Adjustment are comprised of the same individuals, who function as separate bodies according to the stated function and purpose for which a meeting is called.

PLAT. A surveyed map or plan of a parcel of land which is to be, or has been subdivided.

PRINCIPAL BUILDING. A building in which is conducted the principal use of the zoning lot on which it is located or, in a group development, of the building site on which it is located. Any dwelling is considered a principal building unless it is an accessory dwelling.

PRINCIPAL DWELLING. Any principal building or structure, or portion thereof which is used and designed for human habitation including living, sleeping, cooking and eating activities excluding dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents.

PRINCIPAL STRUCTURE. A structure(s) in which is conducted the principal use(s) of the lot on which it is located.

PROPERTY. All real property subject to the zoning regulations, restrictions and zoning boundaries of the Town of Haw River zoning ordinance.

PUBLIC. Under the control or responsibility of the Town Council on behalf of the general population, rather than individual or private control.

PUBLIC SEWER. A system which provides for the collection and treatment of sanitary sewage for more than one property and is owned and operated by a government organization or sanitary district.

PUBLIC WATER. A system which provides distribution of potable water to more than one property and is owned and operated by a government organization or sanitary district.

QUARRY. An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

RECREATIONAL VEHICLE. A vehicle built on a single chassis, designed to be self-propelled or permanently towable by a light duty vehicle, and designed primarily for use not as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

RECREATIONAL VEHICLE PARK. Any site or tract of land, of contiguous ownership, upon which 15 or more recreational vehicles or tent spaces are provided for occupancy according to the requirements set forth in this chapter.

RECREATIONAL VEHICLE SPACE. A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle in accordance with the requirements set forth in this chapter.

RECYCLING COLLECTION POINT. An incidental use that serves as a neighborhood drop-off for temporary storage of recoverable resources.

RESERVATION. An obligation shown on a plat or site plan to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication or conveyance.

RESTAURANT (WITH DRIVE-THROUGH SERVICE). An establishment which delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

RESTAURANT (WITHOUT DRIVE-THROUGH SERVICE). An establishment that serves prepared food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas. This includes cafes, tea rooms, and outdoor cafes.

RESTRICTIVE COVENANT. See ***DEED RESTRICTION.***

ROOF LINE. The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

ROOF PITCH OR SLOPE. The slope or angle of the sides of a roof expressed by the ratio of its height to its span (rise over run).

ROOMING HOUSE. A dwelling or part thereof, in which individual rooms are rented to more than three persons.

SALVAGE YARD, SCRAP PROCESSING. Any land or area used, in whole or part, for the storage, keeping, accumulation of scrap or waste materials, including scrap metals, waste paper, rags, building materials, machinery, or other scrap materials.

SEATING CAPACITY. The actual seating capacity of an area based upon the number of seats or one seat per 18 inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the NC Building Code.

SEDIMENT. Solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

SEDIMENTATION. The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.

SERVICE STATION, MAJOR REPAIR. A service station that, in addition to pumping gas, is engaged in one or more of the following activities:

(1) General repair or service;

(2) Engine repair;

(3) Installation or repair of transmissions;

(4) Installation or repair of automotive glass;

(5) Installation or repair or exhaust systems;

(6) Repair of tops, bodies and interiors; and

(7) Automotive painting and refinishing.

SERVICE STATION, MINOR REPAIR. A service station that, in addition to pumping gas, is engaged in one or more of the following activities:

(1) Diagnostic service and tune-ups;

(2) Installation or repair of air-conditioners, brakes, carburetors, electrical systems, fuel systems, generators and starters, and radiators;

(3) Lubricating service; and

(4) Front end and wheel alignment.

SETBACK. The minimum required horizontal distance between a structure or activity and the property line, street right-of-way line, or street centerline.

SETBACK, INTERIOR. A setback from any property line not alongside a street.

SETBACK, REAR. A setback from an interior property line lying on opposite side of the lot from the front street setback.

SETBACK, SIDE. Any interior property line setback other than a rear setback.

SETBACK, STREET. Any setback from a street, road or lane.

SETBACK, ZERO SIDE. An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero (0) from a side property line. This definition does not include townhouses.

SHELTER, EMERGENCY. A facility providing, without charge, temporary sleeping accommodations, with or without meals, for individuals and/or families displaced from their residences as a result of sudden natural or man-made catastrophes including, but not limited to, earthquake, fire, flood, tornado, hurricane, or the release of hazardous or toxic substance(s) into the environment. Such a natural or man-made catastrophe must be designated by the responsible local, state, or federal official or an emergency agency such as the American Red Cross or the Emergency Management Assistance Agency.

SHELTER FOR THE HOMELESS. A facility operating year-round which provides lodging and supportive services including, but not limited to, a community kitchen; assistance in obtaining permanent housing, medical counseling, treatment, and/or supervision; psychological counseling, treatment, and/or supervision; assistance in recuperating from the effects of or refraining from the use of drugs and/or alcohol; nutritional counseling; employment counseling; job training and placement; and child care for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements.

(1) The facility shall be contained within the building of and operated by a government agency or nonprofit organization;

(2) A minimum floor space of 50 square feet shall be provided for each individual sheltered; and

(3) The facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteers(s) during the hours of operation.

SHELTER TEMPORARY. A facility which provides temporary lodging during times of life-threatening weather conditions for indigent individuals and/or families with no regular home or residential address; and which complies with the following requirements:

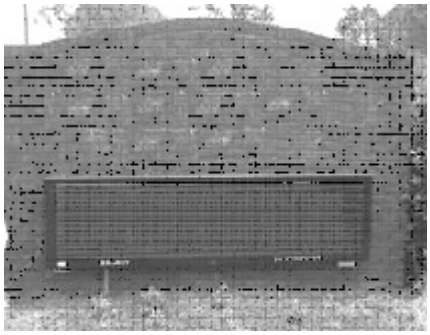
(1) The facility shall be contained within the building of and operated by a government agency or nonprofit organization;

(2) A minimum floor space of 50 square feet shall be provided for each individual sheltered; and

(3) The facility operator(s) shall provide continuous on-site supervision by an employee(s) and/or volunteer(s) during the hours or operation.

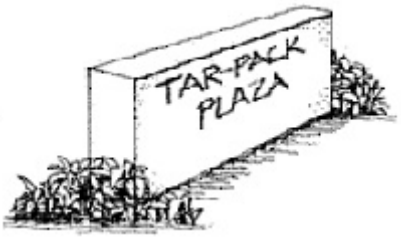
SHRUB. A self-supporting woody perennial plant normally growing to a height of 24 inches or greater, characterized by multiple stems and branches continuous from the base.

SIGN. A sign is any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, design, trade names, or trademarks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, or product, which are visible from any public way and used to attract attention.

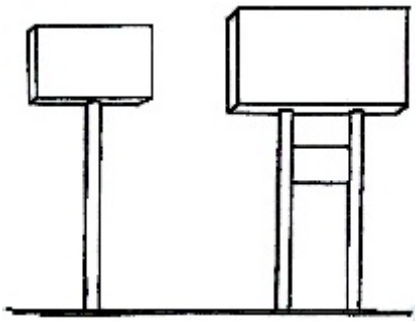


SIGN, ELECTRONIC READER BOARD. A sign or portion thereof which can be electronically changed or rearranged without altering the face or the surface of the sign. A sign on which the only copy that changes is an electronic or mechanical indication of time and/or temperature shall not be a commercial message or an electronic reader board sign for purposes of this sign code.

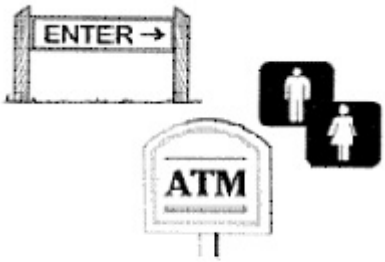
SIGN, FREE-STANDING, MONUMENT. A permanent, freestanding sign mounted on a base or other supports.



SIGN, FREE-STANDING, POLE. A permanent, freestanding sign that is mounted on a pole(s) or other support(s) that is placed on and anchored in the ground or on a base and that is independent from any building or other structure.



SIGN, INCIDENTAL. A sign intended for informational purposes as opposed to commercial or advertising purposes. Typically smaller in size, examples of incidental signs include parking signs, restroom signs and entrance and exit signs.



Incidental Signs

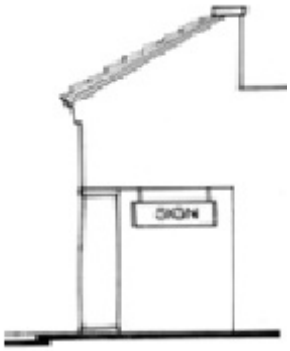
SIGN, KNOCKOUT. A sign where the light source is placed in a channel behind the letters with light forming a “halo” or silhouette of the letters.

SIGN, MARQUEE. A sign affixed to the top of any hood or canopy over the entrance to a store, building or place of public assembly.

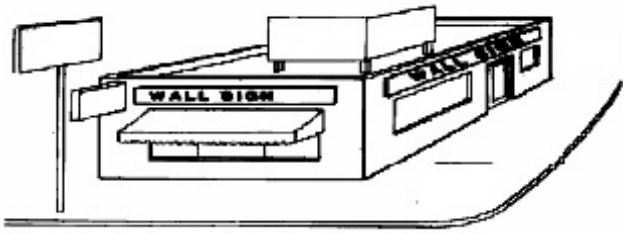
SIGN, OUTDOOR ADVERTISING. An off-premises outdoor structure or display, either freestanding or attached to a wall which advertises or attracts attention to a business, commodity service or other activity conducted, sold or offered elsewhere than on the premises on which the structure or display is located.

SIGN, PROJECTING. A sign attached to and supported by a building and extending beyond the building to which it is attached at an angle of 30 degrees or more.

SIGN, SUSPENDED. A sign, which is suspended from the underside of a horizontal plane surface, such as a canopy or marquee, and is supported by such surface.



SIGN, WALL. A sign attached to or painted on a wall of a building, with the exposed display surface of the sign in a plane parallel to the plane of the wall to which it is attached or painted, and including signs affixed to or otherwise displayed on or through a facade window.



SINGLE-FAMILY DETACHED DWELLING. A separate, detached building designed for and occupied exclusively by one family.

SINGLE-FAMILY DETACHED DWELLING

SITE. All contiguous land and bodies of water in one ownership, or contiguous property in diverse ownership graded or proposed for grading or development as a unit.

SITE SPECIFIC DEVELOPMENT PLAN. A plan of land development submitted to the appropriate approval authority for the purpose of obtaining one of the following zoning or land use permits or approvals pursuant to G.S. 160A-385.1:

(1) A special use permit;

(2) A conditional zoning sketch or site plan;

(3) A Planned Development;

(4) A preliminary plat for a major subdivision; and/or

(5) A preliminary plat for a minor subdivision.

SOLID WASTE. Garbage, refuse and other discarded solid materials.

SOUVENIR SHOP. Establishments engaged in the retail sale of gifts or souvenirs.

SPECIAL USE PERMIT. A special use permit may be granted by the Town Council for a specified land use which is permitted in a given zoning district under ordinance provisions which authorize the use when the Board makes specified findings. Special use features introduce flexibility into the zoning ordinance so that uses that might otherwise be unsuitable in a district can be made satisfactory to the neighbors.

START OF CONSTRUCTION. Includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as the pouring of slabs or footing, installation of piles, construction of columns, or any work beyond the

stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual ***START OF CONSTRUCTION*** means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building. (This definition applies only with respect to flood hazard regulations.)

STORM WATER RUNOFF. The direct runoff of water resulting from precipitation in any form.

STREAM. A water course that collects surface runoff.

STREET. A right-of-way for vehicular travel.

STREET, ARTERIAL. A federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one area or region to another; a thoroughfare.

STREET, COLLECTOR. A public way designed primarily to connect minor streets with arterial streets and/or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street.

STREET, PRIVATE. An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor intended to be maintained by the public.

STREET, PUBLIC. A right-of-way or fee simple tract of land that has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of Haw River or the NCDOT. Alleys are specifically excluded.

STRUCTURE. A walled and roofed building, a manufactured home including a gas or liquid storage tank, or other man-made facilities or infrastructures that are principally above ground. (This definition applies only with respect to flood hazard regulations.) Anything constructed, erected, or placed.

SUBDIVIDER. Any person, firm, corporation, or entity that subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and includes all divisions of land involving the dedication

of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of Haw River Subdivision Regulations;

(2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for the widening or opening of streets or the location of public utility rights-of-way;

(4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town of Haw River Subdivision Regulations;

(5) The division of land into plots or lots for use as a cemetery; or

(6) Subdivisions resulting from proceedings to partition interests in lots or parcels pursuant to G.S. Ch. 46 (or any successor statute) resulting in the division of a lot or parcel into two or more lots or parcels except where the partition proceeding is brought to circumvent the provisions of this chapter or the Town of Haw River Subdivision Regulations.

SWIMMING POOL. A water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level the surrounding land, or an above-surface pool, having a depth of more than 30 inches designed, used and maintained for swimming and bathing.

SWIMMING POOL, NONPERMANENT. A swimming pool that is so constructed that it may be readily disassembled for storage and reassembled to its original integrity.

TEMPORARY BUILDING. Any building of an impermanent nature or which is designed for use for a limited time, including any tent or canopy.

TEMPORARY STRUCTURE. Any structure of an impermanent nature or which is designed for use for a limited time, including any tent or canopy.

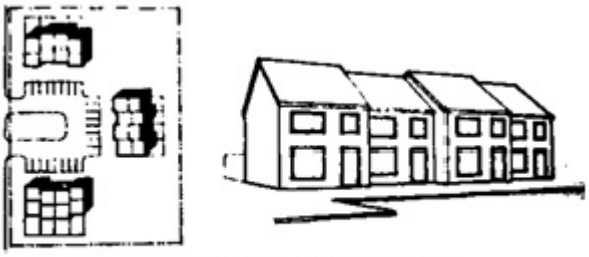
TENANT. Any person who alone or jointly or severally with others occupies a building under a lease or holds a legal tenancy.

TENANT DWELLING. A dwelling located on a bona fide farm and which is occupied by a farm worker employed for agricultural purposes by the owner or as operator of the farm.

THEATER, ADULT. An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to sexual activities or anatomical areas.

THOROUGHFARE PLAN. A plan adopted by the governing body for the development of existing and proposed major streets that will adequately serve the future travel needs of an area in an efficient and cost effective manner.

TOWNHOUSE DWELLING. Single-family residences attached to one another in which each unit is located on an individually owned parcel, generally within a development containing drives, walks and open areas owned in common.



TOWNHOUSE DWELLING

TOWNHOUSE LOT. A parcel of land intended as a unit for transfer of ownership and lying underneath, or underneath and around, a townhouse, patio home, or unit in nonresidential group development.

TRACT. An area, parcel, site, piece of land, or property that is the subject of a development application.

TRUCK GARDEN. A farm raising produce that is meant to be sold locally.

TWO-FAMILY DWELLING. A building on one lot arranged and designed to be occupied by two families living independently of each other. See ***DUPLEX DWELLING***.

UNDEVELOPED SITE. A premises that does not contain a structure or building for which a building permit is required.

USE. The purpose or activity for which land or structures are designed, arranged or intended, or for which land or structures are occupied, or maintained.

USE, ACCESSORY. A structure or use that:

(1) Is clearly incidental to and customarily found in connection with a principal building or use;

(2) Is subordinate to and serves a principal building or a principal use;

(3) Is subordinate in area, extent, or purpose to the principal building use served;

(4) Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and

(5) Is located on the same zone lot as the principal building or use served.

USE, DISSIMILAR. Proximate or directly associated land uses, which are contradictory, such as higher intensity, residential, commercial or industrial uses, located adjacent to lower intensity uses.

USE, MIXED. Occupancy of building or land by more than one use.

USE(S), PRINCIPAL. The primary function that a lot or structure serves or is proposed to serve.

USE, TEMPORARY. A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

UTILITIES. Facilities of any agency which, under public franchise or ownership, provide the general public with electricity, gas, oil, water, sewage, electronic sign, or rail transportation. The term "utility" shall not be construed to include the following: corporate or general offices; storage or service buildings or yards; gas or oil processing, manufacturing or storage facilities; transmission towers; or postal facilities.

UTILITY EASEMENT. An easement which grants to the Town Council or other utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.

VARIANCE. Official permission from the Board of Adjustment to depart from the requirements of this chapter.

VEHICULAR USE AREA (VUA). A hard surface area designed or used for off street parking and or an area used for loading, circulation, access, storage, including fire trucks, garbage trucks or display of motor vehicles.

VESTED RIGHT (ZONING). A right established pursuant to the provisions of this chapter to undertake and complete the development and use of property.

VETERINARY SERVICES. See ***ANIMAL HOSPITAL.***

WAREHOUSING. Establishments primarily engaged in the warehousing and storage of general merchandise, refrigerated goods, and farm products.

WAREHOUSING, SELF STORAGE. Establishments primarily engaged in the rental or leasing of mini-warehouses and self-storage units.

WASTE. Surplus materials resulting from on-site construction and disposed of at other locations.

WATERSHED CRITICAL AREA. That portion of a watershed within one-half mile of the normal pool elevation of a water supply reservoir.

WATERSHED, WATER SUPPLY. All other parts of a watershed in Alamance County draining directly into a water supply reservoir. A watershed is defined as an area in which all water drains to a particular body of water.

YARD. Any open space on the same lot with a building, and unoccupied from the ground upward except by trees, shrubbery, or fences.

YARD, FRONT. A yard across the full width of the lot, extending from the front line of the building to the front lot line.

YARD, REAR. A yard located behind the rear line of the main building, if extended, to the perimeter of the lot.

YARD, SIDE. A yard between the building and side lot line, extending from the front building line to the rear building line.

ZONING DISTRICTS. An area defined by this chapter and delineated on the official zoning maps in which the requirements for the use of land and building and development standards are prescribed.

ZONING ENFORCEMENT OFFICER. An employee of the Town of Haw River authorized to enforce the provisions of this chapter within the town and its area of zoning jurisdiction.

ZONING PERMIT. A permit issued by the Zoning Enforcement Officer or other duly authorized official of the Town of Haw River certifying that the proposed use of land complies with the provisions of this chapter.

ZONING VESTED RIGHT. A right pursuant to G.S. 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site development plan. (Ord. passed 11-2-15)

ESTABLISHMENT OF DISTRICTS

§ 155.020 DISTRICT NAMES.

The Town of Haw River and its extraterritorial zoning jurisdiction is hereby divided into the following zoning districts and overlay district:

R-18	-	Low Density Residential District
R-12	-	Medium Density Residential District
R-7	-	High Density Residential District
R-G	-	General Residential District
I-C	-	Institutional and Community Use District
B-3	-	Neighborhood Business District
B-2	-	General Business District
B-1	-	Central Business District
I-1	-	Light Industrial District
I-2	-	Heavy Industrial District
CR	-	Conditional Residential District
CB	-	Conditional Business District
CI	-	Conditional Industrial District
CMX	-	Conditional Mixed Use District
WSII-CA(O)		Watershed II Critical Area (Overlay District)

(Ord. passed 11-2-15)

§ 155.021 DISTRICT BOUNDARIES SHOWN ON ZONING MAP.

Zoning district boundaries are shown on the accompanying map known as the "Official Zoning Map of the Town of Haw River, North Carolina," which may be cited as The Zoning Map. This map, and all notations, references, amendments and other information shown on the map shall be as much a part of this chapter as if fully described herein. The zoning map is posted at the Haw River Town Hall and is available for inspection by the public.
(Ord. passed 11-2-15)

§ 155.022 RULES OF INTERPRETING DISTRICT BOUNDARIES.

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

(A) Where such district boundaries are indicated as approximately following railroad, street or highway lines, such lines shall be construed to be such boundaries.

(B) Where district boundaries are so indicated that they approximately follow property or lot lines, such lines shall be construed to be said boundaries.

(C) Where district boundaries are so indicated that they follow the center line or are approximately parallel to the center line of streets, highways or railways, or the rights-of-way of same, such district boundaries shall be construed as following or as being parallel thereto and at such distance therefrom as indicated on the zoning map.

(D) Where district boundaries are so indicated as approximately following the center line of streams, rivers, canals, lakes or other bodies of water, the boundaries shall be construed as following such center lines.

(E) Where a district boundary line divides a lot or tract in single ownership, the zoning district requirements for the most restricted portion of such lot or tract shall apply to the whole thereof.

(F) In the absence of specified distances on the zoning map, dimensions of distances shall be determined by scaling the distance on the zoning map.

(G) When a street or property layout, as built on the ground, is at variance with that shown on the official zoning map, the Board of Adjustment shall interpret the district boundaries of this chapter.
(Ord. passed 11-2-15)

APPLICATION OF ZONING REGULATIONS

§ 155.035 BONA FIDE FARM EXEMPTION.

The provisions of this chapter, adopted under G.S. Chapter 160A, Article 19, Part 3, do not affect bona fide farms as defined in this chapter. However, any use of farm property for non-farm purposes is subject to these regulations.
(Ord. passed 11-2-15)

§ 155.036 ZONING AFFECTS EVERY BUILDING AND USE.

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified for the district in which it is located.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.037 REDUCTION OF LOT AND YARD AREAS PROHIBITED.

No yard or lot existing at the time of passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by this chapter.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.038 RELATIONSHIP OF BUILDING TO LOT.

Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except in the case of a specially designed complex of institutional, residential, commercial or industrial buildings in an appropriate zoning district.
(Ord. passed 11-2-15)

§ 155.039 REQUIRED OPEN SPACE NOT TO BE USED FOR OTHER BUILDINGS OR USES.

No part of any yard, other open space or off-street parking or loading space required for any building, structure or other use shall be considered to be a part of a required yard, open space, off-street parking or loading space for any other buildings, structures or use except as provided in §§ 155.135 through 155.143.
(Ord. passed 11-2-15)

§ 155.040 ACCESS TO PUBLIC STREET.

No building shall be erected on any lot which does not abut at least 25 feet on a publicly dedicated or maintained street.
(Ord. passed 11-2-15)

§ 155.041 NEW USES OF CONSTRUCTION.

After the effective date of this chapter, all new construction and the moving, altering and enlarging of existing structures shall conform to the use, area, yard and height requirements for the district in which it is or is to be located.
(Ord. passed 11-2-15)

§ 155.042 CONFORMING USES.

After the effective date of this chapter, existing structures or uses of land or structures which conform to the regulations of the district in which they are located may be continued, provided that any structural alteration or change in use shall conform with the regulations herein specified for the district in which it is located.
(Ord. passed 11-2-15)

§ 155.043 ACCOMMODATION OF NONCONFORMING LOT SIZE.

Where the owner of a plot of land consisting of one or more adjacent lots at the time of the enactment of this chapter did not at that time own sufficient contiguous land to enable him or her to conform to the minimum lot size requirements of this chapter, such plot of land may be used as a building site. The yard and other space requirements of the district in which the piece of land is located may be reduced, by the Board of Adjustment, by the smallest amount that will permit a house of minimum acceptable size to be built upon the lot.
(Ord. passed 11-2-15)

§ 155.044 APPLICATION OF SPECIAL ZONING PROVISIONS REGARDING OUTDOOR STORAGE FACILITIES TO EXISTING OUTDOOR STORAGE FACILITIES.

(A) If within 60 days after the effective date of these amendments to the town pertaining to outdoor storage (hereinafter "amendments"), any person, firm, corporation or other legal entity who has not filed an application at the town Planning Department to operate and maintain a permitted facility used for outdoor storage in the town shall be judged as being in violation of this code.

(B) Existing facilities, actively operating as an enterprise, shall have three years from the effective date of these amendments to comply with these provisions providing that an application has been filed as described above and that a substantial and continuous effort is made to bring the property into compliance by maintaining the following schedule. All materials being stored shall be in compliance with all buffer requirements within six months of the date of adoption of these amendments. All materials being stored and screened by a planted buffer shall be in compliance with the screening requirements of these amendments by establishing the required planted buffer within 12 months of the date of adoption of said amendments. All materials being stored and screened by a fence shall be in compliance with the fencing requirements of these amendments within 18 months of the date of adoption of said amendments. All materials being stored shall be in compliance of all other requirements of these amendments within 36 months of the date of adoption of said amendments. The Code Enforcement Officer may grant an extension to the grace period provided that constant and substantial progress has been made toward gaining compliance and that mitigating circumstances exist that have prevented the owner/operator from complying with the terms and conditions of these amendments. Said extension periods shall be no longer than six months in length.
(Ord. passed 11-2-15)

DISTRICT REGULATIONS

§ 155.055 R-18 LOW DENSITY RESIDENTIAL DISTRICT.

This district accommodates agricultural and low density single-family residential land uses without access to municipal water and sewer services. The regulations of this district are intended to maintain the viability of agricultural uses. Because municipal sewer service is not available in these areas, all single-family dwellings (including permitted Class A and B manufactured homes) require a minimum lot size of 18,000 square feet to insure sufficiently low densities to maintain a healthy environment and to comply with Alamance County Health Department Regulations.
(Ord. passed 11-2-15)

§ 155.056 R-12 MEDIUM DENSITY RESIDENTIAL DISTRICT.

This district accommodates single-family dwellings with access to municipal water and sewer services. The regulations of this district are intended to promote a quiet and peaceful residential character within medium density neighborhoods. A minimum lot size of 12,000 square feet is required for single-family dwellings (including permitted Class A manufactured homes on individual lots) within this district. This district also accommodates planned unit developments as a special use.
(Ord. passed 11-2-15)

§ 155.057 R-7 HIGH DENSITY RESIDENTIAL DISTRICT.

This district accommodates single-family and two-family (duplex) dwellings in relatively high density neighborhoods within the town's water and sewer service area. The district regulations require a minimum lot size of 7,000 square feet for single-family dwellings (including Class A manufactured homes) and 11,000 square feet for two-family (duplex) dwellings.
(Ord. passed 11-2-15)

§ 155.058 R-G GENERAL RESIDENTIAL.

This district accommodates a mixture of single-family and two-family (duplex) dwellings, and multi-family developments with access to municipal water and sewer services. The district regulations provide opportunities for mixed residential development in relatively high density neighborhoods. A minimum lot size of 7,000 square feet is required for single-family dwellings (including permitted Class A manufactured homes), 11,000 square feet for duplexes, 15,000 square feet for triplexes and 17,000 square feet for quadraplexes, with an additional 1,500 square feet required for each dwelling unit beyond four. This district also accommodates manufactured home parks and planned unit developments as special uses.
(Ord. passed 11-2-15)

§ 155.059 I&C INSTITUTIONAL AND COMMUNITY USE DISTRICT.

This district accommodates institutional and community uses and generally assumes public (for example schools and parks) or private/non-profit (for example churches) ownership and operation.
(Ord. passed 11-2-15)

§ 155.060 B-1 CENTRAL BUSINESS DISTRICT.

This district accommodates centrally located and relatively concentrated groupings of commercial retail and service uses. District regulations provide for the reduction (or waiver) of requirements for off-street parking and loading and front and side yard setbacks to encourage a concentration of businesses.
(Ord. passed 11-2-15)

§ 155.061 B-2 GENERAL BUSINESS DISTRICT.

This district accommodates commercial retail and service uses and business and professional office uses along major thoroughfares and collector roads. This district also accommodates unified business developments (for example shopping centers and office parks) and planned unit developments as special uses.
(Ord. passed 11-2-15)

§ 155.062 B-3 NEIGHBORHOOD BUSINESS DISTRICT.

This district accommodates low intensity commercial and office uses which serve the immediate needs of adjacent residential areas. District regulations provide for commercial and office uses which generate low levels of traffic, acceptable levels of noise, air or visual pollution and are compatible with adjacent residential uses.
(Ord. passed 11-2-15)

§ 155.063 I-1 LIGHT INDUSTRIAL DISTRICT.

This district accommodates light industrial and warehousing uses operated in a relatively clean and quiet manner.
(Ord. passed 11-2-15)

§ 155.064 I-2 HEAVY INDUSTRIAL DISTRICT.

This district accommodates most manufacturing and processing industries, especially those uses with special needs for access to major transportation facilities, utilities and other public infrastructure or services. Section 155.064, industrial district performance standards, provides additional regulations to insure compatibility between permitted uses in both industrial districts and adjacent residential and business areas.
(Ord. passed 11-2-15)

§ 155.065 WSII-CA(O) WATERSHED II - CRITICAL AREA OVERLAY DISTRICT.

This district is established as an overlay district, intended to impose an additional layer of regulations onto those of the underlying zoning districts within the critical portions of the town's water supply watershed. These additional regulations are not intended to unnecessarily limit development options, but rather to establish a more stringent set of development standards to reduce the risk of water quality degradation from pollution and hereby protect the town's drinking water supply. The regulations of this district are designed to maintain a predominantly undeveloped land intensity pattern. Residential uses are allowed at a maximum density of one dwelling unit per two acres. Nonresidential uses are allowed with a maximum 6% built-upon area. See §§ 155.225 through 155.250 for WSII-CA(O) overlay district regulations.
(Ord. passed 11-2-15)

§ 155.066 CR CONDITIONAL RESIDENTIAL DISTRICT.

(A) *Purpose*. The Conditional Residential District is hereby established in order to accommodate the development of planned residential communities that may incorporate all the uses indicated in the CR

column of the Table of Permitted Uses, § 155.070 and subject to such conditions as may be referred to in the notes and/or special requirements column of said table. This conditional zoning district is intended to serve development that is "ripe" and not of a speculative nature. The Conditional Residential District is intended to allow for the establishment of certain uses, which, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. These uses are not otherwise addressed in the permitted uses of the general districts, and conditional uses allow for flexibility in development while protecting existing developed areas. The process for approval of a Conditional Zoning District is explained in § 155.282 of the Town of Haw River Zoning Chapter.

(B) *Development standards*. All specific development standards for the R-12 Medium Density Residential Zoning District found within the Town of Haw River Zoning Chapter, Town of Haw River Subdivision Chapter and any other accepted/adopted policies of the Town of Haw River must be met. However, the petitioner requesting a rezoning to a Conditional Residential Zoning District may place additional requirement and standards onto themselves and their property or ask that certain standards identified in the request for rezoning be decreased. It shall be the Town Council's final decision to grant approval or denial of the rezoning in light of the increased or decreased development standards presented to them. If no specific request is made by the petitioner to change the development standards or if the petition to rezone is silent on this point; it shall be understood that the R-12 Medium Density Residential Zoning District Standards shall apply.
(Ord. passed 11-2-15)

§ 155.067 CB CONDITIONAL BUSINESS DISTRICT.

(A) *Purpose*. The Conditional Business District is hereby established in order to accommodate the development of planned commercial developments that may incorporate all the uses indicated in the CB column of the Table of Permitted Uses, § 155.070 and subject to such conditions as may be referred to in the notes and/or special requirements column of said table. This conditional zoning district is intended to serve development that is "ripe" and not of a speculative nature. The Conditional Business District is intended to allow for the establishment of certain uses, which, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. These uses are not otherwise addressed in the permitted uses of the general districts, and conditional uses allow for flexibility in development while protecting existing developed areas. The process for approval of a Conditional Zoning District is explained in § 155.282 of the Town of Haw River Zoning Chapter.

(B) *Development standards*. All specific development standards for a B-2 Zoning District found with the Town of Haw River Zoning Chapter, Town of Haw River Subdivision Chapter and any other accepted/adopted policies of the Town of Haw River must be met. However, the petitioner requesting a rezoning to a Conditional Business Zoning District may place additional requirements and standards onto themselves and their property or ask that certain standards identified in the request for rezoning be decreased. It shall be the Town Council's final decision to grant approval or denial of the rezoning in light of the increased or decreased development standards presented to them. If no specific request is

made by the petitioner to change the development standards or if the petition to rezone is silent on this point; it shall be understood that the B-2 Zoning District Standards shall apply.
(Ord. passed 11-2-15)

§ 155.068 CI CONDITIONAL INDUSTRIAL DISTRICT.

(A) *Purpose*. The Conditional Industrial District is hereby established in order to accommodate the development of planned industrial developments that may incorporate all the uses indicated in the CI column of the Table of Permitted Uses, § 155.070 and subject to such conditions as may be referred to in the notes and/or special requirements column of said table. This conditional zoning district is intended to serve development that is "ripe" and not of a speculative nature. The Conditional Business District is intended to allow for the establishment of certain uses, which, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. These uses are not otherwise addressed in the permitted uses of the general districts, and conditional uses allow for flexibility in development while protecting existing developed areas. The process for approval of a Conditional Zoning District is explained in § 155.282 of the Town of Haw River Zoning Chapter.

(B) *Development standards*. All specific development standards for an I-2 Zoning District found with the Town of Haw River Zoning Chapter, Town of Haw River Subdivision Chapter and any other accepted/adopted policies of the Town of Haw River must be met. However, the petitioner requesting a rezoning to a Conditional Industrial Zoning District may place additional requirements and standards onto themselves and their property or ask that certain standards identified in the request for rezoning be decreased. It shall be the Town Council's final decision to grant approval or denial of the rezoning in light of the increased or decreased development standards presented to them. If no specific request is made by the petitioner to change the development standards or if the petition to rezone is silent on this point; it shall be understood that the I-2 Zoning District Standards shall apply.
(Ord. passed 11-2-15)

§ 155.069 CMX CONDITIONAL MIXED USE DISTRICT.

(A) *Purpose*. The Conditional Mixed Use District is hereby established in order to accommodate the development of planned communities that may incorporate a full range of housing types and compatible nonresidential uses that provide goods, services, and employment. In order to encourage high quality design and innovative arrangement of buildings and open space uses throughout the project, these districts provide substantial flexibility from the conventional use and dimensional requirements of the general districts. The Conditional Mixed Use District is intended to allow for the establishment of certain uses, which, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole. These uses are not otherwise addressed in the permitted uses of the general districts, and conditional uses allow for flexibility in development while protecting existing developed areas. The process for approval of a Conditional Zoning District is explained in § 155.282 of the Town of Haw River Zoning Chapter.

(B) *Criteria*. The developmental and locational criteria for the districts are as follows:

(1) *CMX-Residential mixed uses*. This district permits residential mixed use development (dwellings and permitted accessory uses and structures) on tracts which are ten acres or larger and residential mixed use and nonresidential use development on tracts that are 30 acres or larger. This district is permitted within the community along major thoroughfares, minor thoroughfares or collector streets having adequate access.

(2) *Uses permitted by right*. The following uses shall be permitted by right in the CMX District, provided that they meet all requirements of this part and all other requirements of these regulations:

(a) The CMX District shall allow for any use as indicated in the CMX-R column of the Table of Permitted Use, § 155.070 and subject to such conditions as may be referred to in the notes and/or special requirements column of said table.

(b) Development standards for CMX District. All uses and structures in the CMX District shall meet the development standards established in this section, and the following:

1. The minimum total project area for development in a mixed use district is: CMX projects with ten acres or less shall be developed exclusively for residential purposes. CMX projects with more than ten acres may have a mixture of residential and commercial uses.

2. Residential development within the CMX District shall meet the minimum lot area, lot width, and yard requirements established for the R-7 District for single-family development and the R-G District for attached and multi-family development.

3. Nonresidential development within the CMX District shall meet the minimum lot area, lot width, and yard requirements established for the B-2 District. In no event shall nonresidential development in a CMX District exceed a floor-area-ratio of 0.75 (for each one square foot of land .75 square feet of building may be built.)

(3) *Density limitations*. Residential development in the CMX District shall not exceed the maximum residential density of eight units per acre. The calculation of maximum density shall be based on the total project area minus any portion of the total project area to be devoted to nonresidential uses. For the purpose of this calculation, public rights-of-way shall be deemed to be a residential use.

(4) *Common open space; density bonus*.

(a) At least 10% of the total project area shall be set aside as common open space.

(b) A density bonus over and above the density otherwise allowed in the CMX District may be approved by the Town Council provided that the petitioner increases the percentage of the total

project area to be devoted to common open space. This bonus may be granted only if specifically requested by the petitioner. Any such bonus shall consist of a 1% increase in the allowable density for every 1% of land area devoted to common open space in addition to the 10% required under division (B)(4)(a) above, but in no event shall the bonus exceed 35% of the allowable density set out in the density table.

(c) All common open space shall be set aside and improved no later than the date on which certificates of occupancy are issued for the first 75% of the total number of dwelling units to be constructed within the project area.

(d) No more than 50% of all required common open space shall be covered by water.

(e) Any structures located in any common open space shall be accessory to recreational use of the space and shall cover no more than 5% of all common open space.

(f) The required common open space shall be planned and improved so that it is accessible and usable by persons living in the project area. However, common open space containing natural features worthy of preservation may be left unimproved.

(g) All of the required common open space shall be either conveyed to the Town of Haw River, if the town agrees to accept ownership of and to maintain the space, or conveyed to one or more homeowner associations created for the project area, or with respect to outdoor recreation facilities, to the owner or operator thereof.

(h) Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Town Manager and recorded and filed at the time the subdivision plat for the project area is recorded. The covenants and easements shall provide for the establishment of a homeowner's association before any homes are sold, where membership is mandatory for each home buyer and any successive buyer, the association is responsible for liability insurance and local taxes on common open space and recreational facilities owned by it, any fees levied by the association that remain unpaid will become a lien on the individual property, and the association shall be able to adjust the assessment to meet changing needs. The covenants and easements shall also prohibit future development of any common open space for other than open space or recreation purposes and shall provide for continued maintenance of any common open space and recreational facilities.

(5) *Innovative development standards*. After the property has been reclassified to the CMX District by the Town Council, the Town Council, as part of the approval process for development of property located in the CMX District, may modify the following standards established in these regulations and Subdivision Chapter for the Town of Haw River in order to accommodate a development project proposed for the MX district:

(a) Street right-of-way;

(b) Street type and construction standards (including width) for public or private streets;

(c) Sidewalks, curbs, and gutters;

(d) Minimum lot size;

(e) Public street frontage;

(f) Setbacks and yards;

(g) Off-street parking; and

(h) Lot width.

(6) *Development standards of general applicability*. Except as otherwise provided in this part, all uses and structures permitted in the CMX District shall meet the applicable development standards set out in these regulations. Signs shall be permitted in the CMX District in accordance with the approved sign plan. In no instance may more signage be permitted than would be allowed in a Unified Business Development for any commercial signage. Signage in residential areas must meet the sign ordinance of the Town of Haw River for residential development.
(Ord. passed 11-2-15)

§ 155.070 TABLE OF PERMITTED USES.

Districts in which uses are permitted as a use by right are indicated by "X". A blank indicates districts in which uses are prohibited. Districts in which uses are permitted as a permitted special use, upon Town Council approval are indicated by "S". See §§ 155.080 through 155.086 for required conditions for special use permits. Additional uses may be added to this chapter by amendment.

[Table begins on next page]

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Business	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Residential)	R18	R12	R7	RM-F	RG	CR	I-C	B3	B2	Bl	CB	CMX	Il	I2	CI	
Accessory buildings and uses	x	x	x	x	x	C						C				(a)
Adult care homes	s		s	x	x	C	s	s	x		C	C	x	s		
Boarding houses, rooming houses				x	x	C	x	x				C				
Condominiums					x	C						C				(b)
Dwellings: single-family detached	x	x	x	x	x	C	x	x	x			C				
Dwellings: two-family (duplexes)			x	x	x	C	x	x	x			C				
Dwellings: multi-family				x	x	C						C				(c)
Dwellings located in the second or higher story of a commercial structure								x	x	x	C	C				(d)
Class A manufactured home (mobile home) One dwelling unit per lot	x	x	x	x	x		x	x	x							
Class B manufactured home (mobile home) One dwelling unit per lot	x			x												
Class C manufactured home (in manufactured home parks only)					x											
Class C manufactured home (mobile home) park					s											
Residential quarters for operators, caretakers, watchmen, etc., in or adjacent to buildings designed primarily for nonresidential use	x	x	x	C	C	x	x	C								
Group homes	s	s	s	s	s	C	s	s	s	s	C	C	s	s		

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Accessory buildings and uses							x	x	x	x	C	C	x	x	C	(a)
Adult establishment (inc. bookstores)														s		
Airports														s	C	
Manufacturing, alcohol														x	C	
Animal hospitals, veterinary clinics									x		C	C	x	x	C	
Shops, specialty (antiques, gifts, tile, florists, etc.,) located in structures originally designed for residential uses							s	x	x	x	C	C	x			
Manufacturing, asphalt mixing plants														x	C	(f)
Manufacturing, assembling, compounding, or treatment of articles or merchandise from previously prepared materials													x	C	C	(g)(h)
Auditoriums, gymnasiums, stadiums and similar facilities where admissions are charged or organized athletic events are held				s	s	s	s	s	s	C	C	s	C			
Automobile parts & accessories sales								x	x	x	C	C	x		C	
Amusement establishments, indoor and public (billiard rooms, dance halls, bowling alleys, skating rinks, etc.)									x	x	C	C	x			

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Automobile assembly, painting, upholstery, rebuilding, reconditioning, body & fender works													x	x	C	
Automobile body and fender repair, conducted within a completely enclosed building									x	x	C	C	x	x	C	
Automobile repair shops, not including body or fender repair									x	x	C	C	x	x	C	
Automobile sales: new and used									x	x	C	C	x	x	C	
Baked goods production plant													x	x	C	
Bakeries selling retail products produced on premises								x	x	x	C	C	x	x	C	
Banks, savings and loans and similar financial institutions							x	x	x	x	C	C	x			
Barber shops, beauty parlors								x	x	x	C	C	x			
Bottling plant, dairy or dairy products processing plant									x				x	x	C	
Building supplies and lumber sales, not including storage sheds or storage yards									x	x	C	C	x	x	C	

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Building supplies or lumber sales, including storage sheds or storage yards													x	x	C	
Cabinet woodworking and upholstery shops									x				x	x	C	
Campgrounds, commercial, not including spaces for camping vehicles									x		C	C	x	x	C	
Camping, recreational vehicle parks									x		C	C	x	x	C	
Car wash (self-service and drive-through)								s	x	x	C	C	x	x	C	
Cemeteries or mausoleums					s				s		C	C	s	s	C	
Churches and convents	x	x	x	x	x	C	x	x	x	x	C	C	x	x	C	
Cleaning establishments: rags, bags and carpets													x	x	C	
Clubs, golf, swimming and tennis clubs (operated by nonprofit organizations)	s	s	s	s		C			s		C	C	s	s	C	
Clubs, night clubs and dance halls									x	x	C	C	x	x	C	
Cold storage plant													x	x	C	
Community centers, not including gymnasiums or stadiums	s	s	s	s	s	C	s	s	s	s	C	C	s	s	C	
Contractors' offices (not including storage sheds or storage yards)							x	x	x	x	C	C	x	x	C	
Convenience store								x	x	x	x	C				

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Day care centers with an outdoor play area of at least 200 square feet per child or client			C	x	x	x	C	C	x	x	x	x				
Day care centers operated as home occupations, with an outdoor play area of at least 200 square feet per child or client				x	x	x	x	x	C	x	x	C	x			
Dry cleaning and pressing plants									x				x	x	C	
Dry cleaning pickup establishments								x	x	x	C	C	x	x	C	
Electronic plants								x	x	x	C	C	x	x	C	
Explosives storage, long-term or temporary													x	x	C	(j)
Fairs, circuses, carnivals, sideshows											C	C	s	s	C	
Family (Group) care home A	x	x	x	C	x	C	C									
Family (Group) care home	x	C			x	C	C									
Farms	x	x	x	x	x		x	x	x					x	x	
Farm machinery sales, service and repairs									x	x	C	C	x	x	C	
Feed & seed store									x		C		x		C	
Fire & police stations	C				x	C	x		x		C	C	x	x	C	

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Flea market							s	s	s		s	s	s			
Florist shop								x	x	x	x	C				
Food and beverage storage and distribution									x	x	C	C	x	x	C	
Food processing in wholesale quantities excluding slaughtering													x	x	C	
Funeral homes and mortuaries							x	x	x	x	C	C	x			
Golf courses, except par three, miniature courses and lighted driving ranges	s	s	s			C						C	s	s	C	
Golf courses: miniature								x	x		C	C	x		C	
Golf courses: par three					x								x	x	C	
Golf driving ranges: lighted									x		C	C	x		C	
Government offices							x		x		C		x			
Greenhouses: commercial, including greenhouses on the same site as florists shops									x		C	C	x	x	C	
Grocery store								C	x	x	x	C				
Hatcheries													x	x	C	
Home occupations	x	x	x	x	x	C	x	x	x	x	C	C	x	x	C	
Hospitals, except animal hospitals and hospitals operated for the treatment of chronic alcoholics, the insane, infectious diseases or narcotic patients				s	s	C	s	s	x	C	C	s				

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Hospitals, for the treatment of chronic alcoholics, the insane, infectious diseases or narcotic patients	s	s	s	s	s		s	s	s				s	s	C	
Hotels, motels									x	x	C	C	x	x	C	
Industrial equipment, sales, repair and servicing													x	x	C	
Industrial research and educational facilities									x	x	C	C	x	x	C	
Jail, prison							s		s				s	s	C	
Junk yards, scrap metal processors, automobile wreckers													s	s	C	
Kennels												x		x	x	(n)
Laboratories for research and testing, except testing of explosives or of any other device or product producing noise, dust, odor or smoke									x				x	x		
Landfills, sanitary and demolition	s				s								s	s	C	
Landscape, horticulture service									x	C	C	C	x	x	C	
Laundries: except self-service									x	x	C	C	x	x	C	
Laundries: self-service								x	x	x	C	C	x	x	C	
Libraries, art galleries, museums							x	x	x	x	C	C	x	x	C	
Locksmith, gunsmith									x	x	C	C	x	x	C	

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Lodges, civic, social and fraternal organizations, not including lodges or other buildings rented or used for parties at night						s	C	s	x	x	x	C	C	x	C	
Lodges or other buildings rented or used for parties at night	s								x	x	C	C	x		C	
Lumber yards, building materials storage & sales, inc. fenced open storage									x	C	C		x	x	C	
Machine shops													x	x	C	(q)
Manufactured & modular home sales									x	x	C	C	x	x	C	
Manufacturing, bags														x	C	
Manufacturing, brick, tile, terra cotta, etc.														x	C	
Manufacturing, cement, concrete, lime, plaster, etc.														x	C	
Manufacturing, furniture														x	C	
Manufacturing - General Business, Light & Heavy Industry: monuments, stonecutting & sales; optical and scientific instruments; signs (includes painting and maintenance)							x		x	x						
Manufacturing - heavy industry, not otherwise listed														x	C	(m)

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Manufacturing, ice (includes storage and sales)													x	x	C	
Manufacturing, insecticide and pesticide mixing plant													x	x	C	
Manufacturing, machine tools														x	C	
Manufacturing, mattresses, bedding and pillows													x	x	C	
Manufacturing, metal fabrication plant, including boiler and tank works									x				x	x	C	
Manufacturing, monuments, stonecutting, sales																
Manufacturing, optical and scientific instruments													x	x	C	
Manufacturing, paint and enamel														x	C	
Manufacturing, paper, pulp, cardboard, etc.														x	C	
Manufacturing, pharmaceutical products													x	x	C	
Manufacturing, pottery and porcelain													x	x	C	
Manufacturing, rubber products														x	C	

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Manufacturing, signs (includes painting and maintenance)									x		C	C	x	x	C	
Manufacturing, soaps, detergents and washing compounds														x	C	
Manufacturing, tanning of leathers														x	C	
Manufacturing, textiles														x	C	
Manufacturing, tobacco products													x	x	C	
Meat processing and packing, not including any slaughter													x	x	C	
Nursing homes, convalescent homes, homes for the aged, orphanages	s		s	x	x	C	s	s	x		C	C	x	s		
Offices, government					x	x	x									
Offices, medical, dental and paramedical clinics							x	x	x	x	C	C	x	x	C	
Offices or agencies not engaged in retail sales to the general public, or the maintenance of a stock of goods, merchandise or supplies on the premises							x	x	x	x	C	C	x			
Parking lots; commercial									x	x	C	C	x	x	C	

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Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Parking lots: operated in conjunction with a permitted use located in another district						x	x	x	C	C	x	x	C			(s)
Parking lots: serving uses permitted in the district in which the lot is located	x	x	x	x	x	C	x	x	x	x	C	C	x	x	C	(r)
Parks and recreation facilities, public (not including auditoriums, gymnasiums, stadiums and similar facilities where admissions are charged or organized athletic events are held)		x	x	x	x	C	x	x	x	x	C	C	x	x	C	
Pawn shops								x	x	x	C	C	x	x	C	
Photographic studios, camera shops								x	x	x	C	C	x			
Plant nurseries: commercial				s	s				x				x	x	C	
Plumbing shops									x		C	C	x	x	C	
Plumbing, heating, air conditioning and electrical contractors									x		C	C	x	x	C	(t)
Post office								x	x	x	C	C	x			
Printing and binding establishments									x	x	C	C	x	x	C	
Produce markets, farmers' markets								x	x	x	C	C	x	x	C	(u)

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Public safety stations: ambulance, emergency services, fire, police	x				x	x	x									
Pulpwood yards, including loading facilities for temporary storage of wood for shipment													x	x	C	
Quarries: gravel, sand and clay pits														x	C	
Race tracks for automobiles, motorcycles or other motorized vehicles													s	s	C	
Radio and television stations: studios, offices and transmission towers								x	x	x	C	C	x	x	C	
Remnant shops								x	x	x	C	C	x	x	C	
Restaurants, drive-ins or drive-through									x	x	C	C	x			(i)
Restaurants, including all eating places, except drive-ins, night clubs and lodges									x	x	C	C	x	x	C	
Retail establishments: not otherwise listed herein						x	x	x	x	x	C	C	x			
Roadside stands: temporary sale of agricultural produce on the premises, by a resident	x	x	x	x		x	C	C			x	x				

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Roofing contractor's office, plant and yards									x		C	C	x	x		
Sawmill engaged in custom sawing of timber brought to the site and removed as finished lumber													x	x	C	(w)
Sawmill and lumber processing yard with retail and storage facilities													x	x	C	
Schools (academic): elementary, secondary, public or private	s			s	s	C	x	s	x		C	C	x	x	C	
Schools (nonacademic): commercial, vocational, public or private							x	s	x	x	C	C	x	x	C	
Schools: music, art, dancing								x	x	x	C	C	x			
Septic tank installation and servicing agencies													x	x	C	
Service stations with no gasoline or oil pump, appliance, or concession located within 15 feet of any property line unless within a building								x	x	x	C	C	x			
Shops for radio and television repair, shoe repair, tailoring, dressmaking, repair of small items								x	x	x	C	C	x	x	C	
Stables: commercial, including riding academies	s												s	s	C	

	Single-Family Residence	Single-Family Residence	Single and Two- Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Storage, petroleum products (up to 100,000 gallons)								x	x	x			x	x	C	
Storage, petroleum products (over 100,000 gallons)														x	C	
Storage, tobacco products													x	x	C	
Storage warehouses: for rubber, foam rubber, proxylin plastics oxidizing or radioactive materials, or any other readily combustible material not otherwise listed herein													x	x	C	
Storage warehouses (no outdoor storage): for materials not otherwise listed herein													x	x	C	
Storage yard													x	x	C	(x)
Swimming pool, community, nonprofit	x	x	x	x	x	C	x	x	x	x	C	C	x	x	C	
Swimming pool, private, as an accessory use	x	x	x	x	x	C	x					C				(y)
Taverns and bars									x	x	C	C	x			
Taxi stands								x	x	x	C	C	x			
Telephone exchanges with business offices							x	x	x	x	C	C	x	x	C	
Temporary buildings and materials storage in conjunction with construction on the same lot					x	C	x	x	x	x	C	C	x	x	C	

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Theaters: drive-in									s		C	C	s	s	C	
Theaters: indoor									x	x	C	C	x			
Tire recapping and retreading (accessory use)									x	x			x	x	C	
Tire recapping and retreading (principal use)													x	x	C	
Transportation terminals: freight													x	x	C	
Transportation terminals: passenger									x	x	C	C	x			
Truck gardening and noncommercial nurseries, as an accessory use	x	x	x	x	x	C	x	x	x	x	C	C	x	x	C	
Truck sales									x	x	C	C	x	x	C	
Truck storage and repair													x	x	C	
Unified business development									s		C	C	s			(aa)
Utilities, public: distribution lines, transformer stations, transmission lines, telephone exchanges (without business offices, water tanks, fire towers				s	s	C	s	s	s	s	C	C	s	s	C	
Utilities, public: warehouses, storage yards and repair areas													x	x	C	

	Single-Family Residence	Single-Family Residence	Single and Two-Family Residence	Multi-Family Residence	General Residence	Conditional Residential	Institutional & Community	Neighborhood Business	General Business	Central Business	Conditional Businesses	Conditional Mixed Use	Light Industry	Heavy Industry	Conditional Industry	Notes and/or Special Requirements
Permitted Uses (Nonresidential)	R18	R12	R7	RM-F	RG	CR	I-C	B-3	B-2	B-1	CB	CMX	I-1	I-2	CI	
Veterinarian's office (no outdoor kennels or pens)									x		C	C	x	x	C	
Waste collection, bailing or recycling: paper, glass, plastics, rags, etc.													x	x	C	
Welding shop													x	x	C	
Wholesale distributors, not otherwise listed herein									x		C	C	x	x	C	

(Ord. passed 11-2-15)

§ 155.071 NOTES TO TABLE OF PERMITTED USES.

(A) Permitted in accordance with provisions of §§ 155.190 through 155.192, accessory building and use requirements.

(B) Condominiums are defined as a grouping of individually owned units in multi-family structures in combination with common areas and facilities shared by all the owners. Condominiums are permitted in the same zoning districts as multi-family dwellings and are subject to the same regulations and requirements as multi-family developments, including area, yard, height and screening requirements (see §§ 155.120 through 155.124) and off-street parking and loading requirements (see §§ 155.135 through 155.143). In addition, condominiums shall conform to applicable requirements of the town ordinance to regulate the platting and recording of subdivision of land. Condominium ownership may be created by the owner or co-owners of a structure by an express declaration of intent to submit such property to the provisions of G.S. Chapter 47A, "Unit Ownership of North Carolina," in strict compliance with the Unit Ownership Act, and upon approval of the Haw River Town Council, and recordation of such approval in the office of the Alamance County Register of Deeds.

(C) Issuance of a zoning permit for all multi-family uses (including condominiums) is contingent upon the submission of a site plan and determination by the Zoning Enforcement Officer that the proposed use is in compliance with the following minimum requirements:

(1) Adequate off-street parking and loading areas are provided, in compliance with §§ 155.135 through 155.143.

(2) Area, yard, height and screening requirements are met as provided in §§ 155.120 through 155.124.

(3) Adequate landscaping and plantings are provided.

(4) Adequate space between buildings is provided to assure access for firefighting and emergency equipment and personnel.

(5) All signs are in compliance with §§ 155.155 through 155.166.

(D) Provided adequate light and air and bathroom arrangements are provided and maintained.

(E) May not be located within required front, side or rear yard setbacks.

(F) Provided such plants are equipped with both a primary and a fugitive dust collection system; and provided that such systems shall be designed to discharge dust particles into a secondary collector system equipped with either water sprinklers or a comparable dust retard device; and provided further that all tanks used for the storage of asphalt shall be equipped with automatic controls and temperature gauges intending to eliminate dangers from explosion due to overheating.

(G) Including bone, cellophane, canvas, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastics, precious or semi-precious metals or stones, shell, textiles, tobacco, wood (except planing mills), yarns and paint (provided no boiling process is employed).

(H) When a manufacturing or industrial use is indicated elsewhere in this table, that entry shall govern.

(I) An eight-foot high, opaque fence is required along the perimeter of the site where adjacent to residential zoning districts or residential uses.

(J) In accordance with the provisions of the National Fire Codes, Volume 11, Chapter 3, Storage of Explosives, and provided that all magazines are properly secured when not in use.

(K) Accessory uses and structures including open storage are permitted only in business and industrial districts where indicated, provided the storage yard is enclosed by a solid, opaque fence at least eight feet high or a natural vegetative buffer at least ten feet wide and 12 feet high, which screens from

view all stored materials. However, the storage of uncured hides, explosives or oil and gasoline products is prohibited within such general use storage yards.

(L) Gasoline and oil pumps, appliances and concessions must be located at least 20 feet from all property lines, unless they are located within a building. All service, storage and similar activities must be conducted on the property on which the service station is located. Repair, service and storage must be within the building, and there can be no outside storage on the premises within the B-1 and B-3 zoning districts.

(M) Provided the Board of Adjustment finds such industry is similar to other industries permitted in the I-2 Industrial District and that the operation of such industry will not violate any provision of this chapter.

(N) Provided all pens and runs are at least 50 feet from any property line.

(O) May not be located any closer than one-half mile to another family care home.

(P) Home occupations are permitted when conforming to the following requirements:

(1) A home occupation shall not increase the traffic, noise, electrical interference, glare, dust, smoke or odor which is normally found in its vicinity when its use is not in operation.

(2) Home occupations shall be conducted entirely inside the building with no outside storage and shall be clearly incidental and secondary to the permitted use of the building.

(3) The floor area used for home occupations shall not exceed 25% of the total floor area of a dwelling unit except where lodging is provided for a resident guest; and one home occupation shall not operate in more than one dwelling unit or residential lot.

(4) No exterior evidence of the presence of a home occupation shall be permitted nor shall the presence of the incidental use change the exterior character of the dwelling unit.

(5) There shall be no sales rooms or display windows, nor shall any material or supplies be stored in the open.

(6) No sign announcing the presence of a home occupation shall be permitted other than an occupancy sign which complies with §§ 155.155 through 155.166.

(7) Not more than one employee who is not a member of the immediate family residing in the same dwelling unit may be employed in the operation of a home occupation.

(Q) No punch presses (over 20 tons rated capacity), drop hammers or automatic screw machines shall be permitted in the I-1 Zoning District.

(R) In any residential district(s), a special use permit shall be required whenever it is proposed that the total parking area for any nonresidential establishment exceed one-half acre in size.

(S) Satellite dishes, television and short wave antennas in residential districts shall be subject to the following restrictions:

(1) No short-wave, television antenna or satellite dishes shall be constructed, built or maintained within the right-of-way of any street, highway or sidewalk in any residential district.

(2) No short-wave, television antenna or satellite dishes exceeding a height of four feet shall be constructed, built or maintained in any residential district within four feet of the edge of the pavement or shoulder of any street, highway or sidewalk.

(T) Provided there is no outdoor storage of wares or equipment other than vehicles.

(U) Produce markets or stands, see "roadside stands."

(V) Provided no part of such stand is located within any street right-of-way line.

(W) No lumber shall be stored longer than 14 days; provisions shall be made for removal of sawdust before accumulations become excessive.

(X) Opaque screen required when located adjacent to any residential zoning districts.

(Y) Manufactured homes used as temporary dwelling are permitted as special uses for up to 12 months upon issuance of a permit from the Zoning Enforcement Officer. The permit may be extended for up to 12 additional months (see §§ 155.080 through 155.086, special uses).

(Z) Such temporary uses are to be terminated at the completion of construction.

(AA) Telecommunication tower heights cannot be any longer than the distance from the nearest residential, commercial or any other structure not related to the tower's operation plus 50 ft.

(AB) In R-18 and R-12 districts, the telecommunications tower must be designed to be inconspicuous or in a manner that does not draw attention.

(AC) In I-1 districts adjacent to lots zoned or used for residential purposes, the setback requirements for self-storage units (including mini-warehouses) shall not be increased and shall remain the standard minimums as found in §§ 155.120 through 155.124 (area, yard, height and screening requirements).

(AD) "Flea markets" are permitted as a special use, as specified in the table, provided the following conditions are met:

(1) A minimum lot area of one acre is required;

(2) Flea market uses will not be allowed as an accessory use;

(3) Adequate and safe permanent public restrooms and/or toilet facilities are required. No portable restroom facilities will be allowed;

(4) If all or a portion of the flea market use will take place outdoors, the following regulations apply:

(a) Sales or display areas shall not encroach upon any required setback, block sidewalks or parking areas, or impede vehicular or pedestrian traffic;

(b) All tables, stands, and/or other display equipment and all vehicles shall be removed from the parcel any time that the flea market is not open to the public;

(c) All sales items shall be stored indoors when the flea market is not open for business or removed from the site at the close of business each day; and

(d) All screening and fencing requirements for the zone within which the proposed flea market will be set shall apply.

Additional Required Information for Application:

- If all or a portion of the flea market use will take place outdoors, in addition to the general requirements, the site plan must also include the location, dimensions, and number of individual booths or sales areas;

- A lighting plan; and

- Proposed hours and days of operation.

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.072 OUTDOOR STORAGE ON RESIDENTIAL PROPERTY.

No more than 500 square feet of junk as that term is defined in this Code, which said square footage may include up to two junked or inoperable vehicles, may be kept on property zoned for residential use; provided, however, that the materials being stored must be screened from public view or placed under a shelter.

(Ord. passed 11-2-15)

SPECIAL USES

§ 155.080 INTENT AND PURPOSE OF SPECIAL USE PERMIT PROCEDURES.

(A) Special use permitting procedures add flexibility to the zoning ordinance. Subject to high standards of planning and design, certain property uses are allowed in designated districts where these uses would not otherwise be acceptable. Through special use permit procedures, controls or conditions are placed on property uses which would otherwise be undesirable in certain districts to minimize negative effects on surrounding properties.

(B) The uses for which special use permits are required are indicated by an "s" in the Table of Permitted Uses, § 155.070. Procedures for issuance of special use permits and the minimum conditions required for obtaining a permit are presented below. Special uses may be permitted in designated zoning districts only after a special use permit is approved by the Board of Adjustment and issued by the town's Zoning Enforcement Officer.
(Ord. passed 11-2-15)

§ 155.081 APPLICATION SUBMISSIONS.

Applicants for special use permits are advised to confer with the Zoning Enforcement Officer prior to formal application for a special use permit to determine what information must accompany the formal application. Applicants for special use permits for the operation of outdoor storage facilities must first submit their application to the Zoning Enforcement Officer. Any or all of the following information may be required, depending on the character and size of the proposed use:

(A) Five copies of the proposed site plan at a minimum scale of 1" = 200' showing the following:

(1) A vicinity map, showing the location of the property in relation to existing and proposed streets, streams, railroads and existing zoning and land uses of all adjacent properties.

(2) A boundary description (metes and bounds) of the subject parcel including the tax identification numbers (tax map and parcel numbers), the total acreage, the shape and dimensions of the parcel on which the proposed use will be located. Said site plan shall contain a north reference and a graphic scale.

(3) The location, shape, size and type of existing and proposed buildings, walls and fences, outbuildings, loading areas, places of assembly, outdoor display areas, storage areas (indoors and outdoors) and other facilities associated with the use on or near the property; existing and proposed within the required buffers.

(4) Proposed points of vehicle ingress and egress, and the proposed pattern of internal circulation, including all drives and walkways.

(5) Proposed off-street parking and loading facilities and areas.

(6) Proposed provision for utilities including the layout of sanitary sewers, storm drainage, water, gas, telephone and electric lines and irrigation systems where necessary in accordance with applicable local standards, showing the availability of public water and sewer.

(7) The location, size, height, orientation and lighting of all proposed signs.

(8) Proposed refuse disposal equipment and method of refuse disposal.

(9) Delineation of construction phases and their sequential order.

(10) The name, address and telephone numbers of the owners of the subject parcel.

(11) The nature of the proposed use of the building or land, including the extent and location of the use.

(12) The square feet and percentage of lot as built upon area if the lot is located in a watershed.

(13) Any other information that the planning staff may deem necessary for consideration in enforcing all provisions of the Zoning Code.

(B) A grading plan showing existing and proposed topography at no less than ten foot intervals, showing the general directional flow of groundwater runoff with arrows and all drainages, lakes, ponds, swamps, flood plains and streams.

(C) A soil erosion and sedimentation control plan including topography at no less than two and one half foot intervals for all sites greater than one acre in size.

(D) A planting plan showing the number, location, size and name of each plant species and the proposed ground cover, especially on slopes, banks and ditches. If the special use permit is approved, the planting plan shall be carried out within one year of the date of issuance of the certificate of occupancy and all landscaping shall be permanently maintained thereafter. Applications for special use permits, together with all pertinent information and required site plans, must be submitted to the Zoning Enforcement Officer at least 30 days before the meeting of the Planning and Zoning Board at which the application is to be reviewed. At the time of submission, applicants shall pay a fee of $100 to defray the costs of processing the application, provided, however, that no applicant for a permit for an outdoor storage facility in the extraterritorial jurisdiction of the town shall be required to pay such fee.

(E) Applicants for permits for the operation of outdoor storage facilities shall also provide an approved driveway entrance permit from the North Carolina Department of Transportation/Town of Haw

River for all new entrances and written approval from the town Fire Inspector stating compliance with the North Carolina State Fire Prevention Code. Applicants for permits for the operation of outdoor storage facilities, auto sales or repair facilities, and towing services must provide to the Zoning Enforcement Officer a copy of a valid document that provides proof of operating a legitimate business that would enable the Zoning Enforcement Officer to validate the existence of the operation.
(Ord. passed 11-2-15)

§ 155.082 ADVISORY REVIEW BY THE PLANNING AND ZONING BOARD.

The Planning and Zoning Board shall review special use permit applications to determine their compatibility and/or compliance with the town's planning, zoning and land use policies and regulations. The Planning and Zoning Board may recommend the Board of Adjustment take one of the following actions:

(A) Deny the special use permit.

(B) Approve the special use permit subject to the conditions specified in § 155.086.

(C) Approve the special use permit subject to the conditions specified in § 155.086 and subject to other reasonable conditions or modifications recommended by the Planning and Zoning Board.
(Ord. passed 11-2-15)

§ 155.083 PROCEDURES FOR OBTAINING A SPECIAL USE PERMIT.

(A) After receiving a recommendation from the Planning and Zoning Board, the Board of Adjustment shall hold a public hearing for each special use permit application. Notice of this public hearing shall be published in the same manner as required for a hearing on an amendment to this chapter (see §§ 155.280 through 155.284). At the public hearing the Board of Adjustment shall review the special use permit application and required plans and the recommendations of the Planning and Zoning Board. After the public hearing, the Board of Adjustment may take one of the following actions by simple majority vote:

(1) Deny the special use permit.

(2) Approve the special use permit subject to the conditions specified in § 155.086.

(3) Approve the special use permit subject to the conditions specified in § 155.086 and subject to other reasonable conditions the Board of Adjustment imposes upon the permit. The Board of Adjustment may modify the original plans to reflect such conditions.

(B) Before granting any special use permit, the Board of Adjustment shall require that competent, material and substantial evidence be presented under sworn testimony to support each of the following findings:

(1) All applicable regulations of the zoning district in which the use is proposed are complied with.

(2) All applicable conditions specified in § 155.086 are complied with.

(3) The proposed special use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted or as modified under the conditions required by the Board of Adjustment.

(4) The proposed use is located, designed and proposed to be operated so as to maintain or enhance the value of adjoining property or that the use is a public necessity.

(5) The location and character of the use if developed according to the plan as submitted or as modified under the conditions required by the Board of Adjustment will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Town Planning Area.

(6) Satisfactory provision has been made for the following, when applicable: vehicle circulation, parking and loading, service and loading entrances and areas, screening, utilities, signs, lighting, open spaces, site grading, soil erosion and sedimentation control and site drainage.

(C) The Board of Adjustment must determine that all of the above findings exist or the application will be denied. All conditions shall be entered into the minutes of the public hearing at which the special use permit is granted, on the special use permit itself, and on the approved plans. All specific conditions shall run with the land and shall be binding on the original applicants, their heirs, successors and assigns.

(D) If the Board of Adjustment denies a request for a special use permit, it shall enter the reasons for its action in the minutes of the public hearing at which the action was taken.

(E) Special use permits for the operation of outdoor storage facilities shall be valid for two years from the date of issue. Anyone operating an outdoor storage facility shall renew his or her permit every two years on or before the passage of two years from it being first issued.
(Ord. passed 11-2-15)

§ 155.084 APPEAL OF DECISIONS OF BOARD OF ADJUSTMENT CONCERNING SPECIAL USE PERMITS.

No appeal may be taken from the action of the Board of Adjustment in granting or denying a special use permit. However, the Board of Adjustment's action on an application for a special use permit shall

be reviewable by the courts as provided by law. Any petition for review shall be filed with the Clerk of Superior Court of Alamance County within 30 days after the decision of the Town Council is filed in the office of the Zoning Enforcement Officer.
(Ord. passed 11-2-15)

§ 155.085 FAILURE TO COMPLY WITH PLANS OR CONDITIONS.

(A) In the event of failure to comply with the plans approved by the Board of Adjustment or with any condition imposed on the special use permit by the Board of Adjustment, the permit shall immediately become void. No building permits or certificates of occupancy shall be issued, and completed structures shall be regarded as nonconforming uses. In addition, the Board of Adjustment shall not be prevented from thereafter rezoning said property for its most appropriate use.

(B) A special use permit shall become null and void two years after the date of its issuance unless construction is begun during this two year period.
(Ord. passed 11-2-15)

§ 155.086 REQUIRED CONDITIONS FOR SPECIAL USE PERMITS.

The conditions listed below shall be complied with by the special use whenever it is established in the specified district under a special use permit. These conditions shall be in addition to applicable regulations of the district in which the use is located and in addition to any other conditions imposed upon the special use permit by the Town Council.

Use:	**Adult Uses - Stores, Massage Parlors, Topless Lounges and the like.** (Reference G.S. § 14-202.10 for definition of adult bookstore, adult motion picture theater or adult mini motion picture theater)
Special Use Districts:	I-2
Requirements:	1. The required site plan shall show all property lines, buildings, zoning district lines and existing land uses within 1500 feet of the property. 2. All windows, doors, openings, entries and the like must be located, covered, screened or otherwise treated so that views into the interior of the establishment are not possible from any public or semi-public area, street or way. 3. No adult use shall be established within 1500 feet of any residential zoned land; any church, park, playground, synagogue, convent or library or any areas where large numbers of minors regularly travel or congregate. 4. No adult use shall be located within 1000 feet of another.

Uses:	**Auditoriums, Gymnasiums and Stadiums** (where admissions are charged or organized athletic events are held.)
Special Use Districts:	R-7, R-G, I&C, B-2, B-1 and I-1
Requirements:	1. A description of the exact type facility planned, the amount of area, including the number of members, participants and/or spectators expected. 2. Access, parking and service areas for all existing and planned facilities. 3. Plans and elevations for all proposed and existing structures with descriptions of the color and nature of exterior materials. 4. A signed statement from the owners and operators that there shall be no activity allowed that will adversely affect adjacent properties, with a complete list of all activities that will take place on the site. 5. Lot size shall be adequate for the method of sewage disposal proposed and for the proposed uses of the facility. 6. The proposed special use shall produce no adverse impacts on the adjacent roads or residential properties.
Uses:	**Automobile Laundry (Car Wash) Automobile Body & Fender Repair (Within Enclosed Building) Automobile Repair, Automobile Sales (New and Used) Truck Sales (New and Used), Towing Services**
Special Use Districts:	B-3
Requirements:	1. No flashing lights or fluttering devices which are designed and used to attract attention shall be permitted. 2. No outdoor storage of any equipment, merchandise or rubbish shall be permitted. 3. All flood lights shall be turned off at the close of business or at 11:00 p.m., whichever is earlier. 4. No lights shall be so arranged as to direct or reflect light into any residence. 5. No curb cut shall be less than 25 feet from the intersection of any two street curb lines. Curb cuts shall no be wider than 25 feet. No more than two curb cuts shall be permitted on each abutting street. 6. An opaque screen at least eight feet in height must be provided along each property line adjoining residential uses. 7. Customer vehicles undergoing repair or storage must be screened behind an opaque screen at least eight feet in height. It is not the intention of this provision to allow the storage of manufactured homes.

8. All provisions applicable to junkyards, outdoor storage facilities, scrap processors and auto wrecking/salvage establishments shall also be applicable to automobile laundries, automobile body and fender repair, automobile repair, automobile sales, and truck sales facilities. Vehicles being offered for sale to the public are not subject to said provisions provided that said vehicles are in such condition that all licensing, registration and inspection requirements by the NC DMV are met and said vehicles are completely operable and able to be used as intended. Said vehicles may be displayed for sale up to the right of way of any public or private road provided that they are arranged and presented in a neat, orderly fashion. No vehicles shall be placed within the right-of-way of any public or private road. All other vehicles on the premises for the purpose of repair or salvage are subject to all other provisions applicable to aforementioned junkyards, outdoor storage facilities, scrap processors and auto wrecking/salvage establishments except that up to 25 customer vehicles may be exempt from said provisions.
9. All batteries shall be stored indoors or in a shelter that prevents them from being exposed to the elements. Batteries shall be stored so as to prevent their contents from leaching into the soil or being carried by storm water runoff.
10. All tires that are not mounted on rims and properly inflated shall be stored indoors or in a shelter that prevents the tires from being exposed to the elements.

Use: **Cemeteries and Mausoleums**

Special Use Districts: R-18 and I&C

Requirements: 1. Adequate off-street parking facilities and an internal circulation pattern to accommodate funeral processions.
2. A screen of dense plant material not less than six feet high where cemetery abuts a residential lot.

Use: **Fairs, Circuses and Carnivals**

Special Use Districts: R-18, B-2, I-1, I-2 and I&C

Requirements: 1. Adequate off-street parking and bathroom facilities.
2. All trash shall be removed in a manner acceptable to the Town Administrator or representative.
3. Activities shall not exceed 30 days duration.

Use: **Clubs, Golf, Swimming and Tennis**

Special Use Districts: R-18, R-12, R-7, R-G and B-2

Requirements:
1. No green shall be nearer to any property line than 150 feet.
2. No tennis court shall be nearer than 75 feet to any interior lot line.
3. No building or swimming pool shall be nearer than 100 feet to any interior lot line.
4. Lighting shall be so shielded as to cast no direct light upon adjacent property.
5. No music audible at the property line of any adjacent residential property shall be permitted.

Use: **Day Care Centers**
Day Care Centers Operated as Home Occupations

Special Use Districts: R-7, R-G, I&C, B-3, B-2, I-1
(Day Care Centers)

R-18, R-12, R-7, R-G, I&C, B-3, B-2, I-1
(Day Care Centers Operated as Home Occupations)

1. A center must meet a permitted building and lot type for the district in which it is to be located.
2. Must have at least 200 square feet of outdoor play area per child or client.
3. Must pass yearly fire inspection.
4. For Day Care Centers Operated as Home Occupations, the day care operation must be located within the residential dwelling unit occupied by the operator of the service.

Use: **Flea Market**

Special Use Districts: I&C, B-3, B-2, BG, CMX, I-1

Requirements:
1. A minimum lot area of one acre is required;
2. Flea market uses will not be allowed as an accessory use;
3. Adequate and safe permanent public restrooms and/or toilet facilities are required. No portable restroom facilities will be allowed;
4. If all or a portion of the flea market use will take place outdoors, the following regulations apply:

a. Sales or display areas shall not encroach upon any required setback, block sidewalks or parking areas, or impede vehicular or pedestrian traffic;
b. All tables, stands, and/or other display equipment and all vehicles shall be removed from the parcel any time that the flea market is not open to the public;
c. All sales items shall be stored indoors when the flea market is not open for business or removed from the site at the close of business each day; and
d. All screening and fencing requirements for the zone within which the proposed flea market will be set shall apply.

Use: **Golf Courses**

Special Use Districts: R-18, R-12, R-7, I-1 and I-2

Requirements:
1. No green may be nearer to any property line than 150 feet.
2. No building may be nearer to any property line than 100 feet.
3. Lighting must be shielded as to cast no direct light upon adjacent property.

Use: **Group Homes**

Special Use Districts: R-18, R-12, R-7, R-G, I&C

Requirements:
1. One parking space for every five temporary residents, plus one space for each employee.
2. Sign not to exceed four square feet.
3. Shall be licensed and/or sponsored by the appropriate state or local agency.
4. Shall not be located within a 1,000 foot radius of a zoning lot containing another such facility.

Use: **Jails and Prisons**

Special Use Districts: I-1 and I-2

Requirements:
1. Lighting must be shielded as to cast no direct light upon adjacent property.
2. An opaque screen at least eight feet in height must be provided along each property line adjoining residential uses.
3. All plans for such facilities must be approved by appropriate state and/or county agencies prior to being submitted as part of the special use permit application process.

Use:	**Junkyards (Outdoor Storage Facilities), Scrap Processors, Manufactured Home Storage/Scrap Yards and Auto Wrecking/ Salvage**
Special Use District:	I-2
Requirements:	1. Located on a minimum of 600 square feet of land. 2. Suitable landscaping, screening and fencing to protect adjoining properties and views from the public right-of-way and to screen such special uses from public view. It shall be the responsibility of the Zoning Enforcement Officer and/or his/her agent to determine whether or not the screening requirements of this section that have been implemented are effective. A combination of natural or planted vegetation and/or fencing may be used to accomplish the desired effect. Must include a wall, fence or planted buffer at least eight feet high to completely screen all stored items. Planted buffers must have a minimum width of at least ten feet. Natural vegetation buffers may be used in place of planted buffers provided that said natural vegetation buffer has a minimum width of at least 20 feet and is composed of varied species composition so as to provide a year-round effective sight barrier. If a natural buffer ceases to provide an effective visual barrier, it shall be replaced by another permitted option for screening as provided by this Code. A 100-foot buffer of undisturbed vegetation shall be maintained around all reservoirs, lakes and ponds. Buffers, screening and fencing may coexist within the setback areas described in this Code but shall not be within the right of way of any public or private road. Planted buffers, if used, shall be planted in doubled, staggered rows and shall obtain an effective height to screen from view the stored materials within three years of being planted. All natural or planted buffers shall be approved by the Zoning Enforcement Officer. 3. A preliminary site plan showing the location and dimensions of existing and proposed structures, walls or fences, roads, off-street parking and loading areas, and pertinent information, including, but not limited to topography, hydrology and zoning for all parcels within 500 feet of the properly, to assist in determining the probable effect of the proposed special use on neighboring properties, and to carry out the intent of this chapter. 4. No such facility shall be permitted within 200 feet of any residential district nor located within 1/4 of a mile from any church or school, playground, athletic field, recreation center, community center, or any facility where children normally gather; nor shall any such facility be located within the water critical area of any WS-II Watershed Protection District.

5. Conformance to any standards recommended by the Fire Department may be required. In no case shall the storage of any combustible materials be permitted within 50 feet of a property line.
6. Conformance to any standards recommended by the Fire Department may be required. In no case shall the storage of any combustible materials be permitted within 50 feet of a property line.
7. Required fences may be solid or perforated and shall have gated entrances. All gates shall be securely locked at all times except during business hours. If said fence is to serve as screening, it must then be a solid fence, constructed of approved materials to create an attractive and effective sight barrier. It shall be the responsibility of the Zoning Enforcement Officer to determine the effectiveness of such a fence. Storage of materials higher than seven feet may require additional height to be added to the fence to provide adequate screening, but for no reason shall be less than eight feet in height. Construction materials for said fence shall include wood, masonry products, and metal. All fences used for this purpose shall be attractive and shall not in and of themselves create nuisances. All fences used in conjunction with this section shall be maintained in good order and shall be located on the property.
8. All batteries shall be stored indoors or in a shelter that prevents them from being exposed to the elements. Batteries shall be stored so as to prevent their contents from leaching into the soil or being carried by storm water runoff. When crushing vehicles on site, it shall be the responsibility of the owner/operator of the facility to properly drain, store and dispose of all toxic, hazardous and flammable liquids and materials prior to crushing said vehicles.
9. All tires that are not mounted on rims and properly inflated shall be stored indoors or in a shelter that prevents the tires from being exposed to the elements.
10. No dismantled, abandoned, or wrecked manufactured home may be stored on any property in the Town of Haw River unless in compliance with all of the terms and conditions of this Code. All manufactured homes in the Town of Haw River are subject to the Town of Haw River Manufactured Home Ordinance.

Use: **Landfills, Demolition**

Special Use District: R-18 and I-2

Site Requirements: 1. The demolition landfill shall be a minimum of two acres.
2. The demolition landfill shall be completely enclosed with a security fence or dense hedge of plantings approved by the Zoning Enforcement Officer to serve as a barrier to vehicular access and completely screen the landfill from view.

3. A minimum setback of 75 feet from any public right-of-way and a minimum of 500 feet from any residentially zoned property shall be maintained.
4. A rehabilitation/reuse plan shall accompany the application for a special use permit and shall be implemented by the owner of the site within six months of the landfill's closing.
5. Special use permits for demolition landfills shall be valid for no more than five years from their date of approval and shall be reviewed annually to insure compliance with all conditions of the permit.
6. Other conditions necessary to protect the public health, safety and general welfare may be imposed by the Town Council as requirements for the granting of a special use permit. Such conditions may include, but shall not be limited to, the hours of operation and measures to control dust and debris on access roads.

Use: **Lodges, Civic, Social and Fraternal Organizations (Not Used for Parties at Night)**

Special Use District: I&C

Requirements:
1. The site shall be at least one acre in size.
2. No structure, parking area or activity area shall be located less than 40 feet from any property line.
3. Lighting shall be so shielded as to cast no direct light upon adjacent property.
4. No public address system shall be permitted unless within a building.
5. No music audible at the properly line of any adjacent residential property shall be permitted.

Use: **Manufactured Home Parks**

Special Use District: R-G

Requirements:
1. Conformance with the Haw River Manufactured Home Parks Ordinance (Chapter 153).
2. Conformance with the "Regulations Governing the Sanitary Design, Construction, Alteration, Maintenance, Operation and Use of Manufactured Homes and Manufactured Housing Parks in Alamance County," of the Alamance County Board of Health.
3. A 15 foot wide buffer strip along the rear and side property lines of the park of densely planted trees and shrubs expected to grow to a height of eight feet.
4. Common recreation area(s) provided at a rate of 200 square feet for each manufactured home lot.

Use: **Manufactured Homes, As a Temporary Dwelling**

Special Use District: R-18, R-12, R-7, R-G

Requirements: 1. Only one manufactured home may be permitted in a rear yard as an accessory use on a temporary basis subject to the Haw River Board of Adjustment making a finding that a personal hardship situation exists. Such hardship shall involve the need to care for elderly parents or other dependents of the family occupying the principal building. Reasons justifying separate quarters shall be contagious disease, illness or lack of adequate quarters within the principal building.
2. Temporary use permits may be issued for one year. Application for the permit shall be made to the Zoning Enforcement Officer and shall be reviewed by the Board of Adjustment to determine need. All such mobile homes must have access to water and sewer systems in a manner approved by the Town of Haw River or Alamance County Health Department. Application for continuation of a special use permit shall be made every year and shall be reviewed by the Board of Adjustment without a public hearing.
3. Manufactured homes shall be maintained in such a way as to create no nuisance conditions and shall comply with the dimensional requirements of this district.

Use: **Nursing Homes, Convalescent Homes**

Special Use Districts: R-18, R-12, R-7, I&C and B-3

Requirements: 1. One parking space for every three beds.
2. A densely planted buffer strip along the rear and side property lines expected to grow to a height of eight feet to screen the facility from adjoining residential land uses.
3. All state and/or county licensing and inspection to be maintained at all times.

Use: **Planned Unit Developments**

Special Use Districts: R-G, R-12 and B-2

Definition: When a tract of land is under unified control and contains at least 15 acres, the developer may be allowed to deviate from the strict application of use, setback, height and minimum lot size requirements of zoning districts in order to permit a creative approach to the development. In exchange for this flexibility, the developer must comply with all

requirements for obtaining a special use permit and the requirements listed below. This approach is a voluntary alternative, it is not mandatory for the development of any parcel of land.

Permitted Uses: All the permitted uses in the zoning district where the PUD is located are allowed.

Dimensional Requirements: Yard, setback, lot size, type of dwelling unit and frontage requirements may be waived, provided the spirit and intent of this section are met in the total development plan. However, certain dimensional requirements may be required for all or portions of the site.

Density Requirements: The site's overall density (dwelling units per acre) may be increased if the character or amenities incorporated into the development warrant such increases, provided that the density increase does not exceed 33% of density allowed under standard zoning regulations. If any of the following conditions would be created by an increase in density, the application for an increase in density may be denied, or the density increase may be limited to an amount sufficient to avoid the creation of any of the following conditions:

1. Inconvenient or unsafe access to the development or traffic congestion in streets adjoining the development.
2. An excessive burden imposed on parks, recreational area, schools and other public facilities or services which serve or are proposed to serve the development.

Open space Requirements: All common open space, shown on the final development plan and recorded in the office of the Town Administrator must be conveyed through either dedication to the town (and maintained as publicly owned common open space), or through leasing or conveying title (including beneficial ownership) to a corporation, association or other legal entity. The developer must file in the County Register of Deed's Office legal documents which prove a method for restricting the use of common open space for the designated purposes.

Circulation Requirements: The arrangement of public and common ways for pedestrians and vehicular circulation in relation to other existing or planned streets in the area, together with provisions for street improvements, shall be in

compliance with standards set forth in the municipal subdivisions regulations. The Town Council may deviate from these standards if the proposed changes or alterations are consistent with the spirit and intent of this section.

Utility Requirements: Whenever possible, all utilities (including telephone, cable TV and electric service) will be underground. The installation and maintenance of utilities shall be in accordance with the requirements and regulations of all applicable governing bodies. Public or quasi-public water and sanitary sewer service shall be required, unless the developer can show good cause that these requirements should be waived, without being inconsistent with the spirit and intent of this section.

Review Procedures: Review under applicable codes and ordinances shall be carried out as an integral part of the review of a Planned Unit Development. The plans required under this subsection must be submitted in a form which satisfy requirements of the codes and ordinances for the preliminary and final plat approvals.

Use: **Quarries**

Special Use District: I-2

Required Plans: A site plan shall be submitted showing the location of proposed facilities or structures within the site as well as existing structures, water courses and zoning district boundaries within the property and within 500 feet of the property.

Setback & Fence Requirements:

1. The edges of any pit where quarrying will take place and where any equipment will be used in the processing of rock and gravel shall be located at least 50 feet from all property lines and zoning district boundary lines. Where the quarry site is bounded by a railroad right-of-way currently being used for rail service, no yard or setback shall be required between the railroad right-of-way and the quarry operation. This provision shall apply to any asphalt plant or other industrial uses operated in conjunction with the quarry.
2. Quarry operations shall be enclosed by a wire or masonry fence at least five feet in height. A wire fence shall have at least four strands of wire. The wire fence required by the “Rehabilitation” section of this provision may be substituted for this requirement provided it is located at least 25 feet from the edge of all pits. Where the property lines have been enclosed prior to the time of adoption of this chapter with a fence

constructed as described herein, this section shall be deemed to have been complied with.

Noise and Dust Conditions: All operations involving blasting discernible beyond the external property line of a quarry shall only be conducted between the hours of 8:00 a.m. and 6:00 p.m. Dust resulting from the operation of a quarry which may be air borne to other properties shall be reduced to a minimum by sprinkling or other means.

Access Roads: Auxiliary access roads, not to be used for general truck traffic, may be constructed within the 50 foot setback area as required above, provided such road is furnished with a gravel or crushed stone surface and is maintained in a dust-free manner. No part of such roads shall be located closer than 15 feet to an external property line other than a highway or railroad right-of-way line. All access roads shall intersect as nearly as possible at right angles with public roads and shall not intersect any public road at an angle of less than 60 degrees.

Rehabilitation: When quarrying operations at any pit are terminated and no further production is to be undertaken, all stock piles of overburden shall be backfilled into the pit within 30 days after termination. All pits shall be backfilled to a slope of one foot vertical or less, to one foot horizontal from the bottom of the pit to the surface of the ground. A nonclimbable fence may be erected in lieu of such sloping around the edge of all pits with a depth of 20 feet or more. Such fence shall be at least six feet in height and constructed of wire mesh in rectangular shapes not exceeding two inches. Locations abandoned at the time of adoption of this chapter which have a fence of at least five strands of barbed wire, erected in conformity with standards of the North Carolina Department of Labor, are deemed to have complied with this section. The channelization of drainage at quarry sites shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turgidity of any natural watercourse or to occlude any existing drainage course.

Nuisances: It is the specific intent of this section that it shall not have the effect of barring the bringing of legal and equitable actions by private persons or government agencies seeking redress against nuisances or other damages committed by the owner or operator of any rock quarry.

Use:	**Race Tracks for Automobiles, Motorcycles or Other Motorized Vehicles**
Special Use Districts:	I-1 and I-2
Requirements:	1. An opaque screen at least eight feet in height must be provided along each property line adjoining residential uses. 2. Adequate off-street parking and bathroom facilities. 3. Adequate control of noise, dust, fumes, lights, traffic and visual impact, so as not to constitute a nuisance.
Use:	**Specialty Shops (Located in structures originally designed for residential uses)**
Special Use Districts:	I&C
Requirements:	1. No more than two salespersons may be employed on the premises at any given time. 2. No flashing lights or fluttering devices which are designed and used to attract attention shall be permitted. 3. No lights shall be so arranged as to direct light into any residence. 4. If the shop is within 100 feet of any dwelling, other than that of the shop operator, the shop shall not operate between the hours of 6:00 p.m. and 9:00 a.m.
Use:	**Stables, Commercial (Including Riding Academies)**
Special Use Districts:	R-18, I-1 and I-2
Requirements:	1. The site shall be of adequate size to protect adjacent properties from adverse effects of the riding stable or academy. 2. No part of any building, structure, corral or riding arena shall be closer than 150 feet from a property line unless completely housed within an enclosed building. 3. Adequate access, parking and service areas for all existing and planned facilities.
Use:	**Telecommunication Tower**
Special Use District:	R-18 and R-12
Requirements:	1. Towers are constructed to be inconspicuous and a six foot high fence be built around the tower, so as not to allow any unauthorized person to climb the tower.

2. Tower and all related structures shall meet all zoning set back requirements.
3. Shall not be placed on top of any structure (not to include non-commercial towers).
4. The location of a tower may not be any closer than the length of the tower plus 50 feet from any non-related structure.
5. Mono-towers (single user towers) are prohibited.

Use: **Theaters, Drive-in**

Special Use Districts: B-2, I-1 and I-2

Requirements:

1. An eight foot high opaque screen shall be required except at driveways. Where any residence would have a view of the viewing screen, a thick screen of evergreens at an initial height of at least five feet and capable of forming at maturity a visible barrier between the heights of four feet and 20 feet shall be provided along the theater property line.
2. The lot shall abut or have easy access to a major thoroughfare or collector street.
3. The viewing screen shall be directed away from major thoroughfares or collector streets.
4. Lighting shall be shielded so as to cast no direct light on adjoining property.
5. Sound shall be delivered to each car by individual speakers. No loudspeakers shall be used.
6. On-site automobile standing space for 20 vehicles awaiting admission shall be provided at each box office. Each box office shall open not later than 30 minutes prior to the scheduled starting of the first feature. The scheduled starting time of the first feature shall be prominently displayed.

Use: **Tourist Home/Bed and Breakfast**

Special Use Districts: R-18 and R-12

Requirements:

1. Applicant shall have access to major thoroughfares.
2. Parking shall in the rear yard at one space for each room to be rented plus one space for each employee plus two spaces for permanent occupants of the dwelling.
3. Applicant must submit a plat showing the location of parking, buildings, outside recreational areas and buffering. The plat shall show or state the type of buffering.
4. All parking and recreational areas shall be buffered from adjacent properties by a buffer strip consisting of a screened fence or a planted

strip at least five feet in width, composed of deciduous or evergreen trees or a mixture of each, no less than one row dense shrubs, spaced not more than five feet apart.
5. Signs identifying the operation shall be non-illuminating and shall be either wall or yard signs, no more than two square feet in area.

Use: **Unified Business Developments**

Definition: A tract of land, three or more acres in size, divided and developed into two or more principal building sites for occupancy by separate firms, businesses or other commercial enterprises. Includes such uses as shopping centers, office parks and light industrial parks.

Special Use Districts: I-1 and B-2

Requirements:
1. An analysis of anticipated traffic volume and evidence that the North Carolina Department of Transportation is aware of the proposed project.
2. Such developments shall abut a major thoroughfare, minor arterial or collector street (existing or proposed) as shown on the Burlington Metropolitan Area Thoroughfare Plan and direct access thereto.
3. All uses permitted in the B-2 District are permitted except for the following, which are not permitted: dwellings; animal hospitals and veterinary clinics; automobile repair; automobile laundries (car washes); automobile sales; amusements; bottling or dairy plants; commercial campgrounds; commercial camping and recreational vehicle parks; contractors (offices only are permitted); day care centers; dry cleaning and pressing plants; farms; farm machinery sales, storage and repair; funeral homes; golf courses; all types of hospital; kennels; laundries (except self-service); lodges; mobile home sales; nursing homes; plumbing shops; sign manufacturing, painting and maintenance; stonecutting, monument manufacturing and sales; tire recapping and retreading (as a principal use); truck sales; and wholesale distributors.
4. Drive-in establishments offering goods or services directly to customers in parked cars shall be permitted only when the location of buildings and access drives have been approved by the Town Council.
5. All business establishments shall be retail or service establishments dealing directly with the public.
6. All uses shall be completely enclosed in buildings except for plant sales, sidewalk cafes and permitted drive-ins.
7. An opaque screen shall be provided wherever, in the Town Council's judgment, such screening is necessary to shield adjacent residential districts.

Use:	**Utilities, Public Distribution and Transmission Lines, Transformers, Telephone Exchanges (without offices), Water Tanks and Fire Towers.**
Special Use District:	In all zoning districts
Requirements:	1. Adequate fencing to protect the public health, safety and welfare (especially to enclose all transformers, substations and towers). 2. Adequate screening from adjacent residential uses. 3. Adequate lot size to allow for a tower to be accommodated on site if it should collapse or be blown over. 4. Adequate service area.

(Ord. passed 11-2-15)

VESTED RIGHTS

§ 155.100 PURPOSE.

The purpose of this section is to implement the provisions of G.S. § 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.
(Ord. passed 11-2-15)

§ 155.101 DEFINITIONS.

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

APPROVAL AUTHORITY. The Town Council, or other board or official designated by ordinance or this section as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

LANDOWNER. Any owner of a legal or equitable interest in real property, including heirs, devices, successors, assigns and personal representatives of such owner.

PROPERTY. All real property subject to the zoning regulations, restrictions and zoning boundaries of this chapter.

SITE SPECIFIC DEVELOPMENT PLAN. A plan which has been submitted to the town by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property and which is required as part of a permit approval process, such as the special use permit approval process (see §§ 155.080 through 155.086).

ZONING VESTED RIGHT. A right pursuant to G.S. § 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.
(Ord. passed 11-2-15)

§ 155.102 SITE SPECIFIC DEVELOPMENT PLAN REQUIREMENTS.

(A) The landowner of a property may allow a person holding a valid option to purchase to act as his or her agent or representative for purposes of submitting a proposed site specific development plan in the manner allowed by ordinance.

(B) In addition to other features required on a plan by other applicable land development ordinances of the town, a site specific development plan shall include the exact boundary lines of the site; significant topographical or other natural features effecting development of the site; the approximate location on the site of the proposed buildings, structures and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of the all existing and proposed infrastructure on the site, including water, sewer, streets and pedestrian walkways.

(C) Notwithstanding the foregoing, height a variance, a sketch plan, nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

(D) At the time of application for approval of a site specific development plan, the landowner shall submit five copies of the plan and shall pay any and all applicable fees required to offset the cost of notice and other administrative expenses involved in the review of such plan.
(Ord. passed 11-2-15)

§ 155.103 ESTABLISHMENT OF ZONING VESTED RIGHT.

(A) A zoning vested right shall be deemed established upon the valid approval or conditional approval, by the Town Council of a site specific development plan following notice and public hearing.

(B) The approval authority may approve a site specific development plan upon such terms and conditions as may reasonable be necessary to protect the public health, safety and welfare.

(C) Approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained (notwithstanding divisions (A) and (B).

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

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

(F) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.
(Ord. passed 11-2-15)

§ 155.104 APPROVAL PROCEDURES AND APPROVAL AUTHORITY.

(A) Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

(B) Notwithstanding the provisions of division (A) of this section, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Town Council, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Town Council, following notice and a public hearing as provided in G.S. § 160A-364.

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

(D) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: “Approval of this plan establishes a zoning vested right under G.S. § 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until _____.”

(E) Following approval or conditional approval of a site specific development plan, the applicant shall retain one approved copy for his or her records, one approved copy shall be kept on file in the office of the Zoning Enforcement Officer and one approved copy shall be recorded in the office of the Alamance County Register of Deeds.

(F) Following approval or conditional approval of a site specific development plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

(G) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with the applicable terms and conditions of the approval or the zoning ordinance. (Ord. passed 11-2-15)

§ 155.105 DURATION.

(A) A zoning right that has been vested as provided in this section shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific development plan.

(B) Upon issuance of a building permit, the expiration provisions of G.S. § 160A-418 and the revocation provisions of G.S. § 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding. (Ord. passed 11-2-15)

§ 155.106 TERMINATION.

A zoning vested right, once established as provided for in this section, precludes any zoning action by the town which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property set forth in the approved site specific development plan until such right is terminated. A zoning right that has been vested shall terminate:

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

(B) With the written consent of the affected landowner.

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

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

(E) Upon findings by the Town Council, by ordinance after notice and a hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan.

(F) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has fundamental effect on the plan, by ordinance after notice and a hearing.
(Ord. passed 11-2-15)

§ 155.107 VOLUNTARY ANNEXATION.

A petition for annexation filed with the town under G.S. § 160A-31 or G.S. § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. § 160A-385.1 or G.S. § 153A-344.1. A statement that declares that no zoning vested right has been established under G.S. § 160A-385.1 or G.S.§ 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall not be binding on the landowner, and any such zoning vested right shall be terminated.
(Ord. passed 11-2-15)

§ 155.108 LIMITATIONS.

Nothing in this subchapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160A-385.1.
(Ord. passed 11-2-15)

§ 155.109 REPEALER.

In the event that G.S. § 160A-385.1 is repealed, this subchapter shall be deemed repealed and the provisions hereof no longer effective.
(Ord. passed 11-2-15)

AREA, YARD, HEIGHT AND SCREENING REQUIREMENTS

§ 155.120 TABLE OF AREA, YARD, HEIGHT AND SCREENING REQUIREMENTS FOR ZONING DISTRICTS.

	Minimums						*Maximum*
Zoning Districts	***Lot Area in Square Feet***	***Lot Width in Feet***	***Front Yard Setback in Feet***	***Side Yard Setback in Feet***	***Side Yard Setback Abutting a Street***	***Rear Yard Setback in Feet***	***Building Height in Feet***
R-18 Low Density Residential	18,000	100	40 (1)	15	20	25% of total lot depth	35
R-12 Medium Density Residential	12,000	80	30 (1)	10	20	25% of total lot depth	35
R-7 High Density Residential (C)			30 (1)	8	15	25% of total lot depth	35
Single-Family	7,000	60					
Two-Family	11,000	80					
R-G General Regulations (C) (J)			30	8	15	25% of total lot depth	35
Single-Family	7,000	60					
Two-Family	11,000	80					
3 units - multi-family (A) 4 units - multi-family (A) >4 units multi-family (A)	15,000 17,000 17,000 + 1,500 for each additional unit	95	25-50 (D) (1)	20 or 25 if (M)	(E) (N)	30 or twice building height, whichever is greatest (K)	35(F) (2-story maximum)
I&C Institutional & Community	None	(O)	0(F)(G) or 20 if (P)	10(Q) (F)	10(F)	10(Q)(F)	35(R)(F)
B-1 Central Business	None	(O)	Variable (S)	10 (Q)	None	10(Q)	None
B-2 General Business	None(F)	50(I)(F)	40(F)(H)	10(Q) (F)	10(F)	10(Q)(F)	None(F)
B-3 Neighborhood Business (A)(J)	20,000(F)	60(I)(F)	20(F)	10(F)	20(F)	20(F)	35, 2-story max. (F)

	Minimums						Maximum
Zoning Districts	*Lot Area in Square Feet*	*Lot Width in Feet*	*Front Yard Setback in Feet*	*Side Yard Setback in Feet*	*Side Yard Setback Abutting a Street*	*Rear Yard Setback in Feet*	*Building Height in Feet*
I-1 Light Industrial (B)	None	(O)	50(T)	20 or 50 if (Q)	50	20 or 50 if (Q)	None
I-2 Heavy Industrial (B)	None	(O)	50(T)	20 or 50 if (Q)	50	20 or 50 if (Q)	None

NOTE: Letters shown in parentheses in the above table indicate notes to the table and are found in § 155.121.
(Ord. passed 11-2-15)

§ 155.121 NOTES TO TABLE.

(A) All rear and side property lines abutting a residential zoning district require the erection of an opaque fence or screen at least six feet in height and designed in such a way as to obstruct the view from abutting residential zoning districts. Screens are not to be brightly colored, multicolored or otherwise visually obtrusive; colors and textures are to be visually harmonious with nature and with surrounding residential structures and buildings. The planting or maintenance of a vegetated buffer strip, as described in division (B), may be substituted for this fence or screen requirement.

(B) All rear and side property lines abutting a residential zoning district require the planting of a new or maintenance of an existing, densely vegetated buffer strip, at least ten feet wide, and consisting of evergreen trees and shrubs, which at maturity will reach a minimum height of ten feet.

(C) Area, yard, height and screening requirements for mobile homes on individual lots are the same as for single-family dwellings. Such requirements for mobile home parks are contained in Chapter 153.

(D) Front yard setbacks for multi-family developments, as specified in the table below, vary based on where the development is located. In no case shall a setback greater than 50 feet be required.

Location of Multi-Family Dwelling(s)	*Minimum Front Yard Requirement*
Along NC Highway 49, US Highway 70 & Wilkins Road.	40 feet or 1 ½ times the building height, whichever is greater.
Within 500 feet of an R-18 Residential District.	40 feet or 1 ½ times the building height, whichever is greater.
Within 500 feet of an R-12 Residential District.	35 feet or 1 ½ times the building height, whichever is greater.

Location of Multi-Family Dwelling(s)	*Minimum Front Yard Requirement*
All other locations.	25 feet or 1¼ times the building height, whichever is greater.

(E) On lots of more than 40,000 square feet in area which contain three or more dwelling units, all buildings shall observe front yard setback requirements from any street on which the lot abuts.

(F) For permitted residential dwellings, the requirements of the R-7 Residential District shall apply.

(G) For buildings over 50 feet in height, one foot of additional front yard depth is required for each two feet of height over 50 feet.

(H) The first five feet may be developed only for sidewalk, grass and plants; it may not be used for off-street parking.

(I) A minimum total lot depth of 120 feet is also required.

(J) Boarding houses and rooming houses shall comply with regulations for single-family dwellings.

(K) In no case shall a rear yard depth greater than 75 feet be required.

(L) On any street except West Main Street (US 70), East Main Street (US 70) and Roxboro Street (NC 49), the minimum required front yard depth shall be ten feet less than shown herein if:

(1) The average front yard depth of the two closest dwellings fronting on the same side of the street and within 500 of the lot in question is ten or more feet less than the indicated minimum front yard depth, or;

(2) The average front yard depth of all dwellings fronting on the same street and within 500 feet of the lot in question is ten or more feet less than the indicated minimum front yard depth.

(M) When the front or rear entrances of a multi-family development face a side lot line, or if the lot exceeds 40,000 square feet in area.

(N) The side yard setback requirement for multi-family developments abutting a street is half of the front yard setback requirement, half of the front yard setback requirement of adjacent single-family lots or 15 feet, whichever is greater.

(O) Minimum lot width shall be sufficient to accommodate building(s) and all minimum side yard requirements.

(P) When located within 200 feet of any residential district.

(Q) When located adjacent to lot(s) zoned or used for residential purposes.

(R) When more than half the frontage on the same side of the block is zoned or used for residential purposes.

(S) One foot for each two feet of building height in excess of 50 feet.

(T) Setback applies to buildings and parking areas.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.122 EXCEPTIONS AND MODIFICATIONS TO AREA AND YARD REQUIREMENTS.

(A) *Projection of sills, eaves and the like into required yards*. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for ordinary projection of sills, belt courses, chimney flues, buttresses, ornamental features and eaves, provided, however, that none of the aforesaid projections shall project into a minimum side yard more than one-third of the width of such side yard.

(B) *Projection of fire escapes and the like into required yards*. Open or lattice-enclosed fire escapes, fire proof outside stairways and balconies opening upon fire towers projecting into a yard not more than four feet shall be permitted where so placed as not to obstruct light and ventilation.

(C) *Established front yard lines*. Established average front yard lines shall be observed where lots comprising 40% or more of the frontage on one side of a block are developed with buildings at the time of adoption of the ordinance, the average alignment of the existing building along such frontage shall be the minimum front yard required along said side of said block and no building hereafter erected or structurally altered shall project beyond the average front yard lines.

(D) *Reduction of minimum front yards and the buildings on the two lots are within 100 feet of a proposed structure, where adjoining lots have less than required minimum*. Where the front yards of adjoining lots on either side of a lot are less than the minimum front yard of the district, the average front yard of the adjoining lots shall be the minimum front yard for such lot, or within ten feet of the street right-of-way line, whichever is greater.

(E) *Corner lots adjoining along common rear lot line*. Where a corner lot in any district adjoins a corner lot in a residential district along a common rear lot line, the minimum side yards along the common street line shall be 20 feet. Accessory buildings shall also be subject to this requirement.

(F) *Front yards on through lots*. On through lots the minimum front yards for the respective districts shall apply wherever such lots have frontage on a public street.

(G) *Projection of bay windows into required yards*. A bay window occupying not to exceed 30% of the width of the building may project not more than three feet into the front yard.

(H) *Visibility at intersections*. On a corner lot in any residential district no planting, structure, fence wall or obstruction to vision more than three feet in height shall be placed or maintained within the triangular area formed by the intersecting street right-of-way lines and a straight line connecting points on said street lines each of which is 25 feet distant form the point of intersection.

(I) *Yards abutting railroad tracks*. No yard shall be required along the side or rear of a non-residential lot where the side or near respectively of such lot abuts a railroad track which is or will be used to provide railroad service to the lot.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.123 MODIFICATION OF HEIGHT LIMITS.

(A) *Measurement of building height (general)*. Except as otherwise provided in this chapter, the height of a building shall be the vertical distance from the mean elevation of the finished grade, along the front of the building, or from the established grade where the building is within ten feet of the street line to the highest point.

(B) *Parapet walls and cornices*. Nothing in this chapter shall apply to prevent the erection above the height limit of a parapet wall or cornice extending above such height limit not more than five feet.

(C) *Appurtenant structures on roofs*. Skylights, domes, flagpoles, cooling towers and structures for the housing of elevator equipment, stairways, tanks, fans, air conditioning or similar equipment required for the operation or maintenance of buildings may be erected above the height limit in any district.

(D) *Height limitations*. The height limitations of this chapter shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy, chimneys, monuments, smokestacks, water towers, cooling towers, observation towers, radio and television transmission towers, conveyors, flag poles, masts, aerials, necessary mechanical appurtenances, elevators, bulkheads, scenery lofts and similar structures, except as otherwise required in the vicinity of airports.
(Ord. passed 11-2-15)

§ 155.124 MULTI-FAMILY AREA, YARD AND HEIGHT REQUIREMENTS.

Multi-family dwellings shall comply with all of the above requirements specified for multi-family uses and the following additional requirements:

(A) *Front and side yards on lots over 40,000 square feet*. On lots of more than 40,000 square feet in area which contain three or more dwelling units, all buildings shall observe front yard setback requirements from any public street on which the lot abuts.

(B) *Lot coverage*. The total ground area covered by the building(s) and all accessory buildings, including any roofed area, shall not exceed 40% of the total lot area.

(C) *Usable open space*. A minimum of 10% of the total land area of a lot containing three or more dwelling units shall be usable open space, as defined in § 155.006. On lots where the required usable open space is less than 20,000 square feet, such space should be approximately square, but in no case shall the length of such required space be more than twice its average width. On lots where the required usable open space is 20,000 square feet or more, the minimum dimension of such space shall not be less than 100 feet, and the minimum size space allowable as meeting a part of the required usable open space shall be 20,000 square feet.

(D) *Private usable open space*. The total usable open space as required above may be reduced by 50% if a minimum of 500 square feet of private usable open space is provided for each dwelling unit. Such space shall be directly accessible and adjacent to the dwelling unit it serves and shall be so arranged and screened to prevent public traffic through such space and provide reasonable privacy from public view. Private usable open space shall be suitable for recreational activity and shall be unobstructed except for plants, lawn furniture and play equipment. Private terraces and walkways may be included in such open space. Parking areas, vehicle drives and storage areas shall not be included in open space. The minimum dimension of any such private open space shall not be less than 15 feet.
(Ord. passed 11-2-15)

OFF-STREET PARKING AND LOADING REQUIREMENTS

§ 155.135 GENERAL REQUIREMENTS.

(A) A parking space is an area for storage of vehicles separate from driveways and circulation aisles. A parking space shall consist of an area at least nine feet wide and at least 18 feet deep. In all districts, there shall be provided at the time of the erection of any building or at the time any principal building is enlarged or increased in capacity or before conversion from one type of use or occupancy to another, permanent off-street parking spaces in the amount specified by this chapter. Adequate maneuvering space to allow vehicle entrance into each parking space shall be provided. All off-street parking spaces required by this chapter shall lie entirely outside any street right-of-way and shall not be used for any purpose except parking. Such parking spaces may be provided in a parking garage or properly graded open area.

(B) Where the Town Council determines that the off-street parking requirements of this chapter would impose undue hardship upon development of a lot in the B-1 Central Business District, it may reduce or waive off-street parking requirements for that lot.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.136 CERTIFICATE OF MINIMUM PARKING AND LOADING REQUIREMENTS.

Each application for a zoning permit submitted to the Zoning Enforcement Officer as provided for in this chapter shall include information as to the location and dimensions of off-street parking spaces and loading berths and the means of ingress and egress to such spaces and berths. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this chapter are met.
(Ord. passed 11-2-15)

§ 155.137 EXCEPTIONS.

(A) *Remote parking spaces*. Except for dwelling units, if the off-street parking space required by this chapter cannot reasonably be provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the main entrance to such principal use, provided such land is in the same ownership as the principal use and provided such land is in a zoning district in which such parking is permitted.

(B) *Combination of parking spaces*. The required parking space for a number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another for use during the same hours.
(Ord. passed 11-2-15)

§ 155.138 MINIMUM REQUIREMENTS.

The number of off-street parking spaces specified in the following tables shall be considered the minimum required. However, these minimum requirements may be exceeded if deemed necessary. Requirements based on the number of employees shall apply to the highest number of employees present during any regular work period or shift.

Residential and Related Uses	*Minimum Number of Required Off-Street Parking Spaces*
Boarding house, rooming house	1 space for each 2 rental units
Dwelling, one-family detached	2 spaces
Dwelling, two-family	2 spaces per dwelling unit
Dwellings, multi-family	1 ½ spaces for each one or two bedroom unit, plus 2 spaces for each three or more bedroom unit (see § 155.139).
Mobile homes on individual lots	2 spaces per mobile home

Residential and Related Uses	*Minimum Number of Required Off-Street Parking Spaces*
Mobile home parks	2 parking spaces per mobile home if provided on each mobile home plot, or 1 ½ spaces per mobile home plot if provided in off-street parking lots. No parking space shall be more than 100 feet distant from the dwelling unit it serves or on the opposite side of the street from the dwelling unit it serves.
Group homes	1 space per employee
Home occupations, except doctors' and dentists' offices	1 space in addition to residential requirements

Nonresidential Uses	*Minimum Number of Required Off-Street Parking Spaces*
Amusements, commercial	1 space for each 4 persons in designed capacity
Animal hospital, veterinarian	4 spaces for each doctor
Auditoriums, gymnasiums, stadiums, and the like	1 space for each 4 fixed seats, or 1 space for each 40 square feet of floor space where movable seats are used
Automobile accessories sales	1 space for each 200 square feet gross floor area
Automobile assembling, painting, upholstering, rebuilding, reconditioning, body and fender repairing	1 space for each 200 square feet gross floor area
Automobile laundry	15 spaces
Automobile laundry, self-service	2 waiting spaces for each bay, in addition to the bay space
Automobile sales	1 space for each 600 square feet gross floor area
Banks, savings and loans and similar financial institutions	1 space for each 200 square feet gross floor area used by the public, plus 1 space for each 600 square feet other gross floor area, plus waiting space for at least 4 cars, at each drive-in banking device
Building supply sales	1 space for each 600 square feet gross floor area

Nonresidential Uses	*Minimum Number of Required Off-Street Parking Spaces*
Building material storage, contractor's yards	2 spaces for each 3 employees
Churches	1 space for each 7 seats
Cleaners of carpets, rags and the like	1 space for each 200 square feet gross floor area used by the public
Community centers, libraries, art galleries, museums	1 space for each 200 square feet gross floor area used by the public
Day-care centers and preschools	1 space for each employee
Drive-through establishments, dry cleaners, fast-food, beverages and the like	1 space for each 200 square feet gross floor area used by the public, plus waiting space for at least 4 cars at any drive-through window
Dry cleaning and pressing plants	2 spaces for each 3 employees
Fairs, circuses, carnivals, sideshows	1 space for each 600 square feet gross area
Food and beverage storage and distribution, food processing	2 spaces for each 3 employees
Funeral homes	1 space for each 4 seats in chapel (or parlor, if no chapel)
Golf, swimming and tennis clubs; indoor commercial recreation	1 space for each 4 persons in designed capacity
Greenhouses, commercial and plant nurseries	3 spaces, plus 1 space for each employee
Government buildings: town hall, police, fire & emergency services, post office and the like	1 space for each 200 square feet gross floor area used by the public, plus 1 space for each 600 square feet other gross floor area
Hospitals	1 space for each 2 beds, plus 1 space for each doctor and each nurse, plus 1 space for each 4 other employees
Hotels, motels	1 space for each rental unit, plus 1 space for each 2 employees
Laboratories, research facilities	1 space for each 200 square feet gross floor area

Nonresidential Uses	*Minimum Number of Required Off-Street Parking Spaces*
Lodges, clubs	1 space for each 4 persons in designed capacity
Medical, dental and paramedical offices and clinics	4 spaces for each doctor, plus 1 space for each other employees
Nursing homes, convalescent homes, homes for the aged	1 space for each 4 beds, plus 1 space for each doctor and each nurse, plus 1 space for each 4 other employees
Office and professional buildings	1 space for each 200 square feet gross floor area used by the public, plus 1 space for each 600 square feet other gross floor area
Philanthropic institutions	1 space for each 200 square feet gross floor area
Photographers studio	1 space for each 300 square feet gross floor area
Radio, television studio	1 space for each employee
Restaurants, cafes, night clubs and eating and drinking establishments	2 spaces for each 5 seating accommodations, plus 1 space for each 2 employees
Retail establishments, high volume, such as grocery stores, drug stores, and department stores	1 space for each 200 square feet gross floor area
Retail stores, low volume, such as furniture stores, machinery sales, mobile home sales and carpet stores	1 space for each 600 square feet gross floor area
Schools, elementary and junior-high	1 space for each employee
Schools, high schools	1 space for each employee, plus 3 spaces for each classroom
Schools, commercial, vocational, music, art, dancing	1 space for each employee, plus 1 space for each 4 persons in design capacity
Service establishments dealing infrequently with the public, such as repair or secretarial services	1 space for each 600 square feet gross floor area
Service establishments dealing frequently with the public, such as barber shops or beauty shops	1 space for each 200 square feet gross floor area

Nonresidential Uses	*Minimum Number of Required Off-Street Parking Spaces*
Service stations, no repair area	1 space per employee, plus off-street waiting space for at least 2 cars in each line
Stables, commercial	1 space for each 2 stalls
Theaters, indoor	1 space for each 4 seats
Tourist homes, bed and breakfasts	1 space for each room rented plus 1 space for each employee, plus 2 spaces for permanent occupants
Transportation terminals, freight	2 spaces for each 3 employees
Transportation terminals, passenger	1 space for each 200 square feet gross floor area
Warehouses	2 spaces for each 3 employees
Wholesale establishments, industrial and manufacturing uses	1 space for each 900 square feet gross floor area, or 1 space for each 2 employees, plus 1 space for each vehicle used to conduct such a use (whichever is greater)

(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.139 MULTI-FAMILY REQUIREMENTS.

The minimum number of off-street parking spaces required within multi-family developments shall be as follows:

(A) In all residential developments sponsored or developed by a public or nonprofit agency for restricted-income families or elderly persons: one parking space for each dwelling unit.

(B) In all other multi-family developments, the minimum number of off-street parking spaces shall be 1 ½ times the number of one- and two-bedroom units, plus 2 times the number of three-or-more bedroom dwelling units.

(C) No required parking space shall be more than 200 feet distant from the dwelling unit it serves.

(D) Adequate vehicular access shall be provided for garbage and trash pickup, parcel deliveries and maintenance and service vehicles.

(E) No parking or loading areas or vehicle maneuvering areas shall be located in a required front yard or in a required side yard adjacent to a street.

(F) All parking spaces, drives and vehicle maneuvering spaces shall be paved with a dustless all-weather material, such as asphalt or concrete, capable of carrying, without damage, the heaviest vehicle loads that can reasonably be anticipated on such surface.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.140 LIGHTING REQUIREMENTS FOR PARKING AND LOADING AREAS.

Access ways, walkways and parking and loading areas shall be lighted adequately by lighting fixtures which shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.141 SAFETY BARRIER REQUIREMENTS.

Curbs, walls, fences or similar devices shall be located along the perimeter of parking lots, garages and storage areas, except at entrances and exits indicated in approved parking plans. Such barriers shall be so designed and located as to prevent parked vehicles from extending beyond property lines of parking lots and garages and to protect public rights-of-way and adjoining properties from the adverse effects of surface drainage.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.142 PARKING LOT LOCATION, DESIGN AND IMPROVEMENT STANDARDS.

(A) All off-street parking facilities including exits, entrances and maneuvering areas and parking areas shall:

(1) Be graded;

(2) Be permanently maintained by the owners;

(3) Have access to a dedicated street or alley; and

(4) Have gravel or crushed rock access drives or lanes which are at least ten feet wide for single lane movement and 20 feet wide for double lane movement; all business, industrial, office and institutional uses shall have access drives paved with either asphalt or concrete.

(B) Off-street parking areas for more than ten vehicles shall be effectively screened, on each side which adjoins or faces premises situated in any residential or institutional district, by a suitable fence or hedge at least five feet high. Such fence or hedge shall be maintained in good condition.

(C) All parking lots that are used regularly at least five days per week shall be paved with asphalt or concrete up to the required paved driveway, except that this paving requirement shall not apply to parking lots used only by churches, private clubs or similar organizations using said parking facilities on an irregular schedule and parking lots where ten or less spaces are required. Parking lots not requiring paving shall be graded and surfaced with crushed stone or gravel or other approved suitable material to provide a surface which will help reduce dust and erosion.

(D) Parking may not be assigned to two uses, however, required parking spaces for any number of separate buildings or uses may be combined in one lot. The spaces required for one use may not be assigned to another use at the same time except that required parking for places of assembly may be assigned to parking spaces that are otherwise assigned to other uses, provided that the parking spaces are normally used at different times.

(E) All parking facilities shall be so designed that the required access to public streets shall be by forward motion of vehicles exiting the parking facility.

(F) A public alley may be accounted as part of the required maneuvering and access area of off-street parking facilities, but not as part of the parking spaces required.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.143 OFF-STREET LOADING REQUIREMENTS.

The number of off-street loading berths required by this section shall be considered as the absolute minimum, and the developer shall evaluate his or her own needs to determine if they are greater than the minimum specified by this section. For purposes of this section, an off-street loading berth shall have minimum plan dimensions of 12 feet by 40 feet and 14 feet overhead clearance with adequate means for entrance and exits. A loading space requirement may be modified or waived by the Board of Adjustment on application in the case of a bank, theater, assembly hall or other building having similar limited loading space requirements.

Number of Required Off-Street Loading Berths

Square Feet of Gross Floor Area			***Required Number of Berths***
0	—	25,000	1
25,000	—	40,000	2
40,000	—	100,000	3
100,000	—	160,000	4
160,000	—	240,000	5

Number of Required Off-Street Loading Berths

Square Feet of Gross Floor Area			*Required Number of Berths*
240,000	—	320,000	6
320,000	—	400,000	7
Each 90,000 above 400,000			1

(Ord. passed 11-2-15) Penalty, see § 155.999

SIGN REGULATIONS

§ 155.155 INTENT.

This section is intended to regulate and control signs and their placement throughout the Town of Haw River for the following purposes:

(A) To provide a pleasing overall environmental setting and good community appearance, which is deemed vital to the continued economic attractiveness of the town;

(B) To create a more productive, enterprising, professional business atmosphere;

(C) To allow signs appropriate to the planned character and development of each zoning district;

(D) To ensure that permitted signs do not become a hazard or nuisance;

(E) To promote traffic safety;

(F) To prevent business and advertising signs from conflicting with public safety signs; and

(G) To protect and enhance the value of properties.
(Ord. passed 11-2-15)

§ 155.156 APPLICABILITY.

(A) With the exception of those signs authorized in Sections 12.6 and 12.7 of this Article, it shall be unlawful to construct, enlarge, modify, move or replace any sign or cause the same to be done, without first obtaining a zoning permit for such sign from the town or its designee.

(B) Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this chapter.
(Ord. passed 11-2-15)

§ 155.157 GENERAL REGULATIONS.

The following regulations shall apply to all signs.

(A) *Construction standards*.

(1) All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.

(2) All temporary signs shall be constructed of materials and printed on by inks and paints capable of withstanding normal weather conditions.

(3) All signs, except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this chapter, shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.

(B) *Electrical standards*. All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all illuminated detached signs shall be illuminated by an underground electrical source.

(C) *Maintenance of signs*. All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.

(D) *Obstructions prohibited*. No sign shall be placed so as to obstruct the clear sight triangle at a street intersection nor shall any sign obstruct the view of motorists entering or leaving an off-street parking area.

(E) *Relation to other building elements*.

(1) Signs shall relate in their placement and size to other building elements without obscuring building elements such as windows, cornices, or decorative details, except that signs may be placed on the inside of windows.

(2) Sign material, style and color shall complement the building façade in terms of design, scale, color, and materials.

(3) Individual shop signs in a single storefront shall relate to each other in terms of design, size, color, placement on the building, and lettering style.

(4) Signs placed on the inside of the window areas shall conceal no more than 25% of the area of the window on which the signs are located.

(F) *Sign lighting*.

(1) Neon, argon and similar lighting fixtures shall not be used anywhere on the exterior of a building; however, such signs may be mounted on the inside of store windows.

(2) Signs shall be lighted with indirect light sources (e.g. backlighting); knockout signs are encouraged. Ground mounted floodlights may also be used if the light is directed only on the sign and not onto adjacent properties or roadways and the light fixtures are fully shielded from view through the use of landscaping.

(G) *Sign height computation.*

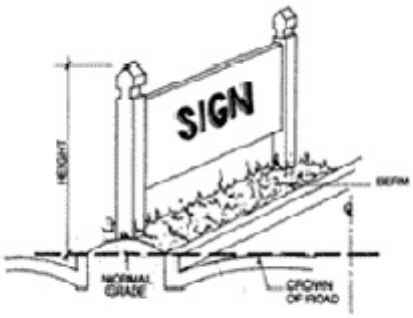
(1) Sign height shall be computed as the lower of:

(a) Existing grade prior to construction; or

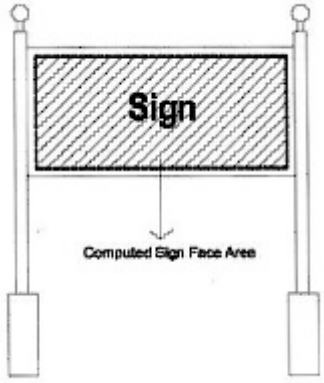
(b) The newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign.

(2) The calculation of the height of any sign placed upon a berm or mound shall include the height of the berm or mound.

(H) *Sign area computation*. The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.



Sign Height Computation



Area Computation of Individual Signs

(I) *Sign area computation for multi-faced signs*. The sign area for a sign with multiple faces shall be computed by adding together the area of all sign faces visible from any one point. When a sign is composed of two or more sign faces, only one of which can be viewed from any one point, and when such sign faces are part of the same structure, the sign area shall be computed by the measurement of one of the faces.

(J) *Forfeiture of illegal signs placed on or over public property*. Any sign installed or placed on or over public property, except in conformance with the requirements of this section, shall be forfeited to the public and be subject to confiscation and disposal. In addition to other remedies provided by this section and the Town Code of Ordinances, the town shall have the right to recover from the sign owner and/or installer the full costs of removal and disposal of such sign.
(Ord. passed 11-2-15)

§ 155.158 SIGN PLACEMENT.

The following provisions shall apply to the placement of all signs in all districts.

(A) *In General*.

(1) Signs must be located entirely on private property, unless otherwise permitted by this section.

(2) No sign may be located so that it blocks the sight triangle at any driveway or public street intersection.

(B) *Wall signs*. Wall mounted signs shall not extend above the eave or parapet of any building.

(C) *Freestanding signs*.

(1) All parts of freestanding signs must be set back a minimum of five feet from the property line.

(2) No freestanding sign shall be located closer than 15 feet from another structure on the same zoning lot.

(3) No portion of a freestanding sign, including projections, may extend into or over an existing public right-of-way, unless expressly permitted by this subchapter.

(D) *Temporary signs*.

(1) Temporary signs shall be located on private property unless expressly permitted by this section to be posted on public property.

(2) All temporary signs shall be anchored, attached, or otherwise affixed to a structure or support so that the sign cannot be easily dislodged by strong winds or heavy rains.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.159 TABLE OF PERMITTED USES.

Signs shall be permitted and prohibited as follows:

Type	Zoning District	Maximum Number	Maximum Area	Maximum Height	Minimum Height
Free-Standing (Developments with Multi-Use and/or Structures)	I-1, I-2, B1, B2, and I&C	1 per street frontage	I and B: 120 ft^2 I&C: 80 ft^2	I and B: 10 feet I&C: 8 feet	N/A
Free-Standing (Monument)	I-1, I-2, B1, B2, and I&C	1 per street frontage	I and B: 100 ft^2 (B: Downtown Overlay 20 ft^2) I&C: 60 ft^2	6 feet	N/A
Free-Standing (Pole or Pylon)	I-1, I-2, B1, & B2	1 per street frontage	80 ft^2	20 feet	N/A
Marquee	I-1, I-2, B1, B2, and I&C	1 per entrance	30 ft^2	N/A	8 feet above ground or sidewalk

Type	Zoning District	Maximum Number	Maximum Area	Maximum Height	Minimum Height
Projecting	B3	1 per street frontage or 1 per use in case of multi-use	8 ft^2	Signs cannot extend above height of building wall	8 feet above ground or sidewalk
Subdivision Identification	R-18, R-12, RA-7, & R-G	2, one for each intersection with a major street	16 ft^2	6 feet	N/A
Suspended	B3	1 per street frontage or 1 per use in case of multi-use	8 ft^2	Signs cannot extend above height of building wall	8 feet above ground or sidewalk
Wall	I-1, I-2, B1, B2, B3, and I&C	N/A	5% of the area of the wall area on which they are located	Signs cannot extend above height of building wall	N/A

(Ord. passed 11-2-15)

§ 155.160 PERMANENT SIGNS LIMITED.

(A) Notwithstanding §155.159 and in addition thereto, the following permanent signs shall be permitted without a zoning permit.

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

(2) Historical markers, regulatory signs, public interest signs, and warning signs erected and maintained by the town or state or an agent of such.

(3) On-premises directional signs not exceeding four feet in height nor four square feet in area.

(4) Identification signs not exceeding two square feet in area nor two feet in height.

(5) Temporary real estate signs advertising a specific property for sale, lease, rent or development, located on said property, provided that such signs shall not exceed four square feet in area nor be illuminated. When property fronts on more than one street, one sign shall be allowed on each street frontage.

(6) Permanent subdivision identification signs, not exceeding 66 square feet in area.

(7) Incidental signs.

(8) Flags on permanent poles.

(9) Church or non-profit organization bulletin boards and identification signs, not exceeding 18 square feet for the purpose of displaying the name of any institution permitted in the district or other related information. One per each street front plus one per each building on premises. Such signs shall be set back at least 20 feet from any street right-of-way and may be indirectly illuminated. All signs must be motionless.

(10) Signs (not to exceed two per lot) advertising agricultural products produced on the premises not exceeding 16 square feet in area and provided such are not illuminated.

(11) Signs identifying home occupations or offices located in the residence of the practitioner. One per lot not exceeding three square feet in area which must be mounted flat against a wall or door or hung from a mailbox or lamp post. No such sign may be illuminated in a residential district.

(12) Any sign not legible or easily noticeable from public property or a public right-of-way and obviously not intended to attract the attention of the public.

(13) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance, that are intended to protect the public from hazards on the property. Such signs may be illuminated without a permit.

(14) Traffic control signs on private property, the face of which meets Department of Transportation standards and which contain no commercial message of any kind.

(15) Electronic changeable readerboards. Electronic changeable readerboards may be allowed on part of a free-standing sign provided the sign is included in the overall area calculations for that sign and complies with the following:

(a) The minimum time in between message changes shall be ten seconds.

(b) No animation shall be allowed

(c) The electronic changeable readerboard shall not exceed 20% of the total area of the sign face.

(d) The sign shall in no way flash, blink, rotate, or use lights of varying intensities that may distract driver.

(e) The light emitted from such signs shall not exceed 5,000 nits during the day and 500 nits during nighttime hours.

(B) Notwithstanding § 155.159 and in addition thereto, the following permanent signs shall be permitted upon the issuance of a valid zoning permit: Any sign not expressly listed as permitted without a permit shall require the issuance of a valid zoning permit prior to installation.
(Ord. passed 11-2-15)

§ 155.161 TEMPORARY SIGNS LIMITED.

(A) *Temporary signs permitted without a permit*. The following temporary signs are permitted without a zoning permit in all zoning districts, but shall be in conformance with all other requirements of this chapter:

(1) Campaign or election signs shall be permitted provided that:

(a) Individual signs shall not exceed 16 square feet in area or six feet in height;

(b) All signs shall be removed within two days after the election for which they were made; and

(c) No signs shall be permitted in the public right-of-way.

(2) Real estate signs, excluding temporary development signs provided that:

(a) Signs advertising all residential lots, buildings, units, or spaces for sale or for lease shall not exceed six square feet in area or four feet in height;

(b) Signs advertising all non-residential lots, buildings, units, or spaces for sale or for lease shall not exceed a sign face area of 32 square feet or exceed a height of six feet;

(c) Only one sign per street front of the advertised property shall be erected;

(d) Signs shall not be illuminated; and

(e) Signs shall be removed within seven days after the sale is closed or rent or lease transaction finalized.

(3) Construction signs are permitted provided that:

(a) Signs located on residential lots, excluding multi-family sites, shall not exceed six square feet in area. The maximum height of such signs shall be six feet;

(b) Signs for all multi-family development sites and nonresidential uses shall not exceed a sign face area of 32 square feet or a height of six feet;

(c) Signs are confined to the site of construction;

(d) Only one sign per street front of the property under construction shall be erected;

(e) Signs shall not be illuminated; and

(f) Signs shall be removed within seven days after the completion of the project.

(4) Temporary farm products signs are permitted provided that:

(a) Signs are located on the premises where the products are sold;

(b) Signs advertise products produced on-site only;

(c) Signs shall not exceed 24 square feet in area or five feet in height;

(d) Only one sign shall be erected; and

(e) Signs shall be removed within seven days of the termination of sale activities.

(5) Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, are permitted provided that:

(a) Signs shall not exceed 32 square feet in area or five feet in height; and

(b) Signs shall be erected no sooner than 14 days before and removed seven days after the event.

(6) Holiday lights and decorations;

(7) Any sign not legible or easily noticeable from public property or a public right-of-way and obviously not intended to attract the attention of the public;

(8) Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance; and

(9) Yard sale signs. One on-premise and four off-premise signs per yard sale provided that no sign exceed four square feet and are removed within 24 hours after the sale. Signs shall not be placed on power poles and/or street signs.

(B) *Temporary signs requiring a permit*. Temporary signs permitted upon issuance of a valid zoning permit shall be limited as follows:

(1) Temporary banners in commercial districts, provided that:

(a) Only one banner per establishment shall be allowed at a time;

(b) All banners shall be attached in total to a building wall or permanent canopy extending from a building;

(c) No paper banners shall be allowed;

(d) Banners shall be erected for a period not to exceed two weeks;

(e) No more than six such signs per establishment shall be erected within a calendar year; and

(f) No banner shall extend above the second occupiable floor level of a building.

(2) Temporary off-premise signs or banners for special community events open to the general public and sponsored by non-commercial civic, charitable, community, or similar organizations, provided that:

(a) Temporary signs shall be located outside of the public right-of-way or at least 11 feet from the edge of any public street if the right-of-way cannot be determined;

(b) Every temporary off-premise sign or banner shall be separated by a distance of 400 feet from any other such temporary off-premise sign on the same side of a street, and by a distance of 200 feet from any other sign on the opposite side of a street;

(c) Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provisions herein, nor on private property without written consent of the owner; and

(d) Any temporary sign not expressly permitted without a permit.
(Ord. passed 11-2-15)

§ 155.162 PROHIBITED SIGNS.

Notwithstanding § 155.159 and in addition thereto, the following signs, both permanent and temporary, are prohibited in all zoning districts:

(A) Signs extending into the public right-of-way other than those expressly permitted by this subchapter or otherwise approved by the Town Council if placed along public streets;

(B) Flashing, fluttering, swinging, wind-activated, rotating, animated signs and other digital or electronic message boards, excluding flashing time and/or temperature signs that are not otherwise permitted in this subchapter. Provided, however, traffic signals, railroad crossing signals and other official warning or regulatory signs and electronically controlled message centers or reader boards where different copy changes, involving alphabetical or numerical characters only, present messages of a public service or commercial nature shall not be considered flashing signs, as long as such signs comply with the provisions of this chapter;

(C) Any sign which obstructs the view of motorists, pedestrians, or cyclists using any street, sidewalk, bike path, or driveway, or which obstructs the approach to any street intersection or railroad crossing, or which interferes with the effectiveness of any traffic sign, device, or signal;

(D) Illuminated or highly reflective signs which hamper the vision of motorists or cyclists;

(E) Any sign that resembles traffic signals, traffic signs, or emergency vehicle lights and any other sign not erected by a public authority which may be erroneously construed as governmental signs or emergency warning signs;

(F) Beacons, pennants, and strings of lights not permanently mounted to a rigid background, except those permitted as temporary signs;

(G) Any sign that interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air except for permitted window signs;

(H) Any sign placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other structure or surface located on, over, or across any public street right-of-way or property unless expressly authorized by this subchapter or the Town Council;

(I) Off-premises signs advertising adult establishments;

(J) Off-premises signs on parcels of land that are zoned residential, used primarily for residential purposes, or which do not include an active permitted use as established by this subchapter;

(K) Inflatable devices or balloons;

(L) High intensity searchlights;

(M) Any object displayed in a manner which is intended to attract attention to a site, product, or event; or

(N) Any sign not expressly permitted by this subchapter.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.163 ENFORCEMENT OF REGULATIONS.

Any sign, structure, or other form of advertising defined as a sign herein that is erected or placed anywhere in the Town of Haw River after adoption of this chapter that is not in compliance with the provisions of this section shall be subject to the enforcement provisions outlined in the town's enforcement and violations ordinance (§§ 157.53 through 157.55 and § 157.99).
(Ord. passed 11-2-15)

INDUSTRIAL DISTRICT PERFORMANCE STANDARDS

§ 155.180 PERFORMANCE STANDARDS.

Within the I-1 and I-2 zoning districts, all uses shall conform with the following performance standards:

(A) *Dust, dirt, fly ash or other air pollutants*. There shall be no emission of dust, dirt, fly ash, gases, fumes, vapors or other air pollutants into the atmosphere that could cause damage to the public health, or to animals, to vegetation or to other forms of property.

(B) *Electrical interference*. There shall be no electrical disturbances affecting the operation of any equipment other than that of the creator of such disturbances.

(C) *Heat and glare*. There shall be no heat or glare perceptible to human senses at the property line of any use creating heat or glare.

(D) *Landscaping*. All front yards and side yards shall be suitably landscaped.

(E) *Enclosure*. All processing shall be within a building.

(F) *Liquid or solid waste*. There shall be no discharge of any liquid or solid waste into any stream expect as authorized by the State of North Carolina.

(G) *Noise*. The sound-pressure level of sound radiated from an establishment, measured at the lot line, shall not exceed the values in any octave band of frequency that are specified in the table below. The sound-pressure level shall be measured with a sound level meter and an associated octave band analyzer conforming to standards prescribed by the American Standards Association:

Frequency Band

Cycles per Second	Decibels
20 - 75	69
75 - 150	57
150 - 300	52
300 - 600	46
600 - 1,200	42
1,200 - 2,400	37
2,400 - 4,800	33
4,800 - 10,000	30

(H) *Odor*. There shall be no objectionable odors perceptible to the human senses at or beyond the property line of any use that may create odors.

(I) *Radioactivity*. There shall be no radioactive emission that would be dangerous to health.

(J) *Smoke*. There shall be no emission into the atmosphere of smoke from any operation of a shade darker than #1 on the Ringleman Smoke Chart as published by the U.S. Bureau of Mines, except that smoke of a shade not darker than #3 on said chart may be omitted for not more than two minutes in any 30-minute period.

(K) *Traffic*. There shall be no industrial vehicular traffic on any minor residential street.

(L) *Vibration*. There shall be no vibration perceptible to human senses at the property line of any use that may create vibration.
(Ord. passed 11-2-15) Penalty, see § 155.999

ACCESSORY BUILDING REQUIREMENTS

§ 155.190 TABLE OF PERMITTED ACCESSORY BUILDINGS.

Accessory buildings permitted within each zoning district are indicated by an "X." Notes "A" through "I" present the conditions under which these accessory buildings are permitted (see § 155.191).

[Table begins on next page]

Table of Permitted Accessory Buildings

Permitted Accessory Buildings	*R-18*	*R-12*	*R-7*	*R-G*	*I&C*	*B-1*	*B-2*	*B-3*	*I-1*	*I-2*	*Required Conditions*
One detached private garage	x	x	x	x							(A)(E)(H)
One private stable	x										(B)
Greenhouses and truck gardens	x	x	x	x							(C)(E)(H)
One private swimming pool	x	x	x	x							(D)(E)(G)(H)(I)
Multiple private detached garages				x							(A)(F)
Coin laundry				x							(A)(F)(G)(I)(J)
Rental office				x							(A)(F)(G)(I)(J)
Recreation center				x							(A)(F)(G)(I)(J)
Equipment storage building				x							(A)(F)(I)
Well house and package sewage treatment plant				x							(I)(K)

(Ord. passed 11-2-15)

§ 155.191 NOTES TO TABLE.

(A) Where located as required in §§ 155.120 through 155.124.

(B) Where located on lots at least 20,000 square feet in area, provided the stable is located at least 60 feet from the front property line and not less than ten feet from any other property line.

(C) Where incidental to the residential uses and conducted on a noncommercial basis, provided that no greenhouse heating plant shall be located within 60 feet of any other property line.

(D) Where located in side or rear yards, provided the pool (deck or apron not included) shall be considered an accessory use and shall conform to the established side and rear yard requirements. Lighting fixtures shall be so arranged and shaded such that the light source is not visible from adjoining properties. A protective fence no less than six feet in height shall be erected to enclose all swimming pools and a suitable locking device shall be provided on all exterior gates as a safety measure.

(E) On lots occupied by single-family or two-family dwellings.

(F) On lots occupied by multi-family dwellings, provided their exteriors harmonize with the multi-family structures.

(G) To serve residents of the multi-family development only, provided there is no intrusion into minimum yard requirements.

(H) Where located on a lot occupied by a single manufactured dwelling unit (not in a mobile home park).

(I) Where located in a mobile home park, to serve the residents of the mobile home park only.

(J) Shall not be located within 50 feet of any manufactured dwelling and shall not intrude into minimum yard requirements.

(K) Where located in accordance with all applicable state and county health regulations.
(Ord. passed 11-2-15)

§ 155.192 LOCATIONAL REQUIREMENTS FOR PERMITTED ACCESSORY BUILDINGS.

(A) No encroachment in any required front yard setback shall be permitted.

(B) If the gross floor area of an accessory building is equal to or less than 300 square feet, the structure or building may be located three feet from a side or rear lot line. If the gross floor area is greater than 300 square feet, it must meet the setback requirements of the principal building(s).

(C) Within all residential zoning districts, all accessory buildings and structures must be located behind the front building line of the principal building(s).

(D) Within nonresidential zoning districts, accessory structures and buildings may be in front of the front building line of the principal building(s), but must meet the same front yard setback requirements as the principal building(s)

(E) Accessory buildings in the rear yard of a corner lot abutting the side yard of a residentially zoned lot and with a gross floor area greater than 300 square feet shall be located at least as far from the common lot line as the distance specified for the side yard setback of the adjoining residential lot.

(F) Where the side yard of a lot abuts a street and the adjoining lot fronts on that street, no accessory building shall be located in that portion of the rear yard lying closer to that street than the distance specified by this chapter as the minimum side yard width.
(Ord. passed 11-2-15) Penalty, see § 155.999

NONCONFORMANCES

§ 155.205 PURPOSE AND INTENT.

If, within the districts established by this chapter, or by amendments that may later be adopted, there exist lots, structures or uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited under the terms of this chapter, it is the intent of this chapter to allow these nonconformances to continue until they are removed (except signs, which are provided for in §§ 155.155 through 155.166). However, such nonconformances are declared by this chapter to be incompatible with permitted uses in the districts in which they are located, and this chapter does not encourage their continuance. Nonconformances shall not be enlarged upon, expanded or extended, or used as grounds for adding other structures or uses prohibited elsewhere in the same district.
(Ord. passed 11-2-15)

§ 155.206 NONCONFORMING LOTS OF RECORD.

(A) In any district a permitted use may be constructed by right on any lot made nonconforming by this chapter as long as approval is granted by the Zoning Enforcement Officer and the structure and customary accessory buildings do not encroach into required front, rear and side yard setbacks. If a proposed building on a nonconforming lot is approved by the Zoning Enforcement Officer, but would encroach into required setbacks, a variance shall be sought from the Board of Adjustment.

(B) Wherever two or more nonconforming lots in single ownership with continuous frontage exist, permitted structures may be erected on each lot if all setback requirements can be met. If all setbacks cannot be met, the lands involved shall be considered to be an individual parcel for the purposes of this chapter. No portion of the parcel shall be used or sold which does not meet the dimensional requirements of this chapter.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.207 NONCONFORMING USES OF OPEN LAND.

This category of nonconformance consists of lots used for storage yards, used car lots, auto wrecking, junk yards, golf driving ranges and similar open uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this chapter, in the district in which it is located.

(A) When a nonconforming open use of land is changed to a conforming use, it shall not thereafter be used for any nonconforming use.

(B) Nonconforming open uses of land may be changed to conforming uses.

(C) A nonconforming open use of land shall not be enlarged or extended to cover more land than was occupied by that use when it became nonconforming.

(D) When any nonconforming open use of land is discontinued for a period of 90 days, any future use of the land shall be limited to those uses permitted in that district under the provisions of this chapter. Vacancy and/or nonuse of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(E) All nonconforming open uses of land involving only minor structures, such as automobile wrecking yards, billboards or outdoor advertisement signs, and junk yards, shall be discontinued within two years from the date of adoption of this chapter.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.208 NONCONFORMING USES OF BUILDINGS AND STRUCTURES.

This category consists of structures used, at the time of passage of this chapter, for purposes not permitted in the district in which they are located.

(A) A nonconforming use of a structure may be changed to a conforming use.

(B) A nonconforming use of a structure shall not be changed to another nonconforming use, unless the proposed nonconforming use is deemed by the Board of Adjustment, after public notice and hearing, to be less harmful to surrounding uses and more in character with uses permitted in the district than the existing nonconforming use.

(C) When a nonconforming use of a structure is changed to a conforming use, it shall not thereafter be used for any nonconforming use.

(D) Normal maintenance and repair of a building occupied by a nonconforming use is permitted and encouraged provided it does not extend the nonconforming use.

(E) A nonconforming use of a structure shall not be extended or enlarged except into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use. No structural alterations shall be made in any structure occupied by a nonconforming use except those required by law or ordinance or ordered by the Building Inspector to secure the safety of the structure.

(F) When any nonconforming use of a structure is discontinued for a continuous period of 180 days, any future use of the structure shall be limited to those uses permitted in that district under the provisions of this chapter. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

(G) In the case of a residence (single-family dwelling, duplex, Class A manufactured house) that is a nonconforming use in a commercial or industrial zone, such residence may be repaired, rebuilt or added to as long as the dimensional requirements of the district are met. Minor variances in setbacks due to lot size may be presented to the Board of Adjustment for consideration. This policy is adopted in the interest of maintaining an adequate stock of housing in Haw River.
(Ord. passed 11-2-15)

§ 155.209 NONCONFORMING STRUCTURES.

When a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on lot coverage, height, yards or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No structure may be enlarged or altered in a way which increases its nonconformity.

(B) Normal maintenance and repair of a nonconforming structure is permitted and encouraged provided it does not extend the nonconformity.

(C) Should such a structure be moved for any reason for any distance whatever, it shall hereafter conform to the regulations for the district in which it is located after it is moved.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.210 REPAIRS AND MAINTENANCE.

(A) Buildings or structures other than single-family houses that are destroyed by any means to an extent of more than 60% of replacement cost or bulk, exclusive of foundations and land value, shall not be reconstructed except in conformity with the provisions of this chapter. Nonconforming single-family houses that are damaged or destroyed may be rebuilt on the same lot as long as the amount of nonconformity is not increased.

(B) Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any county official charged with protecting the public safety, upon order of such official.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.211 NONCONFORMANCES CREATED BY CHANGES IN ZONING BOUNDARIES OR REGULATIONS.

Any nonconformances created by a change in district boundaries or ordinance regulations after the date of passage of this chapter shall also be governed by the provisions of this subchapter.
(Ord. passed 11-2-15)

§ 155.212 SPECIAL USES ARE CONFORMING.

Any use for which a special use permit is issued, as provided in this chapter, shall without further action be deemed a conforming use unless otherwise provided in this chapter or otherwise provided as a condition of issuance of such permit. Any extension by or addition to such use shall be subject to all requirements of this chapter.
(Ord. passed 11-2-15)

WATERSHED REGULATIONS

§ 155.225 INTENT, AUTHORITY AND ENACTMENT OF WATERSHED REGULATIONS.

(A) *Intent*. The intent of this subchapter is to protect surface water supplies whose watersheds are located wholly or partially within the jurisdiction of Haw River.

(B) *Authority and enactment*. Pursuant to authority given to municipalities in G.S. Chapter 160A, Article 19, Planning and Regulation of Development, and G.S. § 143-214.5, Water Supply and Watershed Protection, the Town Council does hereby ordain and enact into law the following sections as the Watershed Protection Ordinance of Haw River.
(Ord. passed 11-2-15)

§ 155.226 JURISDICTION.

(A) The provisions of this subchapter shall apply in those areas within the corporate limits and the extraterritorial jurisdiction of Haw River designated as public water supply watersheds by the N.C. Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map of Haw River, North Carolina" ("the Watershed Map"), which is adopted simultaneously herewith. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this subchapter. This ordinance shall be permanently kept on file in the office of the Zoning Enforcement Officer.

(B) The following public water supply watersheds designated by the N.C. Environmental Management Commission and the Haw River Town Council within the town planning and zoning jurisdiction:

Watershed	*Classification*	*River Basin*
Back Creek	WS-II	Cape Fear

(Ord. passed 11-2-15)

§ 155.227 DEFINITIONS.

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

AGRICULTURAL USE. The use of waters for stock watering, irrigation and other farm purposes.

ANIMAL UNIT. A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

BEST MANAGEMENT PRACTICES (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.

BUFFER. An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The ***BUFFER*** is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

BUILDING. Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

BUILT-UPON AREA. That portion of a development project that is covered by impervious or partially impervious cover including, but not limited to, buildings, gravel roads, and gravel areas such as roads, parking lots, and paths, recreation facilities (for example tennis courts). Built upon area does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

CLUSTER DEVELOPMENT. The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes nonresidential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

COMPOSTING FACILITY. A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

CRITICAL AREA. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The ***CRITICAL AREA*** is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream

from the intake located directly in the stream or river (run-of-the-river) or the ridge line of the watershed (whichever comes first). Since WS-I watersheds are essentially undeveloped, establishment of a ***CRITICAL AREA*** is not required. Local governments may extend the ***CRITICAL AREA*** as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the ***CRITICAL AREA*** if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.

CUSTOMARY HOME OCCUPATIONS. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof. Provided further that no mechanical equipment is installed or used except as is normally used for domestic or professional purposes, and that not over 25% of the total floor space of any structure is used for the occupation. No home occupation shall be conducted in any accessory building except for the storage and service of a vehicle that is driven off site, such as a service repair truck, delivery truck and the like.

DEVELOPMENT. Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil. Development falls into two categories: low-density and high-density. Low density is typified by the average single-family house on 1-2 acres.

DISCHARGING LANDFILL. A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

DWELLING UNIT. A building, or portion thereof, providing complete and permanent living facilities for one family.

EXISTING DEVELOPMENT. Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this chapter based on at least one of the following criteria:

(1) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project.

(2) Having an outstanding valid building permit as authorized by the G.S. § 153A-344.1 and G.S. § 160A-385.1.

(3) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by the G.S. § 153A-344.1 and G.S. § 160A-385.1.

EXISTING LOT (LOT OF RECORD). A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this subchapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this subchapter.

FAMILY. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a ***FAMILY*** or ***FAMILIES***.

HAZARDOUS MATERIAL. Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

INDUSTRIAL DEVELOPMENT. Any nonresidential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

LANDFILL. A facility for the disposal of solid waste on land in a sanitary manner in accordance with G.S. Chapter 130A, Article 9. For the purpose of this subchapter, this term does not include composting facilities.

LOT. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

NONRESIDENTIAL DEVELOPMENT. All development other than residential development, agriculture and silviculture.

PLAT. A map or plan of a parcel of land which is to be or has been subdivided.

RESIDENTIAL DEVELOPMENT. Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages and the like and their associated outbuildings such as garages, storage buildings, gazebos and the like and customary home occupations.

SINGLE-FAMILY RESIDENTIAL. Any development where:

(1) No building contains more than one dwelling unit,

(2) Every dwelling unit is on a separate lot, and

(3) Where no lot contains more than one dwelling unit.

STREET (ROAD). A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

STRUCTURE. Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets, but the following shall not be included within this definition nor be subject to the regulations authorized by this chapter:

(1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this chapter;

(2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;

(3) The public acquisition by purchase of strips of land for the widening or opening of streets;

(4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this chapter; or

(5) The division of a tract into plots or lots used as a cemetery.

TOXIC SUBSTANCE. Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

VARIANCE. A permission to develop or use property granted by the Board of Adjustment relaxing or waiving a water supply watershed management requirement adopted by the Environmental Management Commission that is incorporated into this chapter.

(1) ***MAJOR VARIANCE.*** A variance from the minimum statewide watershed protection rules that results in any one or more of the following:

(a) The complete waiver of a management requirement;

(b) The relaxation, by a factor of more than 10%, of any management standard under the low density option; or

(c) The relaxation, by a factor of more than 10%, of any management requirement under the high density option.

(2) ***MINOR VARIANCE.*** A variance from the minimum statewide watershed protection rules that results in a relaxation by a factor of up to 5% of any buffer, density or built-upon area requirement under the high density option; or that results in a relaxation by a factor of up to 10% of any management requirement under the low density option.

WATER DEPENDENT STRUCTURE. Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not ***WATER DEPENDENT STRUCTURES.***

WATERSHED. The entire land area contributing surface drainage to a specific point (for example the water supply intake.)

WATERSHED ADMINISTRATOR. The Haw River Zoning Enforcement Officer who is responsible for administration and enforcement of this chapter.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.228 INTERPRETATION OF WORDS AND TERMS.

For the purposes of this chapter, certain words and terms shall be interpreted as follows:

(A) Words in the present tense include the future tense.

(B) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

(C) The word “person” includes a firm, association, corporation, trust and company as well as an individual.

(D) The word “structure” shall include the word “building.”

(E) The word “lot” shall include the words “plot,” “parcel” or “tract.”

(F) The word “shall” is always mandatory and not merely directory.

(G) The word “will” is always mandatory and not merely directory.
(Ord. passed 11-2-15)

§ 155.229 EXCEPTIONS TO APPLICABILITY.

(A) Nothing contained in this subchapter shall repeal, modify or amend any federal or state law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; however, the adoption of this subchapter shall and does amend any and all ordinances, resolutions and regulations in effect in the town at the time of the adoption of this subchapter that may be construed to impair or reduce the effectiveness of this subchapter or to conflict with any of its provisions.

(B) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

(C) Existing development, as defined in § 155.227, is not subject to the requirements of this subchapter. Expansions to structures classified as existing development must meet the requirements of this subchapter; however, the built-upon area of the existing development is not required to be included in the density calculations.

(D) A pre-existing lot owned by an individual prior to the effective date of this subchapter, regardless of whether or not a vested right has been established, may be developed for single-family residential purposes without being subject to the restrictions of this subchapter. However, this exemption is not applicable to multiple contiguous lots under single ownership. See § 155.238(A)(3) regarding the recombination of existing lots.
(Ord. passed 11-2-15)

§ 155.230 SUBDIVISION REGULATIONS.

(A) No subdivision plat of land within the public water supply watershed shall be filed or recorded by the Register of Deeds of Alamance County until it has been approved in accordance with the provisions of this subchapter. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this subchapter.

(B) All applications to subdivide land in a designated water supply watershed shall comply with all Haw River Subdivision Ordinance application requirements and shall include five copies of the proposed site plan on sheets at least 18" x 24" at a minimum scale of 1" = 100' with the following information:

(1) North arrow and location/vicinity map;

(2) Property lines, total site acreage and the location, purpose and width of easements;

(3) Location of perennial streams;

(4) Location of septic tank drainage fields;

(5) Existing and proposed buildings, including front, side and rear yard setbacks, other impervious improvements and total impervious area (acreage and site percentages); and

(6) Proposed sedimentation and erosion control measures.

(C) The Zoning Enforcement Officer shall review the completed preliminary plan application and shall submit recommendations to the Alamance County Building Inspector for further review and final action. The Building Inspector shall either approve, approve conditionally or disapprove each application and return it to the Zoning Enforcement Officer.

(D) No construction or installation of improvements shall be begun in a proposed subdivision until the subdivision has been approved by the Board of Adjustment. When approved, the approval shall be indicated on the plat by the following certificate signed by the authorized individual:

Certificate of Approval for Recording Subdivision

I certify that the plat shown hereon complies with the Subdivision Regulations for the Town of Haw River, North Carolina and any supplemental regulations that may apply and that such plat has been approved according to the procedures for approval of subdivisions.

_____ _____

Date Zoning Enforcement Officer

NOTICE: This property is located within a Public Water Supply Watershed - development restrictions may apply.

(E) The Zoning Enforcement Officer shall file the approved plat with the Register of Deeds within five working days of the approval.
(Ord. passed 11-2-15)

§ 155.231 SUBDIVISION STANDARDS AND REQUIRED IMPROVEMENTS.

(A) *General*. Subdivisions in any designated drinking supply watershed shall comply with general requirements and minimum standards of design of the Haw River Subdivision Ordinance as well as the requirements specified below.

(B) *Lots*. All lots shall provide adequate building space in accordance with the development standards contained in § 155.233. Lots which are smaller than the minimum required for residential lots shall be identified on the plat as, “NOT FOR RESIDENTIAL PURPOSES.”

(C) *Built-upon area*. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(D) *Storm water drainage facilities*. The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts storm water runoff away from surface waters and incorporates best management practices to minimize water quality impacts.

(E) *Erosion and sedimentation control*. The application shall be accompanied by a written statement that a Sedimentation and Erosion Control Plan has been submitted to and approved by the N.C. Division of Land Quality, if required.

(F) *Roads constructed in critical areas and watershed buffer areas*. Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.232 DEVELOPMENT REGULATIONS.

To provide an additional layer of protection for drinking water supply watersheds, the following watershed overlay districts are established. Within each watershed shall be two tiers of control. The area nearest the water supply shall have the higher level of regulation because proximity to the intake creates higher risk of contamination. The remaining part of the watershed shall have less restrictions because the greater distance from the point of intake lowers risk of contamination: the Critical Area Overlay District (WS-II-CA) shall apply to the Back Creek Watershed within the Town of Haw River's planning and zoning jurisdiction.
(Ord. passed 11-2-15)

§ 155.233 BACK CREEK LAKE WATERSHED - CRITICAL AREA OVERLAY DISTRICT (WS-II-CA).

(A) *Intent*. In order to maintain a predominately undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum of one dwelling unit per two acres. All other residential and nonresidential development shall be allowed at a maximum 6% built-upon area.

(B) *Permitted uses*.

(1) All uses allowed in the underlying zoning districts where the watershed is located, subject to the modifications noted below, unless specifically excluded as a prohibited use.

(2) Agriculture subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten foot vegetative buffer or equivalent control as determined by the Soil and Water Conservation Commission along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.

(3) Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).

(C) *Prohibited uses*.

(1) Manufacture, use or storage of any hazardous or toxic materials waste as listed on the EPA hazardous material list or determined by the Alamance County Board of Commissioners unless a spill containment plan is implemented.

(2) New underground fuel or chemical storage tanks.

(3) Developments with curb and gutters.

(4) Sanitary landfills or incinerators.

(5) Sites for land application of sludge/residuals or petroleum contaminated soils.

(6) Petroleum products storage up to 100,000 gallons.

(7) Commercial uses which sell, store or distribute motor fuels or other hazardous materials.

(8) Metal salvage facilities including junkyards.

(9) Package treatment plants or public community sewage treatment facilities may only be allowed if the Health Department determines that an existing public health problem can be alleviated by constructing sewage facilities.

(D) *Density and built-upon limits*.

(1) Single-family residential development shall not exceed one dwelling unit per two acres on a project-by-project basis. Nor shall any single-family residential development exceed a 6% density threshold area of built upon area to total area of the property. Nor shall any high-density residential development(s) exceed a 24% density threshold area of built upon area to total area of the property. No residential lot shall be less than two acres, except within an approved cluster development. For purposes

of density calculations, total project acreage shall not include area within the designated right-of-way of any public or private street within the project, nor shall it include any area within the project donated or dedicated to the public.

(2) Nonresidential development shall not exceed 3,000 square feet of floor space and such uses shall only be for the immediate neighborhood.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.234 CLUSTER DEVELOPMENT.

Clustering of development is allowed under the following conditions:

(A) Minimum lot sizes are not applicable to single-family cluster development projects; however, the total number of lots shall not exceed the number of lots allowed for single-family detached developments in § 155.233. Built-upon area or storm water control requirements of the project shall not exceed that allowed for the critical area or balance of watershed, whichever applies.

(B) All built-upon area shall be designed and located to minimize storm water runoff impact to the receiving waters and minimize concentrated storm water flow.

(C) The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.
(Ord. passed 11-2-15)

§ 155.235 BUFFER AREAS REQUIRED.

(A) A 100-foot wide natural buffer shall be maintained around the Graham Mebane Reservoir, measured from normal pool elevation.

(B) A minimum 50-foot vegetative buffer for low-density development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. A minimum 100 foot vegetative buffer for high-density development activities is required along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial stream bank or shoreline stabilization is permitted. The minimum buffer for agricultural uses is ten feet.

(C) No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities

should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of storm water Best Management Practices.

(D) The minimum setback from a stream buffer for all buildings (principal or accessory) shall be at least 20 feet. If this requirement differs from the yard setback standards, the stricter setback shall prevail.

(E) The minimum buffer setback from lakes, ponds and reservoirs shall be 100 feet for outdoor storage facilities.

(F) The minimum buffer setback for outdoor storage facilities from 100-year flood zones as shown on the latest Federal Emergency Management Agency maps for the town shall be 500 feet.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.236 RULES GOVERNING THE INTERPRETATION OF WATERSHED AREA BOUNDARIES.

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the watershed map, the following rules shall apply:

(A) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or center lines thereof, such lines shall be construed to be said boundaries.

(B) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, where conflict exists as to whether a tract is inside or outside a watershed area, it shall be the responsibility of the petitioner to present topographic data supporting his or her case.

(C) Where the watershed area boundaries lie at a scaled distance more than 25 feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.

(D) Where the watershed area boundaries lie at a scaled distance of 25 feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

(E) Where other uncertainty exists, the Zoning Enforcement Officer shall interpret the watershed map as to location of such boundaries. This decision may be appealed to the Board of Adjustment.
(Ord. passed 11-2-15)

§ 155.237 APPLICATION OF REGULATIONS.

(A) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.

(B) No area required for the purpose of complying with the provisions of this chapter shall be included in the area required for another building.

(C) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in this chapter.

(D) If a use or class of use is not specifically indicated as being allowed in a watershed area, such or class of use is prohibited.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.238 EXISTING DEVELOPMENT.

Any existing development, as defined in § 155.227, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing developments must meet the requirements of this subchapter, however, the built-upon area of the existing development is not required to be included in the density calculations.

(A) *Vacant lots*. Vacant lots for which plats or deeds have been recorded in the Office of the Register of Deeds of Alamance County may be used for any of the uses allowed in the watershed area in which it is located, provided the following:

(1) Where the lot area is below the minimum specified in this subchapter, the owner may apply for a variance which provides for compliance with the buffer requirement to the maximum extent practicable. The Zoning Enforcement Officer is authorized to issue a watershed protection permit.

(2) Where the buffer standard needs to be modified due to the shape and/or size of a residential or nonresidential lot, the owner may apply for a variance in order to obtain a watershed protection permit, provided the buffer requirement is complied with to the maximum extent practicable. The procedures for obtaining a minor or major variance are found in § 155.249.

(3) Notwithstanding the above provisions, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this chapter and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, such lots shall be combined to create one or more lots that meet the standards of this chapter, or if this is impossible, reduce to the extent possible the nonconformity of the lots.

(B) *Occupied lots*. Lots occupied for residential purposes at the time of the adoption of this chapter may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this chapter, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located, such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.

(C) *Uses of land*. Uses existing at the time of adoption of this chapter where such use of the land is not permitted to be established hereafter in the watershed area in which it is located may be continued except as follows:

(1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.

(2) Such use of land shall be changed only to an allowed use.

(3) When such use ceases for a period of at least one year, it shall not be reestablished.

(D) Reconstruction of buildings or built-upon areas. Any existing building or built-upon area not in conformance with the restrictions of this chapter that has been damaged or destroyed by any means to an extent of more than 50% of its replacement cost or bulk, exclusive of foundations and land value may be repaired and/or reconstructed, except that there are no restrictions on single-family residential development, provided:

(1) Repair or reconstruction is initiated within 12 months and completed within two years of such damage.

(2) The total amount of space devoted to built-upon area may not be increased unless storm water control that equals or exceeds the previous development is provided.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.239 WATERSHED PROTECTION PERMIT REQUIRED.

(A) Except where a single-family residence is constructed on a lot deeded prior to the effective date of this chapter, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a watershed protection permit has been issued by the Zoning Enforcement Officer. No watershed protection permit shall be issued except in conformity with the provisions of this chapter.

(B) Watershed protection permit applications shall be filed with the Zoning Enforcement Officer. The application shall include a completed application form and supporting documentation consistent with

§ 155.230(B). If the application is for a single structure, the Zoning Enforcement Officer may waive some of the documentation requirements; however, compliance with all watershed protection measures must be assured.

(C) Prior to issuance of a watershed protection permit, the Zoning Enforcement Officer may consult with qualified personnel for assistance to determine if the application meets the requirements of this subchapter.

(D) A watershed protection permit shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within 12 months from the date of issuance.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.240 BUILDING PERMIT REQUIRED.

After receiving a watershed protection permit, a building permit shall be obtained from the Alamance County Inspections Department for construction or alteration of any building or structure pursuant to the procedures of the County Inspections Department.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.241 WATERSHED PROTECTION OCCUPANCY PERMIT REQUIRED.

(A) The Zoning Enforcement Officer shall issue a watershed protection occupancy permit certifying that all requirements of this chapter have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land.

(B) A watershed protection occupancy permit, either for the whole or part of a building, shall be applied for at the same time as the application for a watershed protection permit and shall be issued or denied within ten days after the erection or structural alterations of the building.

(C) When only a change in use of land or existing building occurs, the Zoning Enforcement Officer shall issue a watershed protection occupancy permit certifying that all requirements of this chapter have been met at the same time the watershed protection permit is issued.

(D) If the watershed protection occupancy permit is denied, the Zoning Enforcement Officer shall notify the applicant in writing stating the reasons for denial.

(E) No building or structure which has been erected, moved or structurally altered may be occupied until the Zoning Enforcement Officer has approved and issued a watershed protection occupancy permit.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.242 PUBLIC HEALTH REGULATIONS.

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which use ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of storm water runoff; or any other situation found to pose a threat to water quality. In the event that any of these threats exist, appropriate enforcement authorities (for example the County Health Department, N.C. Land Quality Division) may increase the minimum requirements of this chapter, in order to protect the public health.
(Ord. passed 11-2-15) Penalty, see § 155.999

§ 155.243 ABATEMENT.

(A) The Zoning Enforcement Officer shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

(B) The Zoning Enforcement Officer shall report all findings to the Board of Adjustment. The Administrator may consult with any public agency or official and request recommendations.

(C) Where the Board of Adjustment finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.
(Ord. passed 11-2-15)

§ 155.244 WATERSHED ADMINISTRATOR DUTIES.

The Haw River Zoning Enforcement Officer is hereby appointed the Watershed Administrator who shall be duly sworn in that capacity. It shall be the duty of the Zoning Enforcement Officer acting as Watershed Administrator to administer and enforce the provisions of this subchapter as follows:

(A) The Zoning Enforcement Officer shall issue watershed protection permits and watershed protection occupancy permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Zoning Enforcement Officer.

(B) The Zoning Enforcement Officer shall serve as Clerk to the Board of Adjustment which sits as the Watershed Review Board.

(C) The Zoning Enforcement Officer shall keep records of all amendments to this subchapter and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, N.C. Division of Environmental Management.

(D) The Zoning Enforcement Officer is granted the authority to administer and enforce the provisions of this chapter, exercising in the fulfillment of his or her responsibility the full police power of the town. The Zoning Enforcement Officer, or his or her duly authorized representative, may enter any building, structure or premises, as provided by law, to perform any duty imposed upon him by this chapter.

(E) The Zoning Enforcement Officer shall keep a record of variances to this subchapter. This record shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, N.C. Division of Environmental Management on or before January 1 every year and shall provide a description of each project receiving a variance and the reasons for granting the variance.
(Ord. passed 11-2-15)

§ 155.245 APPEAL FROM THE WATERSHED ADMINISTRATOR.

Any order, requirement, decision or determination made by the Zoning Enforcement Officer acting as Watershed Administrator may be appealed to and decided by the Board of Adjustment as specified in this chapter.
(Ord. passed 11-2-15)

§ 155.246 CHANGES AND AMENDMENTS TO THE WATERSHED PROTECTION ORDINANCE.

(A) The Town Council may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

(B) No action shall be taken until the proposal has been submitted to the Board of Adjustment for review and recommendations. If no recommendation has been received from the Board of Adjustment within 45 days after submission of the proposal to the Chairman of the Board of Adjustment, the Town Council may proceed as though a favorable report had been received.

(C) Under no circumstances shall the Town Council adopt such amendments, supplements or changes that would cause this subchapter to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the appropriate Division of the N.C. Department of Environmental and Natural Resources.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.247 PUBLIC NOTICE AND PUBLIC HEARING REQUIREMENTS.

Before adopting or amending this subchapter, the Town Council shall hold a public hearing. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area.
(Ord. passed 11-2-15)

§ 155.248 ESTABLISHMENT OF WATERSHED REVIEW BOARD.

The Haw River Board of Adjustment shall serve as the Watershed Review Board. The same rules of procedure as specified in this chapter shall apply.
(Ord. passed 11-2-15)

§ 155.249 POWERS AND DUTIES OF BOARD OF ADJUSTMENT ACTING AS WATERSHED REVIEW BOARD.

(A) The Board of Adjustment, acting as the Watershed Review Board, shall hear and decide appeals from any decision or determination made by the Zoning Enforcement Officer in the enforcement of this subchapter. The procedures for appeal shall be the same as provided in this chapter.

(B) The Board of Adjustment shall have the power to approve subdivisions in accordance with the provisions of this subchapter and the power to increase the minimum requirements of this subchapter to protect the public health, safety and welfare (see § 155.242).

(C) The Board of Adjustment shall have the power to authorize, in specific cases, minor variances from the terms of this subchapter as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this subchapter will result in practical difficulties or unnecessary hardship, so that the spirit of this subchapter shall be observed, public safety and welfare secured and substantial justice done.

(1) *Applications for a minor variance*. Application shall be made on the proper form obtainable from the Zoning Enforcement Officer and shall include at a minimum:

(a) A site plan, drawn to scale, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; surface water drainage;

(b) A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Board of Adjustment in considering the application; and

(c) The Zoning Enforcement Officer shall notify in writing each local government having jurisdiction in the watershed. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Zoning Enforcement Officer before a decision by the Board of Adjustment. Such comments shall become a part of the record of proceedings of the Board of Adjustment.

(2) *Required findings for the granting of a minor variance*. Before the Board of Adjustment may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case and shall include the factual reasons on which they are based:

(a) That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the subchapter. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:

1. If the applicant complies with the provisions of the subchapter, but can secure no reasonable return from nor make reasonable use of the property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the subchapter that will make possible the reasonable use of his or her property.

2. The hardship results from the application of this subchapter to the property rather than from other factors such as deed restrictions or other hardship.

3. The hardship is due to the physical nature of the applicant's property, such as its size, shape or topography, which is different from that of neighboring property.

4. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates this subchapter or who purchases the property after the effective date of this subchapter and then comes to the Board for relief.

5. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others and would not promote equal justice.

(b) That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit; and

(c) That in the granting the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety or general welfare.

(3) *Conditions to granting a minor variance*. In granting the variance, the Watershed Review Board may attach such conditions regarding the location, character and other features of the proposed building, structure or use as it deems advisable in furtherance of the purpose of this subchapter. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.

(4) *Grounds for refusal to hear an appeal*. The Watershed Review Board may refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.

(5) *Watershed protection permit*. A variance issued in accordance with this subchapter shall be considered a watershed protection permit and shall expire if a building permit or watershed occupancy permit for such use is not obtained by the applicant within six months from the date of the decision.

(D) If an application calls for the granting of a major variance and if the Board of Adjustment decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed, to include the following:

(1) The variance application;

(2) The hearing notices;

(3) The evidence presented;

(4) Motions, offers of proof, objections to evidence and rulings on them;

(5) Proposed findings and exceptions; and

(6) The proposed decision, including all conditions proposed to be added to the permit.

(E) The preliminary record shall be sent to the N.C. Environmental Management Commission for its review as follows:

(1) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure no reasonable return from nor make any practical use of the property unless the proposed variance is granted, and the variance, if granted, will not result in a serious threat to the water supply, then the Commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a Commission decision and send it to the Watershed Review Board. If the Commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(2) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that the property owner can secure a reasonable return from or make a practical use of the property without the variance, or the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.
(Ord. passed 11-2-15)

§ 155.250 APPEALS FROM BOARD OF ADJUSTMENT.

Appeals from the Board of Adjustment must be filed with the Superior Court within 30 days from the date of the decision. The appeal of decisions by the Superior Court will be in the manner of certiorari.
(Ord. passed 11-2-15)

§ 155.251 HIGH DENSITY DEVELOPMENT STANDARDS.

(A) The Watershed Review Board may approve high density development proposals consistent with the following standards: WS-II Watershed Areas-Critical Area (WS-II-CA). Where new development exceeds either one dwelling unit per two acres or 6% built-upon area, engineered stormwater controls shall be used to control runoff from the first inch of rainfall and development shall not exceed 24% built-upon area.

(B) All high density development shall meet the requirements of this chapter.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.252 HIGH DENSITY DEVELOPMENT PERMIT APPLICATION

(A) A high density development permit shall be required for new development exceeding the requirements of the low density option.

(B) Application for a high density development shall be addressed and submitted to the Watershed Review Board through the Watershed Administrator. Application for high density development permit shall be made on the proper form and shall include the following information:

(1) A completed high density development permit application signed by the owner of the property;

(2) Two reproducible copies of the development plan within the drainage basin including the following applicable information: application forms, subdivision plat checklist and detailed information concerning built-upon area, etc;

(3) Two reproducible copies of the plans and specifications of the stormwater control structure consistent with this chapter;

(4) When required by law, written verification that a soil erosion and sedimentation control plan has been approved by the appropriate state or local agency; and

(5) Permit application fees consistent with this chapter.

(C) Prior to taking final action on any application, the Board or the Watershed Administrator may provide an opportunity to public agencies affected by the development proposal to review and make recommendations on the application. However, failure of the agencies to submit their comments and recommendations shall not delay the Board's action within prescribed time limit.

(D) The Watershed Review Board shall either approve or disapprove each application for a high density development permit based on the applicable criteria contained in this chapter. First consideration of a completed application shall be at the next regularly scheduled meeting of the Boards following its receipt. The Board shall take action on the application as its first consideration or within 65 days of its first consideration.

(1) If the Board approves the application based on its findings, such approval shall be indicated on the permit and both copies of the site plan and both copies of the plans and specifications of the stormwater control structure. A high density development permit shall be issued after the applicant posts a performance bond acceptable security as required in this chapter and executes an operation and maintenance agreement as required. A copy of the permit and one copy of each set of plans shall be kept on file at the Watershed Administrator's office. The original permit and one copy of each set of plans shall be delivered to the applicant either by personal service or registered mail, return receipt requested.

(2) If the Board disapproves the application based on its findings, the reasons for such action shall be stated in the minutes of the Board and presented to the applicant in writing either by personal service or registered mail, return receipt requested. The applicant may make changes and submit a revised plan. All revisions shall be submitted, reviewed, and acted upon by the Board pursuant to the procedures of this section.

(E) In addition to any other requirements provided by this chapter, the Board may designate additional permit conditions and requirements to assure that the use will be harmonious with the area in which it is proposed to be located and with the spirit of this chapter. All additional conditions shall be entered in the minutes of the meeting at which the permit is granted, on all plans and on the permit certificate. All conditions so imposed shall run with the land and shall be binding upon the applicant and the applicant's heir, successors, or assigns during the continuation of the permitted use.

(F) The Board shall issue a written ruling and make copies available at the office of the Watershed Administrator and the Town Clerk.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.253 STORMWATER CONTROL STRUCTURES.

(A) All stormwater control structures shall be designed by a North Carolina registered professional with qualifications appropriate for the type of system required; these registered professionals are defined as professional engineers, landscape architect, to the extent that the design represents are defined as professional engineers, landscape architect, to the extent that G.S. Ch. 89A allow and land surveyors, to the extent that the design represents incidental drainage within a subdivision, as provided in G.S. 89C-3(7).

(B) All projects requiring stormwater controls shall use structural stormwater management systems, as outlined in this Chapter 155. All structural stormwater systems shall be designed in accordance with the NC DENR BMP Design Manual as well as the following design criteria:

(1) The discharge rate following the 1-inch design storm shall be such that the runoff draws down to the pre-storm design stage within five days, but not less that two days; or

(2) The post development peak discharge rate shall equal the predevelopment rate for the one-year, 24-hour storm.

(3) In the event new development or redevelopment has, in the opinion of the Stormwater Administrator or his designee, the potential to cause increased downstream flooding and erosion, a structural stormwater management system will be required that does not allow stormwater to leave the project site at a rate greater than the predevelopment discharge rate for up to the 100-year, 24-hour storm;

(4) All designs shall be in compliance with the North Carolina Division of Water Quality's Stormwater Best Management Practices Design Manual's latest revision;

(5) Vegetative filters shall be constructed for the overflow and discharge of all stormwater wet detention ponds and shall be at least 30 feet in length. The slope and width of the vegetative filter shall be determined so as to provide a non-erosive velocity of flow-through the filter for a ten-year, 24-hour storm with a ten-year, one-hour intensity with a slope of 5% or less. Vegetation in the filter shall be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics;

(6) In the event new development or redevelopment has, in the opinion of the Stormwater Administrator or his designee, the potential to cause increased downstream flooding and erosion, a structural stormwater management system will be required that does not allow stormwater to leave the project site at a rate greater than the predevelopment discharge rate for up to the 100-year, 24-hour storm;

(7) All designs shall be in compliance with the North Carolina Division of Water Quality's Stormwater Best Management Practices Design Manual's latest revision;

(C) In addition to the vegetative filters required, all land areas outside of the pond shall be provided with a ground cover sufficient to restrain erosion within ten days after any land disturbance. Upon completion of the stormwater control structure, a permanent ground cover shall be established and maintained as part of the maintenance agreement;

(D) A description of the area containing the stormwater control structure shall be prepared and filed as described in this chapter, as a separate deed with the Alamance County Register of Deeds along with any easements necessary for general access to the stormwater control structure. The deeded area shall include the stormwater control structure, vegetative filters, all pipes and water control structures, berms, dikes, etc., and sufficient area to perform inspections, maintenance, repairs, and reconstruction.

(E) Qualifying areas of the stormwater control structure may be considered pervious when computing total built-upon area. However, if the structure is used to compute the percentage built-upon area for one site, it shall not be used to compute built-upon are for any other site or area.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.254 POSTING OF FINANCIAL SECURITY REQUIRED AND OPERATION AND MAINTENANCE REQUIREMENTS.

(A) Before the Watershed Administrator shall approve the completed facility and issue any permit to exceed, the developer and/or maintaining entity shall furnish the Town of Haw River with a financial guarantee ensuring future maintenance, operation and repair of the facility. The financial guarantee shall be in the form of cash, an irrevocable letter of credit or other instrument readily convertible to cash at face value and shall be deposited and made payable to the Town of Haw River. The amount of the deposit shall be equal to 40% of the total cost of constructing the facility. The initial cost estimates shall be the responsibility of the developer but the approval of the final cost estimate shall be made by the Watershed Administrator or his or her agent. At this time the developer and/or maintaining entity shall also pay to the Town of Haw River a fee as set by the Town Council to cover annual inspections by the town for 20 years.

(B) The initial duration of the financial guarantee shall be for 20 years. At the end of that period the Town of Haw River may, at its own option, require extension of the guarantee for an additional period of up to 20 years based upon future maintenance cost or take whatever lawful action it may deem appropriate at that time. The financial guarantee may be dissolved at any time in its lifetime by mutual agreement when the need for such guarantee no longer exists.

(C) As part of the financial guarantee, the developer or maintaining entity shall enter into a binding operation and maintenance agreement in a form acceptable to and enforceable by the Town of Haw River. Such agreement shall require the responsible entity to maintain, repair and, if necessary, reconstruct the facility in accordance with the approved operation and maintenance plan. The plan shall clearly indicate the steps that will be taken for restoring a stormwater control structure to design specifications if a failure occurs.

(D) Landscaping and grounds management shall be the responsibility of the owning entity. However, vegetation shall not be established or allowed to mature to the extent that the integrity of the control structure is diminished or threatened, or to the extent of interfering with any easement or access to the stormwater control structure.

(E) The agreement shall pledge the financial guarantee in support of the agreement but also shall acknowledge that default does not release the entity from liability/responsibility for operation, maintenance and repair/reconstruction. The agreement shall provide that in case of default by the operating entity, the Town of Haw River, at any time after default, may on its own motion assume actual maintenance and operation of the facility and convert for its use in maintenance and operation any and all funds remaining in the financial guarantee. The agreement shall be recorded with the appropriate County Register of Deeds by the Watershed Administrator after it is executed by both parties. No changes to the agreement or its terms including ownership and responsible entity shall be made except upon agreement of the parties.

(F) Amendments to the plans and specifications of the stormwater control structure and/or the operation and maintenance plan shall be approved by the Watershed Administrator. Proposed changes shall be prepared by a North Carolina registered professional engineer or landscape architect (to the extent that G.S. Ch.89A allows) and submitted to and reviewed by the Watershed Administrator.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.255 APPLICATION AND INSPECTION FEES.

(A) Processing and inspection fees shall be submitted in the form of a check or money order made payable to the town. Applications shall be returned if not accompanied by the required fee.

(B) A permit and inspection fee schedule, as approved by the Town of Haw River Town Council, shall be posted in the Office of the Watershed Administrator.

(C) Inspection fees shall be valid for 60 days. An inspection fee shall be required when improvements are made to the stormwater control structure consistent with this chapter, except in the case when a similar fee has been paid within the last 60 days.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.256 INSPECTIONS AND RELEASE OF THE PERFORMANCE BOND.

(A) The stormwater control structure shall be inspected by the Watershed Administrator, after the owning entity notifies the Watershed Administrator that all work has been completed. At this inspection, the owning entity shall provide:

(1) The signed deed, related easements and survey plat for the stormwater control structure ready for filing with the Alamance County Register of Deeds;

(2) A certification sealed by an engineer or landscape architect (to the extent that G.S. Ch. 89A, allows) stating that the stormwater control structure is complete and consistent with the approved plans and specifications

(B) The Watershed Administrator shall present the materials submitted by the developer and the inspection report and recommendations to the Watershed Review Board at its next regularly scheduled meeting.

(1) If the Board approves the inspection report and accepts the certification, deed, and easements, the Board shall file the deed and easements with the Alamance County Register of Deeds, release up to 60% of the value of the performance bond or other security and issue a Watershed Protection Occupancy Permit for the stormwater control structure, consistent with Section 310.

(2) If deficiencies are found, the Board shall direct that improvements and inspections be made and/or documents corrected and resubmitted to the Board.

(C) No sooner than one year after the filing date of the deed, easements and maintenance agreement, the developer may petition the Watershed Review Board to release the remaining value of the performance bond or other security. Upon receipt of said petition, the Watershed Administrator shall inspect the stormwater control structure to determine whether the controls are performing as designed and intended. The Watershed Administrator shall present the petition, inspection report, and recommendations to the Watershed Review Board.

(1) If the Board approves the report and accepts the petition, the developer shall deposit with the Watershed Review Board a cash amount equal to that described in this chapter, after which, the Board shall release the performance bond or other security.

(2) If the Board does not accept the report and rejects the petition, the Board shall provide the developer with instructions to correct any deficiencies and all steps necessary for the release of the performance bond or other security.

(D) A watershed protection occupancy permit shall not be issued for any building within the permitted development until the Watershed Review Board has approved the stormwater control structure, as provided.

(E) All stormwater control structures shall be inspected at least once on an annual basis to determine whether the controls are performing as designed and intended. Records of inspection shall be maintained on forms approved by the Town of Haw River. Annual inspections shall begin within one year of filing date of the deed for the stormwater control structure.

(F) In the event the Watershed Administrator discovers the need for corrective action or improvements, the Watershed Administrator shall notify the owning entity of the needed improvements and the date by which the corrective action is to be completed. All improvements shall be made consistent with the plans and specifications of the stormwater control structure and the operation maintenance plan or manual. After notification by the owning entity, the Watershed Administrator shall inspect and approve the completed improvements. The Watershed Administrator may consult with an engineer or landscape architect (to the extent that G.S. Ch. 89A allows) designated by the Watershed Review Board.

(G) Appeals of any order, requirement, decision, or determination made by the Watershed Administrator may be made to and decided by the Watershed Review Board consistent with Chapter 155. (Ord. passed 10-7-13; Ord. passed 11-2-15)

§ 155.257 SANCTIONS.

(A) In addition to the remedies described in § 155.999 of this chapter and consistent with G.S. 160A-175, the Watershed Review Board may seek enforcement of this chapter through the Town Council by assessing a civil penalty to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty in a prescribed period of time after being cited for violation of the chapter. Said violation may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The court may issue an injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceeding, including the Rules of Civil Procedure in general and Rule 65 in particular.

(1) If the defendant fails or refuses to comply with an injunction or with an order of abatement with the time allowed by the court, the defendant may be cited for contempt and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien.

(2) The defendant may secure cancellation of an order of abatement by paying all costs of the proceeding and posting a bond for compliance with order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(B) Enforcement of this chapter may be by any one, all or a combination of the remedies authorized in this chapter. Each day's continuing violation shall be a separate and distinct offense.
(Ord. passed 10-7-13; Ord. passed 11-2-15)

BOARD OF ADJUSTMENT

§ 155.260 BOARD ESTABLISHED.

(A) A Board of Adjustment consisting of five members is hereby established. All members shall be citizens and residents of the town and shall be appointed by the Town Council, and shall be appointed in accordance with G.S. § 160A-362. The members of the Board of Adjustment shall receive no compensation for their services.

(B) The term of office of the members of the Board of Adjustment shall be for overlapping terms of three years. Since the Haw River Town Council has appointed itself as the Town of Haw River Board of Adjustment, newly sworn-in members of the Council become immediately eligible to be appointed to the Board of Adjustment. Such appointments shall be for three-year terms, and a reappointment of one year to complete the four-year term to which the Town Council is elected. Thereafter, as terms expire, all new appointments shall be for three-year terms. Nothing herein shall be construed as to forbid any member from being reappointed.

(C) Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible after such vacancy occurs by the proper board making the appointment. Such appointment shall be for the unexpired term, or for a longer term, up to three years if needed, to prevent the termination of four or more terms in the same year. Members may be removed for cause, by the Town Council, upon written charges and after public hearing.
(Ord. passed 11-2-15)
Cross-reference:
Powers of the Board, see § 155.267
Statutory reference:
Authority of Town Council to assign Planning and Zoning Board duties of Board of Adjustment, see G.S. § 160A-388(a)

§ 155.261 OFFICERS, RULES AND REGULATIONS.

The Board of Adjustment shall elect a Chairman and a Vice-Chairman from its members to serve for one year until reelected or until their successors are elected. The Board shall appoint a Secretary, who may be a municipal officer or an employee of the town. The Board of Adjustment shall adopt rules and bylaws in accordance with the provisions of this chapter and of G.S. Chapter 160A-388. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine.

(A) *Oaths*. The Chairman, or in his or her absence, the Vice-Chairman or clerk to the Board, may administer any oaths to witnesses to a matter coming before the Board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilt of a Class I misdemeanor.

(B) *Subpoenas*. The Chairman, or in his or her absence, the Vice-Chairman or clerk to the Board, may subpoena the witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160A-393(d) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The Chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The Chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full Board of Adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the Board of Adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.
(Ord. passed 11-2-15)

§ 155.262 JURISDICTION AND DECISIONS OF THE BOARD.

(A) All members shall have equal rights, privileges and duties in all matters pertaining to the regulation of the Haw River Planning Area. Excepting matters concerning a variance request, the concurring majority vote of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this chapter, or to decide in favor of the applicant any matter which it is required to pass under this chapter or to affect any variation in this chapter. Matters concerning a variance request must meet a supermajority vote of 4/5ths or greater from the Board of Adjustment. In exercising its powers and duties, the Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination made by the Zoning Enforcement Officer, and shall have the powers of the Zoning Enforcement Officer from whom the appeal is taken and may issue or direct the issuance of a permit. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variance and special and conditional use permits. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

(B) In exercising the above mentioned powers, the Board of Adjustment may, in conformity with the provisions of the zoning regulations, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination made by the Zoning Enforcement Officer, and to that end shall have the powers of the Zoning Enforcement Officer from whom the appeal is taken, and may issue or direct the issuance of a permit. Excepting matters concerning a variance request, the concurring majority vote of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of an administrative official charged with the enforcement of the zoning regulations, or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance, or to grant a variance from the provisions of the zoning regulations. Matters concerning a variance request must meet a supermajority vote of 4/5ths or greater from the Board of Adjustment.

(C) On all appeals, applications and other matters brought before the Board of Adjustment, the Board shall inform in writing all the parties involved of its decision and the reasons for that decision.
(Ord. passed 11-2-15)

§ 155.263 CONDUCT OF HEARING.

(A) All hearings of the Board of Adjustment shall be open to the public. The Secretary shall keep minutes of its proceedings, examinations and official actions, showing the vote of each member upon each question, and the absence or failure of any member to vote, to serve as a public record.

(B) No final action shall be taken on any matter unless a quorum is present. For the purposes of granting appeals, and permits, a quorum shall be a simple majority of the membership of the board. Variances require a 4/5ths supermajority for passage by the Board. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members. For the purposes of conducting other business related to the functions of the board, such as adopting or amending rules of procedure or approving the agenda, a quorum shall simply be a simple majority of the full membership of the board.

(C) Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any persons entitled to receive notice as provided by the zoning or unified development ordinance. In the absence of evidence to the contrary, the city may rely on the county tax listing to determine owners of property entitled to mailed notice. In the absence of evidence, the town may rely on the Alamance County tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way, so it is clearly visible to passers-by.
(Ord. passed 11-2-15)

§ 155.264 DISPOSITION OF APPEALS.

The final disposition of each appeal shall be by recorded resolution indicating the reasons of the Board, therefore, based on findings of fact and conclusions of law, all of which shall be a public record.
(Ord. passed 11-2-15)

§ 155.265 APPEALS FROM DECISION OF THE ZONING ENFORCEMENT OFFICER.

(A) Appeals to the Board of Adjustment may be taken by any person who has standing under G.S. 160A-393(d). Such appeals shall be taken within not more than 30 days from receipt of the written notice by filing with the town clerk a written notice of appeal specifying the grounds. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. The Zoning Enforcement Officer who made the decision shall

give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail. The Zoning Enforcement Officer shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Zoning Enforcement Officer shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(B) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal or other matter referred to it, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. At the hearing any party in interest may appear in person or by agent or attorney. The Zoning Enforcement Officer must be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.
(Ord. passed 11-2-15)

§ 155.266 APPEAL STAYS ALL PROCEEDINGS.

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Enforcement Officer certifies to the Board of Adjustment, after the notice of appeal is filed, that by reason of facts stated in an affidavit, a stay would in the Zoning Enforcement Officer's opinion cause imminent peril to life or property, or because the violation charged is transitory in nature and a stay would interfere with enforcement of this chapter. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a Court of Record on application, on notice to the Zoning Enforcement Officer and on due cause shown.
(Ord. passed 11-2-15)

§ 155.267 POWERS OF THE BOARD.

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

(A) *Administrative review*. To hear and decide special and conditional use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances and special and conditional use permits. The Board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

(B) *Quasi-judicial decisions and judicial review*. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent,

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

(C) *Special and conditional use permits*. The Board of Adjustment may hear and decide special and conditional use permits in accordance with the Town of Haw River Zoning Ordinance. The Board of Adjustment may impose reasonable conditions upon any variance it grants. These conditions shall be in furtherance of the objectives of the particular regulation from which the variance is granted.

(D) *Variances*.

(1) To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in undue or unnecessary hardship, and so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

(2) Such variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;

(b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located;

(c) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located;

(d) The requested variance will be in harmony with purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare;

(e) The special circumstances are not the result of actions by the applicant, excluding the act of purchasing property or properties with knowledge that circumstances exist that may justify the grant of a variance; and

(f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

(3) At the time of a request for a variance, the person making the request shall pay a fee set by the Town Council to cover advertising and administrative costs.
(Ord. passed 11-2-15)

§ 155.268 REHEARINGS.

The Board shall refuse to hear an appeal or application previously denied if it finds there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
(Ord. passed 11-2-15)

§ 155.269 REVIEW BY CERTIORARI.

Any person or persons, jointly or severally, aggrieved by any decision of the Board or any taxpayer, or any officer, department, board, or bureau of the Town of Haw River, may present to a court of competent jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of illegality; whereupon such decision of said Board shall be subject to review by certiorari as provided by law. Any appeal to the Superior Court shall be taken within 30 days after the decision of the Board is filed in the office of the Town Clerk and a written copy thereof is delivered to the appellant by personal delivery, electronic mail, or first-class mail, whichever is later. When first-class mail is the selected delivery mode, an additional three days shall be added to the time granted for filing a petition.
(Ord. passed 11-2-15)

§ 155.270 CONFLICT OF INTEREST.

(A) Members of the Board of Adjustment shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

(B) A member of the Board of Adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(1) For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the board" for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

(2) In considering all proposed variances to this chapter, the Board shall, before making any finding in a specific case, first determine that the proposed variance will not allow the establishment of a use not otherwise permitted in a district by this chapter; extend in area or expand a nonconforming use of land; change the district boundaries shown on the zoning map; impair any adequate supply of light and air to adjacent property; materially increase the public danger of fire; materially diminish or impair established property values within the surrounding area; or in any other respect impair the public health, safety, morals and general welfare.

(3) In granting a variance, the Board may attach thereto such conditions regarding the location, character and other features of proposed building, structure or use as it may deem advisable in furtherance of the purpose of this chapter. Such variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question due to its size, shape or topography not applicable to other lands or structures in the same district.

(b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located.

(c) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

(d) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the public good or general welfare.

(e) The special circumstances are not the result of the applicant.

(f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

(g) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved.

(h) At the time of a request for a variance, the person making such a request shall pay a fee of $50 to cover advertising and administrative costs.
(Ord. passed 11-2-15)

ADMINISTRATIVE AND LEGAL PROVISIONS

§ 155.280 ADMINISTRATION OF CHAPTER.

The Zoning Enforcement Officer of the town is hereby authorized, and it shall be his or her duty, to administer and enforce the provisions of this chapter. Appeal from a decision of the Zoning Enforcement Officer may be made to the Board of Adjustment as provided in this chapter.
(Ord. passed 11-2-15)

§ 155.281 BUILDING PERMITS.

(A) Before commencing the construction, erection, repair, alteration, addition to, removal, moving or demolishing of any building or structure or part thereof, or before commencing any excavation for such building or structure, or before erecting, repairing or repainting any sign (except where specifically authorized by this chapter), a building permit for the same shall be secured from the Alamance County Building Inspector, as contracted by the Town of Haw River.

(B) The Building Inspector shall not issue a building permit unless the plans, specifications and intended use of such buildings, structures, land or part thereof conform in all respects to the provisions of this chapter.
(Ord. passed 11-2-15)

§ 155.282 CHANGES AND AMENDMENTS.

(A) All applications for amending the zoning ordinance or map shall be submitted in duplicate at least 20 days before the regularly scheduled meeting of the Planning and Zoning Board, on forms supplied by the Zoning Enforcement Officer. There shall be a fee of $100 payable to the town for each application for rezoning.

(B) No regulation or map shall be amended, supplemented, changed, modified or repealed until after a public hearing in relation thereto, at which time parties in interest and citizens shall have an opportunity to be heard. Notice of such public hearing(s) shall be given at least once a week for two consecutive calendar weeks in a newspaper of general circulation in the town. The first such publication shall run at least ten days before the scheduled public hearing date. Notice shall also be provided by first class mail to owners of property adjoining the subject property, to be mailed at least ten days before the scheduled public hearing date. Notice shall also be posted on the property subject to the request at least ten days before the scheduled public hearing date.

(C) The Town Council shall not take action on a proposal to amend this chapter until a recommendation has been received from the Planning and Zoning Board, provided that, if the Planning

and Zoning Board does not submit a recommendation within 60 days from the date the proposed amendment is first considered, the Town Council may take action. The Town Council shall state its reasons for any action taken and shall maintain a permanent record of all such actions.

(D) A simple majority vote is required for adoption of an amendment to this chapter. No such proposed change in this chapter or the zoning map if denied by action of the Town Council may be resubmitted within a period of one year from the date of such denial by the Town Council unless the Town Council unanimously finds that changing conditions in the area or new information concerning the property requested for rezoning warrant a resubmission for change in this chapter or the zoning map.
(Ord. passed 11-2-15)

§ 155.283 PROTESTS AND APPEALS.

(A) If a protest against a proposed change in this chapter or the zoning map is signed by the owners of 20% or more of either the area of the lots included in a proposed change, or of those immediately adjacent thereto, an amendment shall not become effective except by favorable vote of three-fourths of all members of the Town Council. No protest against any change in or amendment to this chapter or the zoning map shall be valid unless it is submitted in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers protest the proposed change or amendment. The petition must be received by the Zoning Enforcement Officer at least three working days (excluding Saturdays, Sundays and legal holidays) prior to the scheduled public hearing date established for the proposed change or amendment, to allow adequate time to determine the sufficiency and accuracy of the petition.

(B) All questions and appeals in connection with the enforcement of this chapter shall be presented first to the Zoning Enforcement Officer. Questions shall come before the Board of Adjustment only upon appeal from the Zoning Enforcement Officer. Recourse from the decision of the Board of Adjustment shall be to the courts as provided by law.
(Ord. passed 11-2-15)

§ 155.284 INTERPRETATION, PURPOSE AND CONFLICT.

In interpreting and applying the provisions of this chapter, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties, provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this chapter shall govern.
(Ord. passed 11-2-15)

§ 155.285 REZONING APPLICATION AND PROCEDURES.

(A) *Overview*. The Town of Haw River Zoning Chapter details the zoning districts with the Town of Haw River that permit an array of land uses. This section details the public hearing procedures whereby property may be rezoned to a general use zoning district or conditionally rezoned along a set of specific guidelines requested by the property owner.

(B) *Consideration of requests*.

(1) The decision to approve or deny a request rests with the Town of Haw River Town Council. The Town of Haw River's Planning and Zoning Commission may make recommendations to the Town Council. Positive recommendations are automatically forwarded to the Town Council. Recommendations against a request are final, unless appealed. Appeals are heard by the Town of Haw River Town Council.

(2) The administration, amendment and enforcement of the zoning chapter and official zoning map are accomplished within the framework of the Town of Haw River's Comprehensive Plan and its supporting documents:

(a) Small area land use plan;

(b) Thoroughfare plans;

(c) Parks, recreation and open space plans;

(d) Capital improvement plans; and

(e) Existing conditions.

(3) These documents and the policies they represent are essential in the evaluation of the impact and appropriateness of each request, and feature the following conditional zoning districts:

(a) Conditional Residential District;

(b) Conditional Business District;

(c) Conditional Industrial District; and

(d) Conditional Mixed Use District.

(C) *Rezoning procedures; conditional zoning application*.

(1) *Pre-filing conference*. A pre-filing conference is recommended for anyone planning to file an application. This informal meeting allows staff to provide guidance in identifying the most appropriate

zoning district for the proposed use, share applicable land use plans, determine if the rezoning will have conditions, and indicate a likely recommendation to the Planning and Zoning Commission. This should be scheduled in the weeks prior to the submission deadline.

(2) *Conditional rezoning petition*. If the property to be rezoned is within a conditional rezoning district, it must be initiated through a petition by the landowner(s) of all of the parcels to be rezoned. This petition must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property.

(a) The following information must be provided, if applicable, unless waived by the Town Manager:

1. A boundary survey and vicinity map showing the property's total acreage, its zoning classification(s), the general location in relation to major streets, railroads, and/or waterways, the date, and north arrow;

2. All existing easements, reservations, and rights-of-way;

3. Areas in which structures will be located;

4. Proposed use of all land and structures, including the number of residential units and the total square footage of any nonresidential development;

5. All yards, buffers, screening, and landscaping required by these regulations or proposed by the petitioner;

6. All existing and proposed points of access to public streets;

7. Watershed locations and delineation of areas within the regulatory floodplain as shown on the official flood hazard boundary maps for Alamance County;

8. Proposed phasing, if any;

9. The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development; and

10. Generalized traffic, parking, and circulation plans.

(b) The Town of Haw River may request multiple copies of this information for review by other town staff and elected officials. The town may also request additional information from the rezoning petitioner, including but not limited to:

1. Proposed number and general location of all structures;

2. Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;

3. Existing and general proposed topography, if available, at four-foot contour intervals or less;

4. The location of significant trees on the subject property;

5. Scale of buildings relative to abutting property;

6. Height of structures;

7. Exterior features of proposed development;

8. Any other information needed to demonstrate compliance with these regulations; and

9. Proposed number and location of signs.

(3) *Filing*.

(a) Filing for a rezoning or conditional rezoning requires:

1. A completed and signed application form;

2. Application fee; and

3. A zoning sketch plan or site plan if required.

(b) These items must be submitted on the submittal deadline date listed by the second Monday of each month. Failure to submit the required items on time may delay the processing of the application and scheduling of the public hearing the following week. It is recommended that applications be hand-delivered to the Planning and Community Development Department.

(4) *Notice*.

(a) Notification of a public hearing is required under state law. This consists of:

1. Notice by posting of a sign on the subject property approximately ten days prior to the Planning and Zoning Commission meeting.

2. Notice by newspaper advertisement in the legal section of a local paper. The ad is published twice - the first mailing between ten and 25 days and the second in a separate week from the first.

3. Notice by first class mail, to all adjoining and contiguous property owners mailed between ten and 25 days before the meeting.

(b) Public inquiries often result from the notification process. The applicant may contact staff to inquire about citizen comments prior to the public hearing.

(D) *Before the meeting*.

(1) *Discussion with interested parties*. It is recommended that the applicant/petitioner discuss his or her plans with adjoining property owners, neighborhood associations and other interested parties prior to the public hearing.

(2) *Staff report*. Staff prepares a report for each case, which includes the staff recommendation. The report is available three or four days prior to the public hearing, and anyone may request a copy.

(3) *Withdrawals*.

(a) A request to withdraw must be made in writing, signed by the applicant and submitted to planning staff.

(b) If public notification has already been made, a withdrawal may only be granted by the Planning and Zoning Commission. Attendance at the meeting is required, and the applicant is not eligible for a refund.

(4) *Continuances*. A continuance of a request may only be granted by the Planning and Zoning Commission. Attendance at the meeting is required. If granted, the Planning and Zoning Commission will set a new date for the public hearing. The Planning and Zoning Commission may only continue a request for a total of 60 days.

(E) *The meeting*. The applicant, or his or her representative must be present for the public hearing. Planning and Zoning Commission meetings are held in the Council Chambers of the Municipal Building, 403 East Main Street, Haw River. The Planning and Zoning Commission typically consists of eight seated members.

(1) *Meeting format*.

(a) At the beginning of each meeting, the Chair of the Planning and Zoning Commission reviews the meeting and voting procedures. Following an approval of minutes, the Chair calls a case, the staff report is presented, and the public hearing is opened.

(b) During the public hearing, the applicant, his or her representative, or anyone in favor of the request will have an opportunity to address the Planning and Zoning Commission. Next, anyone in opposition to the request will be given an opportunity to speak.

(c) Maps, photographs, diagrams and other presentation materials may be incorporated into public hearing presentations. Any materials presented to the Planning and Zoning Commission remain with the case file, so duplicates should be provided. This includes written petitions, which should list the address for each signatory.

(2) *Outcomes*. A majority favorable vote constitutes a favorable recommendation of the request, which is automatically forwarded for a public hearing before the Town Council. Requests receiving an unfavorable vote to deny, or a tie constitute a denial unless appealed.

(a) *Approval of conditional zoning district*. Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. In considering any petition for a conditional zoning district, the Council shall act in accordance with requirements of § 155.282, Changes and Amendments. Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

(b) *Conditions to approval of petition*. In approving a petition for the reclassification of property to a conditional zoning district, the Planning and Zoning Board may recommend, and the Town Council request, that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, storm water drainage, the provision of open space, and other matters that the Town Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town, county or state, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Town Council.

(c) *Effect of approval*.

1. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.

2. If a petition is approved, the petitioner shall comply with all requirements established in the zoning and subdivision regulations for the Town of Haw River. Only those uses and

structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to alterations to approval (see below). The changes to the site plan layout will not increase the number of structures.

3. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning maps by the appropriate district designation. For example a rezoning to a condition business district shall be identified on the zoning map by the letters "CB" and the case number.

4. Any conditional zoning district approved on or after October 1, 1991, shall have vested rights pursuant to G.S. § 160A-385.1 for the period of time established pursuant to § 155.100, Zoning Vested Rights, except as such vested rights may be altered as allowed by G.S. § 160A-385.1(e). Vested rights shall remain effective beyond the end of the period of time established pursuant to § 155.100, Zoning Vested Rights for any buildings or uses for which a valid building permit had been issued during the vested rights period, so long as such building permit is valid.

(d) *Alterations to approval.*

1. Except as provided in division (d)2. below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the zoning maps and shall be processed in accordance with the procedures in this chapter.

2. The Town Manager or designee shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. An administrative amendment shall not be subject to a protest petition pursuant to § 155.283, Protest and Appeals. Any decision must be in writing stating the grounds for approval or denial.

3. Any changes that increase the intensity of the development are limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10% of the development or no more than five dwelling units, whichever is less.

4. The Town Manager or designee, however, shall always have the discretion to decline to exercise the delegated authority either because the designee is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and Town Council consideration is deemed appropriate under the circumstances. If the Town Manager or designee declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Council decision.

5. Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the town detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan as deemed necessary by the Town Manager.

6. Review of approval of a conditional zoning district. It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three years after the date of approval of the petition, the Planning and Zoning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning and Zoning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning and Zoning Board shall forward to the Town Council a report, which may recommend that the property be classified to another district.

(3) *Appeals*. If the Town Manager or designee denies approval of the requested amendment, then the applicant can appeal that decision to the Town Council for its review and decision, pursuant to the standard above. If a conditional rezoning is appealed, this requires notification to adjacent property owners within 15 days of the filed appeal. If the Town Council denies approval of the requested change, then the applicant must file a rezoning petition for an amendment to the site plan to receive further consideration. An adjacent property owner shall be entitled to appeal the approval of an administrative amendment change to the Town Council within 15 days of knowledge of the approval. Even if an adjacent property does not have knowledge of the approval, the approval shall be final after 30 days.

This document is intended for public information purposes only. It summarizes and omits some provisions. It is not to be construed or used as an official interpretation of the Town of Haw River Zoning Chapter in any legal proceeding.
(Ord. passed 11-2-15)

TOWN OF HAW RIVER
Conditional Rezoning Application, Part I

Date Submitted: _____ Fee/Receipt #: $_____ Case #: _____

Provide the required information as indicated below. *Pursuant to the Town of Haw River Zoning Ordinance, this application will not be processed until application fees are paid; the form below is completed and signed; and all required maps, plans and documents have been submitted to the satisfaction of the Town. Additional sheets for tax references, signature blocks and conditions are available upon request.*

Pursuant to the Town of Haw River Zoning Ordinance, the undersigned hereby requests the Town of Haw River to rezone the property described below from the _____ zoning district to the __ _____zoning district. Said property is located _____
_____;
Being a total of: _____ acres.

Further referenced on the following Alamance County Tax Maps (additional tax reference sheets available upon request):
Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____

Check One:

_____ The property requested for rezoning is an entire parcel or parcels as shown on the Alamance County Tax Map.

_____ The property requested for rezoning is a portion of a parcel or parcels as shown on the Alamance County Tax Map; a written legal description of the property and a map are attached.

Check One:

_____ Public services (i.e. water and sewer) are not requested or required.

_____ Public services (i.e. water and sewer) are requested or required.

Conditional Rezoning Requirements

_____ Zoning Sketch Plan. A sketch plan illustrating proposed conditions and other pertinent information is required for all conditional rezoning requests. Sketch elements not illustrating proposed conditions are subject to subdivision and site plan review. Refer to the Zoning Ordinance for conditional rezoning requirements.

_____ Zoning Conditions. Use and/or development conditions must be provided. Complete Part Two of this application. Refer to uses as listed in Table of Permitted Uses in the Zoning Ordinance.

TOWN OF HAW RIVER
Conditional Rezoning Application, Part II

Use Conditions
Uses of the property shall be limited to the following uses as listed in the Table of Permitted Uses:
(1) _____
(2) _____
(3) _____
(4) _____

Development Conditions
Development of the property shall occur in accordance with the following standards and requirements in addition to those specified in the Zoning Ordinance:
(1) _____
(2) _____
(3) _____
(4) _____

A Conditional Rezoning Application must be signed by current property owner(s).

I hereby agree to conform to all applicable laws of the Town of Haw River and the State of North Carolina and certify that the information provided is complete and accurate to the best of my knowledge. I acknowledge that by filing this application, representatives from the Town of Haw River may enter the subject property for the purpose of investigation and analysis of this request. Additional signature pages are available upon request.

Respectfully Submitted,

_____	_____
Property Owner Signature	Representative Signature (if applicable)
_____	_____
Name	Name
_____	_____
Mailing Address	Mailing Address
_____	_____
City, State and Zip Code	City, State and Zip Code
_____	_____
Phone Number	Phone Number

TOWN OF HAW RIVER
Additional Tax References and Signatures

Case #: _____

Additional Tax Map References
Further referenced on the Alamance County Tax Maps as:

Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____
Tax Map # _____ Block # _____ Lot # _____

Additional Signatures

I hereby agree to conform to all applicable laws of the Town of Haw River and the State of North Carolina and certify that the information provided is complete and accurate to the best of my knowledge. I acknowledge that by filing this application, representatives from the Town of Haw River may enter the subject property for the purpose of investigation and analysis of this request.

_____	_____
Applicant Signature	Applicant Signature
_____	_____
Name	Name
_____	_____
Mailing Address	Mailing Address
_____	_____
City, State and Zip Code	City, State and Zip Code
_____	_____
Phone Number	Phone Number

TOWN OF HAW RIVER
Additional Conditions

Case #: _____

Additional Use Conditions
Uses of the property shall be limited to the following uses as listed in the Table of Permitted Uses:
(5) _____
(6) _____
(7) _____
(8) _____
(9) _____
(10) _____
(11) _____

Additional Development Conditions
Development of the property shall occur in accordance with the following standards and requirements in addition to those specified in the Zoning Ordinance:

(5) _____
(6) _____
(7) _____
(8) _____
(9) _____
(10) _____
(11) _____

(Ord. passed 11-2-15)

§ 155.998 VIOLATIONS.

(A) If any provisions of this chapter are being violated, the Zoning Enforcement Officer shall notify the persons responsible for such violations in writing; indicating the nature of the violation(s). If the actions necessary to correct the violation(s) are not carried out within 30 days of written notification being sent, the violation shall be turned over to the Town Attorney for prosecution. The civil penalty described herein below shall be assessed from the date of receipt of such written notification until such time as compliance is achieved. Each calendar day during which a violation continues shall constitute a separate offense for purposes of the assessment of civil penalties but shall not require more than one 30-day letter.

(B) Any property owner adversely affected by any violation of this chapter may institute injunction, mandamus or other appropriate legal action to prevent the occupancy or use of a building, structure or land in violation of this chapter.
(Ord. passed 11-2-15)

§ 155.999 PENALTY.

(A) Any person violating any provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with G.S. § 14-4. Each day that the violation continues shall constitute a separate offense.

(B) (1) Any person, firm or corporation convicted of violating any provision of §§ 155.225 through 155.250 shall be guilty of a misdemeanor and shall be fined not more than $50 or imprisoned for not more than 30 days, as provided by G.S. § 14-4. Each calendar day during which a violation continues shall constitute a separate offense.

(2) Pursuant to the provisions of G.S. § 160A-175(c), any person violating any provision of §§ 155.225 through 155.250 may be subject to a civil penalty. Each days' violation shall be treated as a separate offense.

(3) Pursuant to the provisions of G.S. § 160A-175(c), the town may file a civil action to recover said penalty if the offender does not pay said penalty.

(4) Pursuant to the provisions of G.S. § 160A-175(d), the town may also seek any appropriate equitable relief that it deems necessary to ensure the health, safety and welfare of the citizens or the natural resources of the town, including but not limited to civil damages resulting from violation of §§ 155.225 through 155.250.

(5) Pursuant to the provisions of G.S. § 160A-175(e), the town may seek an injunction when, in the judgment of town, the facility is creating an imminent hazard to the health, safety and welfare of the public.

(6) Except as otherwise provided herein, any person, firm, corporation or any other legal entity which owns, leases, occupies, manages, designs, or causes any activity or use of land or structure in violation of this code shall be subject to issuance of a notice of violation (NOV) and the imposition of a civil penalty in the amount of $250 for the first violation and a separate penalty for each additional violation. For each day said violation is not corrected, a penalty of $250 per day shall be imposed. The civil penalty shall be assessed from the date of receipt of the NOV until such time as compliance is achieved. The filing of an action to collect penalties incurred pursuant to this section shall not foreclose further proceedings for penalties coming due after the date of the filing of a prior proceeding.

(C) Remedies.

(1) If any subdivision, development and/or land use is found to be in violation of this chapter, the Town Council may, in addition to all other remedies available either in law or in equity, institute a civil penalty as provided for by the zoning ordinance. In addition, the town may bring an action or proceedings to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. § 143-215.6A. Each day that the violation continues shall constitute a separate offense.

(2) If the Zoning Enforcement Officer or other responsible official finds that any of the provisions of this chapter are being violated, he or she shall notify in writing the party responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He or she shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; withhold, deny or revoke a permit or certificate of occupancy; issue a stop work order pursuant to G.S. § 160A-421 or § 153A-261, as applicable, or the North Carolina State Building Code; condition the authorization of any permit or certificate upon the correction of the deficiency, or payment of civil penalties or both, within a specified time of the posting of a compliance security approved by the Zoning Enforcement Officer; or shall take any action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. If a ruling of the Zoning Enforcement Officer is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.
(Ord. passed 11-2-15)

Haw River - Land Usage

CHAPTER 156: FIRE PREVENTION CODE

Section

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156.04 Amendments to code
156.05 Compliance
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156.10 Appeals

156.99 Penalty

§ 156.01 PURPOSE.

The purpose of this chapter is to provide the town with rules and regulations to improve public safety by promoting the control of fire hazards; regulating the installation, use, and maintenance of equipment; regulating the use of structures, premises, and open areas; providing for the abatement of fire hazards; establishing the responsibilities and procedures for code enforcement; and setting forth the standards for compliance and achievement of these objectives.
(Ord. passed 12-5-05)

§ 156.02 DEFINITIONS.

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

FIRE DEPARTMENT. Haw River Fire Department.

FIRE INSPECTOR. Any person employed by the town to enforce this chapter having one of the following types of certificates issued by the North Carolina Code Officials Qualification Board attesting to his or her qualifications to hold such a position:

(1) A probationary certificate, valid for one year only;

(2) A standard certificate; or

(3) A limited certificate subject to specified limitations.

FIRE PREVENTION CODE. The most current edition of this chapter with all state amendments and references.

OPEN BURNING. The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. ***OPEN BURNING*** does not include road flares, smudge pots and similar devices associated with safety or occupational uses typically considered open flames or recreational fires.

PROHIBITED CONDITIONS. A violation of any order, decision, or determination by the Fire Inspector or any provision of this chapter.

TOWN. Town of Haw River.
(Ord. passed 12-5-05)

§ 156.03 NC FIRE PREVENTION CODE ADOPTED BY REFERENCE.

This chapter shall be known as the town's Fire Prevention Code. The most current edition of the state's Fire Prevention Code and all appendices therein, as adopted and published by the International Code Council and as adopted and amended by the North Carolina Building code Council, is hereby adopted by reference as fully as though set forth herein as the Fire Prevention Code for the town and its extra-territorial jurisdiction.
(Ord. passed 12-5-05; Am. Ord. passed 1-2-07; Am. Ord. passed 5-4-09; Am. Ord. passed 8-1-11)

§ 156.04 AMENDMENTS TO CODE.

Amendments to the code adopted by reference in this chapter, which are from time to time adopted and published by the agencies or organizations referred to herein, shall be effective in the town at the time such amendments are effective and enforceable in the state of North Carolina.
(Ord. passed 12-5-05; Am. Ord. passed 8-1-11)

§ 156.05 COMPLIANCE.

It shall be unlawful for any person or entity to violate this chapter, to permit or maintain such a violation, to refuse to obey any provision thereof, or to fail or refuse to comply with any such provision

or regulation except as variation may be allowed by the action of the Fire Inspector in writing. Proof of such unlawful act or failure shall be deemed prima facie evidence that such act is that of the owner or other person in control of the premises. Prosecution or lack thereof of either the owner, occupant, or the person in charge shall not be deemed to relieve any of the others.
(Ord. passed 12-5-05) Penalty, see § 156.99

§ 156.06 OFFICIAL COPY.

An official copy of the code adopted in this chapter, and official copies of all amendments thereto, shall be kept on file with the town's Fire Inspector. Such copy shall be the official copy of the code and amendments.
(Ord. passed 12-5-05)

§ 156.07 ADMINISTRATION.

(A) The Fire Inspector shall be responsible for the enforcement of this chapter. It shall be the duty of the Fire Inspector to investigate and to recommend to the Fire Chief such additional ordinances, or amendments to existing ordinances, as he or she may deem necessary for safeguarding life and property against fire.

(B) The Fire Inspector shall inspect or cause to be inspected all premises on a periodic basis and shall make such orders as may be necessary for the enforcement of the laws and ordinances governing the same and for safeguarding of life and property from fire.

(C) Whenever the Fire Inspector shall find in any building, or upon any premises or other places, combustible or explosive matter or dangerous accumulations of rubbish or unnecessary accumulations of waste paper, boxes, shavings, or any highly flammable materials especially liable to fire, and which is so situated as to endanger property; or shall find obstructions to or on fire escapes, stairs, passageways, doors, or windows, liable to interfere with the operations of the fire department or egress of occupants in case of fire, he or she shall order the same to be removed or remedied, and such order shall forthwith be complied with by the owner or occupant of such premises or buildings. Any owner or occupant failing to comply with such order within a reasonable period after the service of the said order shall be liable to penalties as hereinafter provided. The service of any such order may be made upon the occupant of the premises to whom it is directed, either by delivering a copy of same to such occupant personally or by delivering the same to and leaving it with any person in charge of the premises. Whenever it may be necessary to serve such an order upon the owner of premises, such order may be served either by delivering to and leaving with the said person a copy of the said order, or, if such owner is absent from the jurisdiction of the Fire Inspector making the order, by mailing such copy by certified mail to the owner's last known post office address.

(D) It shall be unlawful for any person to kindle or maintain, or, authorize to be kindled or maintained any open burning when atmospheric conditions or local circumstances make such fires hazardous, or, when in violation of any official state or local ban on any open burning. The Fire Chief, any of his officers, or the Fire Inspector is authorized to order the extinguishment of any such fire by the person who kindled or is maintaining the fire. In the event the fire is not extinguished, the fire department is authorized to extinguish the fire. The person who kindled or maintained the fire as well as the person who authorized said fire to be kindled or maintained shall be liable to penalties as hereinafter provided. Open flame cooking devices such as charcoal burners or LP gas-fueled cooking devices shall be exempt from this section as long as they are maintained in accordance with this chapter, unless the Fire Inspector deems such operation to be hazardous to life or property from fire.

(E) It shall be unlawful for any person to kindle or maintain, or, authorize to be kindled or maintained any fire for the burning of refuse that is in violation of any regulations of any federal, state, or local agency or organization.

(F) It shall be unlawful for any person to kindle or maintain, or, authorize to be kindled or maintained any open burning during the period of town collection of yard waste each year. The Fire Chief, any of his officers, or the Fire Inspector is authorized to order the extinguishment of any such fire by the person who kindled or is maintaining the fire. In the event the fire is not extinguished, the fire department is authorized to extinguish the fire. The person who kindled or maintained the fire as well as the person who authorized said fire to be kindled or maintained shall be liable to penalties as hereinafter provided.
(Ord. passed 12-5-05) Penalty, see § 156.99

§ 156.08 MODIFICATIONS.

The Fire Inspector shall have the power to modify any of the provisions of this chapter upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of this code; provided, that the spirit of the code shall be observed, public safety secured and substantial justice done. The particulars of such modification when granted or allowed and the decision of the Fire Inspector shall be entered upon the records of the Fire Department and a signed copy shall be furnished the applicant.
(Ord. passed 12-5-05)

§ 156.09 VIOLATIONS OF REGULATIONS NOT LEGALIZED BY OVERSIGHT OF INSPECTOR.

No oversight or dereliction of duty on the part of the Fire Inspector shall be deemed to legalize the violation of any provision of this chapter or any provision of any regulatory code herein adopted.
(Ord. passed 12-5-05)

§ 156.10 RIGHT TO APPEAL.

Unless otherwise provided by law, appeals from any order, decision, or determination by the Fire Inspector pertaining to this chapter shall be taken to the Commissioner of Insurance or other official specified in G.S. § 143-139, by filing a written notice with him or her and with the Fire Department within a period of ten days after the order, decision, or determination. Further appeals may be taken to the State Building Code Council or to the courts as provided by law. Appeals from any penalty imposed from any order, decision, or determination of the Fire Inspector pertaining to this chapter may be taken to the courts as provided by law.
(Ord. passed 12-5-05)

§ 156.99 PENALTY.

(A) Any person, firm, or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be subject to a fine of not more than $500 or imprisonment for not more than 30 days as provided by G.S. § 14-4. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within 30 days when not otherwise specified. Each 30 days that prohibited conditions are maintained shall constitute a separate offense.

(B) The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions and violators shall be further subject to the provisions of G.S. § 160A-175. Whenever any violation is denominated a misdemeanor under the provisions of this chapter, the town, either in addition to or in lieu of other remedies, may initiate any appropriate action or proceedings to prevent, restrain, correct, or abate the violation or to prevent the occupancy of the building or structure involved.
(Ord. passed 12-5-05)

CHAPTER 157: PHASE II STORMWATER CODE

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GENERAL PROVISIONS

§ 157.01 TITLE.

This chapter shall be officially know as "The Phase II Stormwater Code."
(Ord. passed 4-2-07)

§ 157.02 AUTHORITY.

The town is authorized to adopt this chapter pursuant to state law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; G.S. § 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2006-246; G.S.§§ 160A-174 and 160A-185.
(Ord. passed 4-2-07)

§ 157.03 FINDINGS.

(A) It is hereby determined that:

(1) Development and redevelopment alter the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;

(2) These changes in stormwater runoff contribute to increased quantities of water-borne pollutants an alterations in hydrology which are harmful to public health and safety as well as to the natural environment; and

(3) These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

(B) Further, the Federal Water Pollution Control Act of 1972 ("Clean Water Act") and federal Phase II Stormwater Rules promulgated under it, as well as rules of the North Carolina Environmental Management Commission promulgated in response to federal Phase II requirements, compel certain urbanized areas, including this jurisdiction, to adopt the minimum stormwater controls such as those included in this chapter.

(C) Therefore, the Town Council establishes this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.
(Ord. passed 4-2-07)

§ 157.04 PURPOSE.

(A) *General.* The purpose of this chapter is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment. It has been determined that proper

management of construction-related and post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, and general welfare, and protect water and aquatic resources.

(B) *Specific*. This chapter seeks to meet its general purpose through the following specific objectives and means:

(1) Establishing decision-making processes for development that protect the integrity of watersheds and preserve the health of water resources;

(2) Requiring that new development and redevelopment maintain the pre-development hydrologic response in their post-development state as nearly as practicable for the applicable design storm to reduce flooding, streambank erosion, nonpoint and point source pollution and increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats;

(3) Establishing minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality;

(4) Establishing design and review criteria for the construction, function, and use of structural stormwater BMPs that may be used to meet the minimum post-development stormwater management standards;

(5) Encouraging the use of better management and site design practices, such as the use of vegetated conveyances for stormwater and the preservation of greenspace, riparian buffers, and other conservation areas to the maximum extent practicable;

(6) Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety;

(7) Establishing administrative procedures for the submission, review, approval and disapproval of stormwater management plans, for the inspection of approved projects, and to assure appropriate long-term maintenance.
(Ord. passed 4-2-07)

§ 157.05 APPLICABILITY AND JURISDICTION.

(A) *General*. Beginning with and subsequent to its effective date, this chapter shall be applicable to all development and redevelopment, including, but not limited to, site plan applications, and subdivision applications within the corporate limits and extraterritorial jurisdiction of the town, unless exempt pursuant to division (B) of this section.

(B) *Exemptions*.

(1) Development that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from the provisions of this chapter.

(2) Redevelopment that cumulatively disturbs less than one acre and is not part of a larger common plan of development or sale is exempt from the provisions of this chapter.

(3) Development and redevelopment that disturb less than one acre are not exempt if such activities are part of a larger common plan of development or sale, even though multiple, separate or distinct activities take place at different times on different schedules.

(4) Activities that are exempt from permit requirements of Section 404 of the federal Clean Water Act, as specified in 40 CFR 232 (primarily, ongoing farming and forestry activities) are exempt from the provisions of this chapter.

(C) *No development or redevelopment without compliance and permit*. No development or redevelopment shall occur except in compliance with the provisions of this chapter or unless exempted. No development for which a permit is required pursuant to this chapter shall occur except in compliance with the provisions, conditions, and limitations of the permit.

(D) *Stormwater Map*.

(1) The provisions of this chapter shall apply within the areas designated on the map titled "Phase II Stormwater Map of Town of Haw River, North Carolina" ("the Stormwater Map"), which is adopted simultaneously herewith. The Stormwater Map and all explanatory matter contained thereon accompanies and is hereby made a part of this chapter.

(2) The Stormwater Map shall be kept on file by the Stormwater Administrator and shall be updated to take into account changes in the land area covered by this chapter and the geographic location of all structural BMPs permitted under this chapter. In the event of a dispute, the applicability of this chapter to a particular area of land or BMP shall be determined by reference to the state statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.
(Ord. passed 4-2-07)

§ 157.06 INTERPRETATION.

(A) *Meaning and intent*. All provisions, terms, phrases, and expressions contained in this chapter shall be construed according to the general and specific purposes set forth in § 157.04. If a different or more specific meaning is given for a term defined elsewhere in the town's code of ordinances, the meaning and application of the term in this chapter shall control for purposes of application of this chapter.

(B) *Text controls in event of conflict*. In the event of a conflict or inconsistency between the text of this chapter and any heading, caption, figure, illustration, table, or map, the text shall control.

(C) *Authority for interpretation*. The Stormwater Administrator has authority to determine the interpretation of this chapter. Any person may request an interpretation by submitting a written request to the Stormwater Administrator who shall respond in writing within 30 days. The Stormwater Administrator shall keep on file a record of all written interpretations of this chapter.

(D) *References to statutes, regulations, and documents*. Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the *Stormwater BMP Design Manual*), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

(E) *Computation of time*. The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the town, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the town. References to days are calendar days unless otherwise stated.

(F) *Delegation of authority*. Any act authorized by this chapter to be carried out by the Stormwater Administrator of the town may be carried out by his or her designee.

(G) *Usage*.

(1) *Mandatory and discretionary terms*. The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

(2) *Conjunctions*. Unless the context clearly indicates the contrary, conjunctions shall be interpreted as follows: The word "and" indicates that all connected items, conditions, provisions and events apply. The word "or" indicates that one or more of the connected items, conditions, provisions or events apply.

(3) *Tense, plurals, and gender*. Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the feminine gender, and vice versa.

(4) *Measurement and computation*. Lot area refers to the amount of horizontal land area contained inside the lot lines of a lot or site.
(Ord. passed 4-2-07)

§ 157.07 STORMWATER BMP DESIGN MANUAL.

(A) *Reference to the manual of Stormwater Best Management Practices (BMP).*

(1) The Stormwater Administrator shall use the policy, criteria, and information, including technical specifications and standards, in the latest approved edition or revision of the North Carolina Department of the Environment and Natural Resources - Division of Water Quality's approved *Stormwater Best Management Practices Manual* (referred to herein as the *Stormwater BMP Design Manual*). The *Stormwater BMP Design Manual* will serve as the basis for decisions about stormwater permits and about the design, implementation and performance of structural and non-structural stormwater BMPs.

(2) The *Stormwater BMP Design Manual* includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II laws.

(B) *Relationship of Stormwater BMP Design Manual to other laws and regulations.* If the specifications or guidelines of the *Stormwater BMP Design Manual* are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the *Stormwater BMP Design Manual*.

(C) *Changes to standards and specifications.* If the standards, specifications, guidelines, policies, criteria, or other information in the *Stormwater BMP Design Manual* are amended subsequent to the submittal of an application for approval pursuant to this chapter but prior to approval, the new information shall control and shall be utilized in reviewing the application and in implementing this chapter with regard to the application.
(Ord. passed 4-2-07)

§ 157.08 RELATIONSHIP TO OTHER LAWS, REGULATIONS AND PRIVATE AGREEMENTS.

(A) *Conflict of laws.* This chapter is not intended to modify or repeal any other ordinance, rule, regulation or other provision of law. The requirements of this chapter are in addition to the requirements of any other ordinance, rule, regulation or other provision of law. Where any provision of this chapter imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

(B) *Private agreements.* This chapter is not intended to revoke or repeal any easement, covenant, or other private agreement. However, where the regulations of this chapter are more restrictive or

impose higher standards or requirements than such easement, covenant, or other private agreement, the requirements of this chapter shall govern. Nothing in this chapter shall modify or repeal any private covenant or deed restriction, but such covenant or restriction shall not legitimize any failure to comply with this chapter. In no case shall the town be obligated to enforce the provisions of any easements, covenants, or agreements between private parties.
(Ord. passed 4-2-07)

§ 157.09 SEVERABILITY.

If the provisions of any section, subsection, paragraph, subdivision or clause of this chapter shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this chapter.
(Ord. passed 4-2-07)

§ 157.10 EFFECTIVE DATE AND TRANSITIONAL PROVISIONS.

(A) *Effective date*. This chapter shall take effect on April 2, 2007.

(B) *Final approvals, complete applications*. All development projects for which complete and full preliminary plans were submitted and approved by the town prior to the effective date of this chapter and which remain valid, unexpired, unrevoked and not otherwise terminated at the time of development shall be exempt from complying with all provisions of this chapter dealing with the control and/or management of post-construction runoff, but shall be required to comply with all other applicable provisions.

(C) *Violations continue*. Any violation of provisions existing on the effective date of this chapter shall continue to be a violation under this chapter and be subject to penalties and enforcement under this chapter unless the use, development, construction, or other activity complies with the provisions of this chapter.
(Ord. passed 4-2-07)

§ 157.11 DEFINITIONS.

When used in this chapter, the following words and terms shall have the meaning set forth in this section, unless other provisions of this chapter specifically indicate otherwise.

10-YEAR, 24-HOUR STORM. A stormwater event which occurs on average once every year or statistically has a 10% chance on average of occurring in a given year. The ***10-YEAR, 24 HOUR STORM*** produces 5.9 inches of rain in the Haw River area.

APPLICATOR. Person who applies fertilizer to the land or the immediate supervisor of such person.

BUILT-UPON AREA (BUA). That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. ***BUILT-UPON AREA*** does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

COMMISSION. The North Carolina Environmental Management Commission.

CONSULTANT. Person who is hired to provide professional advice to another person.

DEPARTMENT. The North Carolina Department of Environment and Natural Resources.

DEVELOPMENT. Any land-disturbing activity which adds to or changes the amount of impervious or partially pervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil, other than rebuilding activity that does not qualify as redevelopment.

DIRECTOR. The Director of the Division of Water Quality or the North Carolina Department of Environment and Natural Resources.

DITCH or ***CANAL.*** A man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ***DITCH*** or ***CANAL*** may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.

DIVISION. The Division of Water Quality in the Department.

EPHEMERAL (STORMWATER) STREAM. A feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ***EPHEMERAL STREAM*** may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ***EPHEMERAL STREAM*** typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

HIGH-DENSITY PROJECT. Any project that exceeds the low density threshold for dwelling units per acre or built-upon area.

INTERMITTENT STREAM. A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An ***INTERMITTENT STREAM*** often lacks the biological and hydrological characteristics commonly associated with the conveyance of water.

LARGER COMMON PLAN OF DEVELOPMENT OR SALE. Any area where multiple separate and distinct construction or land-disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

LOW-DENSITY PROJECT. A project that has no more than two dwelling units per acre or 24% built-upon area (BUA) for all residential and non-residential development. A project with an overall density at or below the relevant low-density threshold, but containing areas with a density greater than the overall project density, may be considered low density as long as the project meets or exceeds the post-construction model practices for low-density projects and locates the higher density in upland areas and away from surface waters and drainageways to the maximum extent practicable.

OWNER. The legal or beneficial owner of land, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. ***OWNER*** shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an ***OWNER***, unless the secured lender is included within the meaning of ***OWNER*** under another description in this definition, such as a management entity.

PERENNIAL STREAM. A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A ***PERENNIAL STREAM*** exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

RUNOFF. That portion of the precipitation resulting from the 10-year, 24-hour storm that is discharged from the drainage area.

REDEVELOPMENT. Any development on previously-developed land other than a rebuilding activity that results in no net increase in built-upon area and provides equal or greater stormwater control than the previous development.

STORMWATER BMP DESIGN MANUAL. The ***STORMWATER BMP DESIGN MANUAL*** approved for use in Phase II jurisdictions by the state's Department of the Environment and Natural Resources-Division of Water Quality for the proper implementation of the requirements of the federal Phase II stormwater program. All references herein to the ***STORMWATER BMP DESIGN MANUAL*** are to the latest published edition or revision.

STRUCTURAL BMP. A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. ***STRUCTURAL BMP*** includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. ***STRUCTURAL BMP*** is synonymous with "structural practice", "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this chapter.

SUBSTANTIAL PROGRESS. For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site or subdivision plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. ***SUBSTANTIAL PROGRESS*** for purposes of determining whether an approved plan is null and void is not necessarily the same as "substantial expenditures" used for determining vested rights pursuant to applicable law.

SURFACE WATERS. All water of the state as defined in G.S. § 143-212 except underground waters.
(Ord. passed 4-2-07)

ADMINISTRATION AND PROCEDURES

§ 157.12 STORMWATER ADMINISTRATOR.

(A) *Designation*. Unless otherwise designated by the Town Council, the Stormwater Administrator shall be the Town Manager or his designee. The Stormwater Administrator shall administer and enforce this chapter.

(B) *Powers and duties*. In addition to the powers and duties that may be conferred by other provisions of the town code and other laws, the Stormwater Administrator shall have the following powers and duties under this chapter:

(1) To review and approve, approve with conditions, or disapprove applications for approval of plans pursuant to this chapter.

(2) To make determinations and render interpretations of this chapter.

(3) To establish application requirements and schedules for submittal and review of applications and appeals, to review and make recommendations to the Town Council on applications for development or redevelopment approvals.

(4) To enforce the provisions of this chapter in accordance with its enforcement provisions.

(5) To maintain records, maps, forms and other official materials as relate to the adoption, amendment, enforcement, and administration of this chapter.

(6) To provide expertise and technical assistance to the Town Council, upon request.

(7) To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

(8) To take any other action necessary to administer the provisions of this chapter.
(Ord. passed 4-2-07)

§ 157.13 REVIEW PROCEDURES.

(A) *Permit required; must apply for permit*. A stormwater permit is required for all development and redevelopment unless exempt pursuant to this chapter. A permit may only be issued subsequent to a properly submitted and reviewed permit application, pursuant to this section.

(B) *Effect of permit*.

(1) A stormwater permit shall govern the design, installation, and construction of stormwater management and control practices on the site, including structural BMPs and elements of site design for stormwater management other than structural BMPs.

(2) The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development or redevelopment site consistent with the requirements of this chapter, whether the approach consists of structural BMPs or other techniques such as low-impact or low-density design. The permit does not continue in existence indefinitely after the completion of the project; rather, compliance after project construction is assured by the maintenance provisions of this chapter.

(C) *Authority to file applications.* All applications required pursuant to this chapter shall be submitted to the Stormwater Administrator by the land owner or the land owner's duly authorized agent.

(D) *Establishment of application requirements, schedule, and fees.*

(1) *Application contents and form.* The Stormwater Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. At a minimum, the stormwater permit application shall describe in detail how post-development stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed project will meet the requirements of this chapter.

(2) *Submission schedule.* The Stormwater Administrator shall establish a submission schedule for applications, which shall be reviewed and approved by the Town Council. The schedule shall establish deadlines by which complete applications must be submitted for the purpose of ensuring that there is adequate time to review applications; and that the various stages in the review process are accommodated.

(3) *Permit review fees.* The Town Council shall establish permit review fees as well as policies regarding refund of any fees upon withdrawal of an application, and may amend and update the fees and policies from time to time.

(4) *Administrative manual.* For applications required under this chapter, the Stormwater Administrator shall compile the application requirements, submission schedule, fee schedule, a copy of this chapter, and information on how and where to obtain the *Stormwater BMP Design Manual* in an administrative manual, which shall be made available to the public.

(E) *Submittal of completed application.*

(1) Applications shall be submitted to the Stormwater Administrator pursuant to the application submittal schedule in the form established by the Stormwater Administrator, along with the appropriate fee established pursuant to this section.

(2) An application shall be considered as timely submitted only when it contains all elements of a complete application pursuant to this chapter, along with the appropriate fee. If the Stormwater Administrator finds that an application is incomplete, the applicant shall be notified of the deficient elements and shall be provided with an opportunity to submit a completed application. However, the submittal of an incomplete application shall not suffice to meet a deadline contained in the submission schedule established above.

(F) *Review.* Within 30 working days after a completed application is submitted, the Stormwater Administrator shall review the application and determine whether the application complies with the standards of this chapter.

(1) *Approval*. If the Stormwater Administrator finds that the application complies with the standards of this chapter, the Stormwater Administrator shall approve the application. The Stormwater Administrator may impose conditions of approval as needed to ensure compliance with this chapter. The conditions shall be included as part of the approval.

(2) *Fails to comply*. If the Stormwater Administrator finds that the application fails to comply with the standards of this chapter, the Stormwater Administrator shall notify the applicant and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application.

(3) *Revision and subsequent review*.

(a) A complete revised application shall be reviewed by the Stormwater Administrator within 15 working days after its re-submittal and shall be approved, approved with conditions or disapproved.

(b) If a revised application is not re-submitted within 30 calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required along with the appropriate fee for a new submittal.

(c) One re-submittal of a revised application may be submitted without payment of an additional permit review fee. Any re-submittal after the first re-submittal shall be accompanied by a permit review fee additional fee, as established pursuant to this chapter.
(Ord. passed 4-2-07)

§ 157.14 APPLICATIONS FOR APPROVAL.

(A) *Concept plan and consultation meeting*.

(1) Before a stormwater management permit application is deemed complete, the Stormwater Administrator or developer may request a consultation on a concept plan for the post-construction stormwater management system to be utilized in the proposed development project. This consultation meeting should take place at the time of the sketch or preliminary plan of subdivision or other early step in the development process.

(2) The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. Watershed overlay districts and other relevant resource protection plans should be consulted in the discussion of the concept plan.

(3) To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

(a) *Existing conditions; proposed site plans.*

1. Existing conditions and proposed site layout sketch plans, which illustrate at a minimum: existing and proposed topography; perennial and intermittent streams; mapping of predominant soils from soil surveys (if available); boundaries of existing predominant vegetation, proposed limits of clearing and grading; and location of existing and proposed roads, buildings, parking areas and other impervious surfaces.

2. Existing and proposed topography shall be shown at two-foot contour intervals on the tract to be developed and a minimum of 100 feet beyond the property lines. All contour information shall be based on mean sea level and accurate to within one-half of one foot. The benchmark, with its description and the datum, shall be clearly shown on the plan.

(b) *Natural resources inventory.* A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description should include a discussion of soil conditions, forest cover, geologic features, topography, wetlands, and native vegetative areas on the site, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (such as drinking water well setbacks, septic setbacks, and the like). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.

(c) *Stormwater management system concept plan.* A written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

(B) *Stormwater management permit application.*

(1) The stormwater management permit application shall detail how post-development stormwater runoff will be controlled and managed and how the proposed project will meet the requirements of this chapter, including §§ 157.17 through 157.24. All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence.

(2) The plans shall contain a signed and sealed statement certifying that the design of all stormwater management facilities and practices will control and treat the runoff generated from one inch of rainfall over the total project area, that the designs and plans are sufficient to comply with applicable standards and policies found in the *Stormwater BMP Design Manual*, and that the designs and plans ensure compliance with this chapter.

(3) The submittal shall include all of the information required in the submittal checklist established by the Stormwater Administrator. Incomplete submittals shall be treated pursuant to § 157.13(E).

(C) *As-built plans and final approval.* Upon completion of a project, and before a certificate of occupancy shall be granted, the applicant shall certify, under seal, that the completed project is in accordance with the approved stormwater management plans and designs and with the requirements of this chapter. The applicant shall submit all of the information required in the as-built submittal checklist established by the Stormwater Administrator. As-built submittals shall be certified by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

(D) *Other permits.* No certificate of compliance or occupancy shall be issued by the town without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the town may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval has occurred.
(Ord. passed 4-2-07)

§ 157.15 APPROVALS.

(A) *Effect of approval.* Approval authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities.

(B) *Time limit/expiration.*

(1) An approved plan shall become null and void if the applicant has failed to make substantial progress on the site within one year after the date of approval. The Stormwater Administrator may grant a single, one-year extension of this time limit, for good cause shown, upon receiving a written request from the applicant before the expiration of the approved plan.

(2) In granting an extension, the Stormwater Administrator may require compliance with standards adopted since the original application was submitted unless there has been substantial reliance on the original permit and the change in standards would infringe the applicant's vested rights.
(Ord. passed 4-2-07)

§ 157.16 APPEALS.

(A) *Right of appeal.* Any aggrieved person affected by any decision, order, requirement, or determination relating to the interpretation or application of this chapter made by the Stormwater Administrator may file an appeal to the Board of Adjustment within 30 days.

(B) *Filing of appeal and procedures.*

(1) Appeals shall be taken within the specified time period by filing a notice of appeal and specifying the grounds for appeal on forms provided by the town. The Stormwater Administrator shall forthwith transmit to the Board of Adjustment all documents constituting the record on which the decision appealed from was taken.

(2) The hearing conducted by the Town Council shall be conducted in the nature of a quasi-judicial proceeding with all findings of fact supported by competent, material evidence.

(C) *Review by Superior Court.* The decision of the Board of Adjustment shall be subject to Superior Court review by proceedings in the nature of certiorari. Petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the latter of the following:

(1) The decision of the Board of Adjustment is filed; or

(2) A written copy of the decision is delivered to every aggrieved party who has filed a written request for such copy with the Board of Adjustment at the time of its hearing of the case.
(Ord. passed 4-2-07)

STANDARDS

§ 157.17 GENERAL STANDARDS.

All development and redevelopment to which this chapter applies shall comply with the standards of this subchapter.
(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.18 DEVELOPMENT STANDARDS FOR LOW-DENSITY PROJECTS.

Low-density projects (no more than two dwelling units per acre or 24% built-upon area for all residential and non-residential development) shall comply with each of the following standards:

(A) Stormwater runoff from the development shall be transported from the development by vegetated conveyances to the maximum extent practicable.

(B) (1) No built-upon area shall be allowed in the floodway (as identified by the Federal Emergency Management Agency in its most recent Flood Insurance Study) or within 50 feet of a perennial stream where no flood hazard has been defined, as specified in the town's Flood Damage Prevention Code (§§ 152.40 and 152.43).

(2) All built-upon area shall be at a minimum of 30 feet landward of all intermittent surface waters. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233(3)(a) or similar site-specific determination made using division-approved methodology.

(C) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.
(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.19 DEVELOPMENT STANDARDS FOR HIGH-DENSITY PROJECTS.

(A) High-density projects (any project that exceeds the low density thresholds for dwelling units per acre or built-upon area) shall implement structural stormwater management systems that comply with each of the following standards:

(1) The measures shall be designed to control and treat the stormwater run-off generated by the one inch of rain;

(2) Runoff volume drawdown time shall be a minimum of 48 hours, but not more than 120 hours;

(3) All structural stormwater treatment systems used to meet the requirements of the program shall be designed to have a minimum of 85% average annual removal for total suspended solids (TSS);

(4) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c), as explained in the *Stormwater BMP Design Manual*;

(5) (a) No built-upon area shall be allowed in the floodway (as identified by the Federal Emergency Management Agency in its most recent Flood Insurance Study) or within 50 feet of a perennial stream where no flood hazard has been defined, as specified in the town's Flood Damage Prevention Code (§§ 152.40 and 152.43).

(b) All built-upon area shall be at a minimum of 30 feet landward of all intermittent surface waters. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 2B .0233(3)(a) or similar site-specific determination made using division-approved methodology.

(6) The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

(B) In the event new development or redevelopment has, in the opinion of the Stormwater Administrator or his designee, the potential to cause increased downstream flooding and erosion, a structural stormwater management system will be required that does not allow stormwater to leave the project site at a rate greater than the predevelopment discharge rate for the 10-year, 24-hour storm. (Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.20 STANDARDS FOR STORMWATER CONTROL MEASURES.

(A) *Evaluation according to contents of Stormwater BMP Design Manual.* All stormwater control measures and stormwater treatment practices (also referred to as Best Management Practices, or BMPs) required under this chapter shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice, in the *Stormwater BMP Design Manual*. The Stormwater Administrator shall determine whether proposed BMPs will be adequate to meet the requirements of this chapter.

(B) *Determination of adequacy; presumptions and alternatives.* Stormwater treatment practices that are designed, constructed, and maintained in accordance with the criteria and specifications in the *Stormwater BMP Design Manual* will be presumed to meet the minimum water quality and quantity performance standards of this chapter. Whenever an applicant proposes to utilize a practice or practices not designed and constructed in accordance with the criteria and specifications in the *Stormwater BMP Design Manual*, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the

minimum water quality and quantity performance standards of this chapter. The Stormwater Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the Stormwater Administrator to determine whether such an affirmative showing is made.

(C) *Separation from seasonal high water table.* For BMPs that require a separation from the seasonal high-water table, the separation shall be provided by at least 12 inches of naturally occurring soil above the seasonal high-water table.
(Ord. passed 4-2-07)

§ 157.21 DEDICATION OF BMPS, FACILITIES, AND IMPROVEMENTS.

Unless otherwise approved, ownership of any existing or future stormwater management facilities shall remain with the owner of the property or a legally established property owner's association. Such facilities shall meet all the requirements of this chapter and include adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.
(Ord. passed 4-2-07)

§ 157.22 VARIANCES.

(A) Any person may petition the town for a variance granting permission to use the person's land in a manner otherwise prohibited by this chapter. To qualify for a variance, the petitioner must show all of the following:

(1) Unnecessary hardships would result from strict application of this chapter.

(2) The hardships result from conditions that are peculiar to the property, such as the location, size, or topography of the property.

(3) The hardships did not result from actions taken by the petitioner.

(4) The requested variance is consistent with the spirit, purpose, and intent of this chapter; will secure public safety and welfare; and will preserve substantial justice.

(B) The town may impose reasonable and appropriate conditions and safeguards upon any variance it grants.

(C) *Statutory exceptions.* Notwithstanding division (A) of this section, exceptions from the 30-foot landward location of built-upon area requirement as well as the deed restrictions and protective covenants requirements shall be granted in any of the following instances:

(1) When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

(2) When there is a lack of practical alternatives for a stormwater management facility; a stormwater management pond; or a utility, including, but not limited to, water, sewer, or gas construction and maintenance corridor, as long as it is located 15 feet landward of all perennial and intermittent surface waters and as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

(3) A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.
(Ord. passed 4-2-07)

§ 157.23 NUTRIENT SENSITIVE WATERS PROGRAM.

In addition to the standards for stormwater handling set out in the *Stormwater BMP Design Manual*, development and redevelopment shall design and implement the best stormwater practices that reduce nutrient loading, while still meeting the other requirements of this chapter.

(A) *Nutrient management and application program.* This section requires both inorganic fertilizer and organic nutrient application to be performed with the most current state-recognized technical guidance on proper nutrient management.

(B) *Applicability*. This program shall apply to the following persons within the corporate limits and extraterritorial jurisdiction of the town as follows:

(1) Persons who own or manage cropland areas for commercial purposes;

(2) Persons who own or manage commercial ornamental and floriculture areas and greenhouse production areas;

(3) Persons who own or manage golf courses, grassed public recreational lands, grassed road or utility rights-of-way, or other institutional lands totaling at least five acres in size;

(4) Persons hired to apply nutrients to the lands described in divisions (1) through (3) above or to residential, commercial, industrial or institutional properties, if the total area of the properties served exceeds 10 acres. This shall not apply to residential, commercial, or industrial landowners who apply nutrients to their own property.

(5) Nutrient management consultants hired by persons listed in this section to provide nutrient management advice for lands in the town's jurisdiction.

(C) *Requirements*. Persons to whom this section applies shall meet the following requirements:

(1) Any person subject to this rule who applies nutrients to, or who is hired to provide nutrient management advice for, land within the town's jurisdiction shall either:

(a) Attend and complete nutrient management training pursuant to division (C) of this section; or

(b) Complete and properly implement a nutrient management plan for all lands to which they apply or manage the application of nutrients, or for which they provide nutrient management advice, pursuant to division (D) of this section.

(2) Persons who hire an applicator to apply nutrients to the land that they own or manage shall either:

(a) Ensure that the applicator they hire has attended and completed nutrient management training pursuant to division (C) of this section; or

(b) Ensure that the applicator they hire has completed a nutrient management plan for the land that they own or manage pursuant to division (D) of this section; or

(c) Complete a nutrient management plan for the land that they own or manage pursuant to division (D) of this section and ensure that the applicator they hire follows this plan.

(D) *Nutrient management training*. Persons who choose to meet this requirement by completing nutrient management training shall meet the following requirements:

(1) Persons who are subject to this chapter as of its effective date, and persons who become subject to this chapter after its effective date, shall complete training provided by either the Cooperative Extension Service or the North Carolina Department of Environment and Natural Resources - Division of Water Quality within five years and obtain a certificate from the training entity to that effect. Training shall be sufficient to provide participants with an understanding of the value and importance of proper management of nitrogen and phosphorus, and the water quality impacts of poor nutrient management, and the ability to understand and properly carry out a nutrient management plan.

(2) Persons who become subject to this chapter after its effective date shall complete the training provided by either the Cooperative Extension Service or the North Carolina Department of Environment and Natural Resources - Division of Water Quality and obtain a certificate to that effect from the training entity within one year from the date that they become subject verifying completion of training that addresses the elements identified in division (C)(1) above.

(3) Persons who fail to obtain the nutrient management certificate within the required timeframes or who are found by the Stormwater Administrator to have knowingly failed to follow nutrient management requirements as referenced in division (C)(2)(a) through (c) of this section shall develop and properly implement nutrient management plans pursuant to division (E) of this section.

(4) Training certificates must be kept on-site, at the job site, or be produced within 24 hours of a request by the town.

(E) *Nutrient management plans*. Persons who choose to meet the nutrient application requirement by completing and implementing a nutrient management plan shall meet the following requirements:

(1) Persons who are subject to this chapter as of its effective date and persons who become subject to this chapter after its effective date shall develop and implement a nutrient management plan that meets the following standards within five years of the effective date or within 6 months from the date that they become subject, whichever is later.

(a) Nutrient management plans for cropland shall meet the standards and specifications adopted by the NC Soil and Water Conservation Commission, including those found in 15A NCAC 06E .0104 and 15A NCAC 06F .0104, which are incorporated herein by reference, including any subsequent amendments and additions to such rules that are in place at the time that plans are approved by a technical specialist as required under division (D)(2) of this section.

(b) Nutrient management plans for turfgrass shall follow the North Carolina Cooperative Extension Service guidelines in “Water Quality and Professional Lawn Care” (NCCES publication number WQMM-155), “Water Quality and Home Lawn Care” (NCCES publication number WQMM-151), or other equivalent or more stringent guidance distributed by land-grant universities for turfgrass management.

(c) Nutrient management plans for nursery crops and greenhouse production shall follow the Southern Nurserymen's Association guidelines promulgated in “Best Management Practices Guide For Producing Container-Grown Plants” or guidelines distributed by land-grant universities. The materials related to nutrient management plans for turfgrass, nursery crops and greenhouse production are hereby incorporated by reference including any subsequent amendments and editions and are available for inspection at the Department of Environment and Natural Resources Library, 512 North Salisbury Street, Raleigh, North Carolina.

(2) The person who writes the nutrient management plan shall have the plan approved in writing by a technical specialist. Appropriate technical specialists shall be as follows:

(a) Nutrient management plans for cropland using either inorganic fertilizer or organic nutrients shall be approved by a technical specialist designated pursuant to the process and criteria specified in rules adopted by the Soil and Water Conservation Commission for nutrient management planning, including 15A NCAC 06F .0105, excepting sub-item (a)(2) of that rule.

(b) Nutrient management plans for turfgrass and nursery crops and greenhouse production shall be approved by a technical specialist designated by the Soil and Water Conservation Commission pursuant to the process and criteria specified in 15A NCAC 06F .0105, excepting sub-item (a)(2) of that rule. If the Soil and Water Conservation Commission does not designate such specialists, then the Environmental Management Commission shall do so using the same process and criteria.

(3) Nutrient management plans and supporting documents must be kept on-site or be produced within 24 hours of a request by the town.
(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.24 ON-SITE WASTEWATER TREATMENT SYSTEMS.

For new development and redevelopment that includes the use of on-site wastewater treatment systems, a copy of the approved system permit issued by the Alamance County Environmental Health Department shall be provided to the Stormwater Administrator.
(Ord. passed 4-2-07)

MAINTENANCE

§ 157.25 GENERAL STANDARDS FOR MAINTENANCE.

(A) *Function of BMPs as intended.* The owner of each structural BMP installed pursuant to this chapter shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

(B) *Annual maintenance inspection and report.* The person responsible for maintenance of any structural BMP installed pursuant to this chapter shall submit to the Stormwater Administrator an annual inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, surveyor, or landscape

architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

(1) The name and address of the land owner;

(2) The recorded book and page number of the lot of each structural BMP;

(3) A statement that an inspection was made of all structural BMPs;

(4) The date the inspection was made;

(5) A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this chapter; and

(6) The original signature and seal of the engineer, surveyor, or landscape architect.

(C) All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built certification.
(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.26 OPERATION AND MAINTENANCE AGREEMENT.

(A) *In general.*

(1) Prior to the conveyance or transfer of any lot or building site to be served by a structural BMP pursuant to this chapter, and prior to issuance of any permit for development or redevelopment requiring a structural BMP pursuant to this chapter, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement.

(2) The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the structural BMP, and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant to the town a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on the town to assume responsibility for the structural BMP.

(3) The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval, and it shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Stormwater Administrator within 14 days following its recordation.

(B) *Special requirement for homeowners' and other associations*. For all structural BMPs required pursuant to this chapter and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

(1) Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

(2) Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural BMPs. If structural BMPs are not performing adequately or as intended or are not properly maintained, the town, in its sole discretion, may remedy the situation, and in such instances the town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural BMPs, provided that the town shall first consent to the expenditure.

(3) Both developer contribution and annual sinking funds shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to 15% of the initial construction cost of the structural BMPs. Two-thirds of the total amount of sinking fund budget shall be deposited into the escrow account within the first five years and the full amount shall be deposited within ten years following initial construction of the structural BMPs. Funds shall be deposited each year into the escrow account. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

(4) The percent of developer contribution and lengths of time to fund the escrow account may be varied by the town depending on the design and materials of the stormwater control and management facility.

(5) Granting to the town a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs.

(6) Allowing the town to recover from the association and its members any and all costs the town expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the town all of its expended costs, after 45 days written notice, shall constitute a breach

of the agreement. In case of a deficiency, the town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both. Interest, collection costs, and attorney fees shall be added to the recovery.

(7) A statement that this agreement shall not obligate the town to maintain or repair any structural BMPs, and the town shall not be liable to any person for the condition or operation of structural BMPs.

(8) A statement that this agreement shall not in any way diminish, limit, or restrict the right of the town to enforce any of its ordinances as authorized by law.

(9) A provision indemnifying and holding harmless the town for any costs and injuries arising from or related to the structural BMP, unless the town has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.
(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.27 INSPECTION PROGRAM.

(A) Inspections and inspection programs by the town may be conducted or established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; and evaluating the condition of BMPs.

(B) If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. § 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.
(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.28 PERFORMANCE SECURITY FOR INSTALLATION AND MAINTENANCE.

(A) *May be required.* The town may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that the structural BMPs are:

(1) Installed by the permit holder as required by the approved stormwater management plan; and/or

(2) Maintained by the owner as required by the operation and maintenance agreement.

(B) *Amount*.

(1) *Installation*. The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25%.

(2) *Maintenance*. The amount of a maintenance performance security shall be the equal to 40% of the total estimated construction cost of the BMP approved under the permit.

(C) *Uses of performance security*.

(1) *Forfeiture provisions*. The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant or owner in accordance with this chapter, approvals issued pursuant to this chapter, or an operation and maintenance agreement established pursuant to this chapter.

(2) *Default*. Upon default of the owner to construct, maintain, repair and, if necessary, reconstruct any structural BMP in accordance with the applicable permit or operation and maintenance agreement, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the owner to comply with the permit or maintenance agreement. In the event of a default triggering the use of installation performance security, the town shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

(3) *Costs in excess of performance security*. If the town takes action upon such failure by the applicant or owner, the town may collect from the applicant or owner the difference between the amount of the reasonable cost of such action and the amount of the security held, in addition to any other penalties or damages due.

(4) *Refund*. Within 60 days of the final approval, the installation performance security shall be refunded to the applicant or terminated, with the exception of any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.
(Ord. passed 4-2-07)

§ 157.29 NOTICE TO OWNERS.

(A) *Deed recordation and indications on plat*. The applicable operations and maintenance agreement pertaining to every structural BMP shall be referenced on the final plat and shall be recorded with the county Register of Deeds upon final plat approval. If no subdivision plat is recorded for the site, then the operations and maintenance agreement shall be recorded with the county Register of Deeds so as to appear in the chain of title of all subsequent purchasers under generally accepted searching principles.

(B) *Signage*. Where appropriate in the determination of the Stormwater Administrator to assure compliance with this chapter, structural BMPs shall be posted with a conspicuous sign stating who is responsible for required maintenance and annual inspection. The sign shall be maintained so as to remain visible and legible.
(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.30 RECORDS OF INSTALLATION AND MAINTENANCE ACTIVITIES.

The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.
(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.31 NUISANCE.

The owner of each stormwater BMP, whether structural or non-structural BMP, shall maintain it so as not to create or result in a nuisance condition.
(Ord. passed 4-2-07) Penalty, see § 157.99

§ 157.32 MAINTENANCE EASEMENT.

Every structural BMP installed pursuant to this chapter shall be made accessible for adequate maintenance and repair by a maintenance easement. This access maintenance easement shall have a minimum width of 20 feet, a maximum slope of 15%, be connected to public right-of-way, be cleared, and be traversable by construction equipment. The easement shall be recorded and its terms shall specify who may make use of the easement and for what purposes.
(Ord. passed 4-2-07) Penalty, § 157.99

ILLICIT DISCHARGES

§ 157.45 TITLE.

This subchapter shall be officially known as "The Phase II Stormwater Illicit Discharge Detection and Elimination Regulations."
(Ord. passed 1-2-07)

§ 157.46 AUTHORITY.

The town is authorized to adopt this subchapter pursuant to state law, including but not limited to Article 14, Section 5 of the Constitution of North Carolina; G.S. § 143-214.7 and rules promulgated by the Environmental Management Commission thereunder; Session Law 2006-246; G.S. §§ 160A-174 and 160A-185.
(Ord. passed 1-2-07)

§ 157.47 PURPOSE.

The purpose of this subchapter is to provide for the health, safety, and general welfare of the citizens of the town through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This subchapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this subchapter are:

(A) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user.

(B) To prohibit illicit connections and discharges to the municipal separate storm sewer system.

(C) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this subchapter.
(Ord. passed 1-2-07)

§ 157.48 STORMWATER ADMINISTRATOR.

(A) *Designation*. A Stormwater Administrator shall be designated by the Town Manager to administer and enforce this subchapter.

(B) *Powers and duties*. The Stormwater Administrator shall have the following powers and duties under this subchapter:

(1) To make determinations and render interpretations of this subchapter.

(2) To enforce the provisions of this subchapter in accordance with its enforcement provisions.

(3) To maintain records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this subchapter.

(4) To designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.

(5) To take any other action necessary to administer the provisions of this subchapter.
(Ord. passed 1-2-07)

§ 157.49 DEFINITIONS.

For the purposes of this subchapter, the following shall mean:

BEST MANAGEMENT PRACTICES (BMPS). Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

CLEAN WATER ACT. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

HAZARDOUS MATERIALS. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

ILLEGAL DISCHARGE. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in the illicit discharges section of this subchapter.

ILLICIT CONNECTIONS. An ***ILLICIT CONNECTION*** is defined as either of the following:

(1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

(2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

INDUSTRIAL ACTIVITY. Activities subject to NPDES Industrial Permits as defined in 40 CFR 122.26(b)(14).

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4). Pursuant to 40 CFR 122.26(b)(8) means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures or storm drains):

(1) Owned or operated by a town, county, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, that discharges to waters of the United States or waters of the state;

(2) Designed or used for collecting or conveying stormwater;

(3) Which is not a combined sewer; and

(4) Which is not part of a publicly-owned treatment works (POTW) as defined in 40 CFR 122.2.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by the Department of Environment and Natural Resources, Division of Water Quality that authorizes the discharge of pollutants to waters of the state, whether the permit is applicable on an individual, group, or general area-wide basis.

NON-STORMWATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of stormwater.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

POLLUTANT. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

STORMWATER. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

WASTEWATER. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.
(Ord. passed 1-2-07)

§ 157.50 ILLICIT DISCHARGES AND CONNECTIONS.

(A) (1) *Illicit discharges.* No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the state, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the state, any liquid, solid, gas, or other substance, other than stormwater; provided that non-stormwater discharges associated with the following activities are allowed and provided that they do not significantly impact water quality:

(a) Water line flushing;

(b) Landscape irrigation;

(c) Diverted stream flows;

(d) Rising ground waters;

(e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));

(f) Uncontaminated pumped ground water;

(g) Discharges from potable water sources;

(h) Foundation drains;

(i) Air conditioning condensation;

(j) Irrigation water;

(k) Springs;

(l) Water from crawl space pumps;

(m) Footing drains;

(n) Flows from emergency fire fighting;

(o) Lawn watering;

(p) Individual residential car washing;

(q) Flows from riparian habitats and wetlands;

(r) Dechlorinated swimming pool discharges;

(s) Street wash water; and

(t) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the state, and provided that any such discharges to the municipal separate storm sewer system shall be authorized by the town.

(2) Prohibited substances include but are not limited to: oil, anti-freeze, chemicals, animal waste, paints, garbage, and litter.

(B) (1) *Illicit connections*.

(a) Connections to a stormwater conveyance or stormwater conveyance system that allow the discharge of non-stormwater, other than the exclusions described in division (A) above, are unlawful. Prohibited connections include, but are not limited to: floor drains, wastewater from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and wastewater from septic systems.

(b) Where such connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this subchapter. However, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(c) Where it is determined that said connection:

1. May result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat; or

2. Was made in violation of any applicable regulation or ordinance, other than this section.

(2) The Stormwater Administrator shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the Stormwater Administrator shall take into consideration:

(a) The quantity and complexity of the work;

(b) The consequences of delay;

(c) The potential harm to the environment, to the public health, and to public and private property; and

(d) The cost of remedying the damage.

(C) *Spills*.

(1) Spills or leaks of polluting substances released, discharged to, or having the potential to be released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their pre-existing condition.

(2) Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Fire Department of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by state or other law.

(D) *Industrial or construction activity discharges*. Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the town prior to the allowing of discharges to the MS4.
(Ord. passed 1-2-07)

§ 157.51 RIGHT OF ENTRY.

(A) *Authority to inspect*. Whenever necessary to make an inspection to enforce any provision of this subchapter, or whenever the Stormwater Administrator has cause to believe that there exists, or potentially exists, in or upon any premises any condition which constitutes a violation of this subchapter, the Stormwater Administrator may enter such premises at all reasonable times to inspect the same and to inspect and copy records related to stormwater compliance. In the event the owner or occupant refuses entry after a request to enter and inspect has been made, the town is hereby empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.

(B) *Authority to sample, establish sampling devices, and test*. During any inspection as provided herein, the Stormwater Administrator may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.
(Ord. passed 1-2-07)

§ 157.52 ENFORCEMENT.

(A) (1) *Notice of violation*. Whenever the Stormwater Administrator finds that a person has violated a prohibition or failed to meet a requirement of this subchapter, the Stormwater Administrator may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

(a) The performance of monitoring, analyses, and reporting;

(b) The elimination of illicit connections or discharges;

(c) That violating discharges, practices, or operations shall cease and desist;

(d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;

(e) Payment of a fine to cover administrative and remediation costs; and

(f) The implementation of source control or treatment BMPs.

(2) If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by the town or a contractor designated by the Stormwater Administrator and the expense thereof shall be charged to the violator.

(B) *Violations deemed a public nuisance*. Illicit discharges and illicit connections which exist within the town limits and extra-territorial jurisdiction are hereby found, deemed, and declared to be dangerous or prejudiced to the public health or public safety and are found, deemed, and declared to be public nuisances and may be summarily abated or restored by the town at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken by the town. (Ord. passed 1-2-07)

ENFORCEMENT AND VIOLATIONS

§ 157.53 ENFORCEMENT AND VIOLATIONS.

(A) *Authority to enforce*. The provisions of §§ 157.01 through 157.32 shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of the town. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of the town.

(B) *Violation unlawful*. Any failure to comply with an applicable requirement, prohibition, standard, or limitation imposed by §§ 157.01 through 157.32, or the terms or conditions of any permit or other development or redevelopment approval or authorization granted pursuant to §§ 157.01 through 157.32, is unlawful and shall constitute a violation of §§ 157.01 through 157.32.

(C) *Each day a separate offense*. Each day that a violation continues shall constitute a separate and distinct violation or offense.

(D) *Responsible persons/entities*. Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair or maintain any structure, BMP, practice, or condition in violation of this chapter shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this chapter, or fails to take appropriate action, so that a violation of this chapter results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs. For the purposes of this chapter, responsible person(s) shall include but not be limited to:

(1) *Person maintaining condition resulting in or constituting violation.* An architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of §§ 157.01 through 157.32, or fails to take appropriate action, so that a violation of this chapter results or persists.

(2) *Responsibility for land or use of land.* The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for stormwater controls or practices pursuant to a private agreement or public document, or any person, who has control over, or responsibility for, the use, development or redevelopment of the property.
(Ord. passed 4-2-07)

§ 157.54 REMEDIES.

The remedies and penalties provided for violations of §§ 157.01 through 157.32, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

(A) *Remedies.*

(1) *Withholding of certificate of occupancy.* The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

(2) *Disapproval of subsequent permits and development approvals.* As long as a violation of this chapter continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the Planning Board of the town may disapprove, any request for permit or development approval or authorization provided for by §§ 157.01 through 157.32 or the Planning Board of the town for the land on which the violation occurs.

(3) *Injunction, abatements, and the like.* The Town Attorney, with the authorization of the Town Council, may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of §§ 157.01 through 157.32. Any person violating §§ 157.01 through 157.32 shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

(4) *Correction as public health nuisance, costs as lien, and the like.* If the violation is deemed dangerous or prejudicial to the public health or public safety and is within the geographic limits prescribed by G.S. § 160A-193, the Stormwater Administrator, with the authorization of the Town Council, may cause the violation to be corrected and the costs to be assessed as a lien against the property.

(5) *Stop work order*. The Stormwater Administrator may issue a stop work order to the person(s) violating §§ 157.01 through 157.32. The stop work order shall remain in effect until the person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein. The stop work order may be withdrawn or modified to enable the person to take the necessary remedial measures to cure such violation or violations.
(Ord. passed 4-2-07)

§ 157.55 PROCEDURES.

(A) *Initiation/complaint*. Whenever a violation of §§ 157.01 through 157.32 occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the Stormwater Administrator, who shall record the complaint. The complaint shall be investigated promptly by the Stormwater Administrator.

(B) *Inspection*. The Stormwater Administrator shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with §§ 157.01 through 157.32.

(C) *Notice of violation and order to correct*.

(1) When the Stormwater Administrator finds that any building, structure, or land is in violation of this chapter, the Stormwater Administrator shall notify, in writing, the property owner or other person violating §§ 157.01 through 157.32. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation. If civil penalties are to be assessed, the notice of violation shall also contain a statement of the civil penalties to be assessed, the time of their accrual, and the time within which they must be paid or be subject to collection as a debt.

(2) The Stormwater Administrator may deliver the notice of violation and correction order personally, by the Town Police Department, Town Planning Department, by certified or registered mail, return receipt requested, or by any means authorized for the service of documents by Rule 4 of the North Carolina Rules of Civil Procedure.

(3) If a violation is not corrected within a reasonable period of time, as provided in the notification, the Stormwater Administrator may take appropriate action under this chapter to correct and abate the violation and to ensure compliance with this chapter.

(D) *Extension of time*. A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit for reasons beyond the control of the person requesting the extension, the Stormwater Administrator may extend the time limit as is reasonably necessary to allow timely correction of the violation, up to, but not exceeding 30 days. The Stormwater Administrator may grant 15-day extensions in addition to the foregoing extension if the violation cannot be corrected within the permitted time due to circumstances beyond the control of the person violating §§ 157.01 through 157.32. The Stormwater Administrator may grant an extension only by written notice of extension. The notice of extension shall state the date prior to which correction must be made, after which the violator will be subject to the penalties described in the notice of violation and correction order.

(E) *Enforcement after time to correct*. After the time has expired to correct a violation, including any extension(s) if authorized by the Stormwater Administrator, the Stormwater Administrator shall determine if the violation is corrected. If the violation is not corrected, the Stormwater Administrator may act to impose one or more of the remedies and penalties authorized by §§ 157.01 through 157.32.

(F) *Emergency enforcement*. If delay in correcting a violation would seriously threaten the effective enforcement of this chapter or pose an immediate danger to the public health, safety, or welfare, then the Stormwater Administrator may order the immediate cessation of a violation. Any person so ordered shall cease any violation immediately. The Stormwater Administrator may seek immediate enforcement, without prior written notice, through any remedy or penalty authorized by §§ 157.01 through 157.32.
(Ord. passed 4-2-07)

§ 157.99 PENALTY.

(A) Any person who violates the provisions of this chapter for which no other penalty is provided shall be subject to the penalty set forth in § 10.99.

(B) (1) *Civil penalties*. Violation of §§ 157.01 through 157.32 may subject the violator to a civil penalty to be recovered in a civil action in the nature of a debt if the violator does not pay the penalty within 30 days after notice of the violation is issued by the Stormwater Administrator. Civil penalties may be assessed up to the full amount of penalty to which the town is subject for violations of its Phase II Stormwater permit.

(2) *Criminal penalties*. Violation of §§ 157.01 through 157.32 may be enforced as a misdemeanor subject to the maximum fine permissible under state law.
(Ord. passed 4-2-07)

CHAPTER 158: RIPARIAN BUFFER PROTECTION

Section

158.01 Authority
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§ 158.01 AUTHORITY.

This chapter is adopted pursuant to the authority vested in the Town of Haw River by the Session Laws and the General Statutes of North Carolina, particularly Session Law 2009-216 (House Bill 239), Session Law 2009-484 (Senate Bill 838), G.S. §§ 153A-121, 153A-140, Chapter 153A, Article 18, §§ 160A-174, 160A-193, Chapter 160A, Article 19, and any special legislation enacted by the General Assembly for the Town of Haw River.
(Ord. passed 11-1-10)

§ 158.02 PURPOSE AND INTENT.

(A) The purposes of the Town of Haw River in adopting this chapter are to protect and preserve existing riparian buffers throughout the Jordan Watershed as generally described in Rule 15A NCAC 02B .0262 (Jordan Water Supply Nutrient Strategy: Purpose and Scope), in order to maintain their nutrient removal and stream protection functions. Additionally this chapter will help protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan Watershed.

(B) Buffers adjacent to streams provide multiple environmental protection and resource management benefits. Forested buffers enhance and protect the natural ecology of stream systems, as well as water quality through bank stabilization, shading, and nutrient removal. They also help to minimize flood damage in flood-prone areas. Well-vegetated streamside riparian areas help to remove nitrogen and prevent sediment and sediment-bound pollutants such as phosphorous from reaching the streams.
(Ord. passed 11-1-10)

§ 158.03 TITLE.

This chapter shall be known as the "Town of Haw River Riparian Buffer Protection Ordinance".
(Ord. passed 11-1-10)

§ 158.04 JURISDICTION.

This chapter shall be applied to all land in the planning jurisdiction of the Town of Haw River.
(Ord. passed 11-1-10)

§ 158.05 APPLICABILITY.

This chapter applies to all landowners and other persons conducting activities in the area described in § 158.04, with the exception of activities conducted under the authority of the state, the United States, multiple jurisdictions, or local units of government, and forest harvesting and agricultural activities. The NC Division of Water Quality shall administer the requirements of Rule 15A NCAC 02B .0267 and .0268 (Jordan Water Supply Nutrient Strategy: Protection of Existing Riparian Buffers and Mitigation of Existing Riparian Buffers, respectively) for these activities.
(Ord. passed 11-1-10)

§ 158.06 RELATION TO OTHER ORDINANCES.

The requirements of this chapter shall supersede all locally implemented buffer requirements stated in Rules 15A NCAC 02B .0214 through .0216 as applied to WS-II, WS-III, and WS-IV waters in the Jordan Watershed. If the provisions of this chapter otherwise conflict with the provisions of any other validly enforceable ordinance(s) or laws, the most stringent provisions shall control. This chapter is not intended to interfere with, abrogate, or annul any other ordinance, rule, regulation, or other provision of law.
(Ord. passed 11-1-10)

§ 158.07 RIPARIAN AREA PROTECTION WITHIN THE JORDAN RESERVOIR WATERSHED.

(A) *Buffers protected*. The following minimum criteria shall be used for identifying regulated buffers:

(1) This chapter shall apply to activities conducted within, or outside of with hydrologic impacts in violation of the diffuse flow requirements set out in division (E) below, upon 50-foot wide riparian buffers directly adjacent to surface waters in the Jordan Watershed (intermittent streams, perennial streams, lakes, reservoirs and ponds), excluding wetlands.

(2) Wetlands adjacent to surface waters or within 50 feet of surface waters shall be considered as part of the riparian buffer but are regulated pursuant to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

(3) For the purpose of this chapter, a surface water is defined as being present if the feature is approximately shown on any of the following:

(a) The most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture.

(b) The most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).

(c) A map approved by the Geographic Information Coordinating Council and by the NC Environmental Management Commission. Prior to approving a map under this item, the Commission shall provide a 30-day public notice and opportunity for comment. Alternative maps approved by the Commission shall not be used for buffer delineation on projects that are existing and ongoing within the meaning of division (C) below.

(4) Where the specific origination point of a stream regulated under this item is in question, upon request of the NC Division of Water Quality or another party, the Town of Haw River shall make an on-site determination. A Town of Haw River representative who has successfully completed the Division's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall establish that point using the latest version of the Division publication, *Identification Methods for the Origins of Intermittent and Perennial Streams*, available at http://h2o.enr.state.nc.us/ncwetlands/documents/ NC Stream ID Manual.pdf or from the NC Division of Water Quality - c/o 401 Oversight Express Permitting Unit, or its successor. The Town of Haw River may accept the results of a site assessment made by another party who meets these criteria. Any disputes over on-site determinations made according to this item shall be referred to the Director

of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. The Director's determination is subject to review as provided in G.S. Chapter 150B, Articles 3 and 4.

(5) Riparian buffers protected by this chapter shall be measured pursuant to division (D) below.

(6) Parties subject to this chapter shall abide by all state rules and laws regarding waters of the state including but not limited to Rules 15A NCAC 2B .0230 and .0231, Rules 15A NCAC 2H .0500, 15A NCAC 2H .1300, and Sections 401 and 404 of the Federal Water Pollution Control Act.

(7) No new clearing, grading, or development shall take place nor shall any new building permits be issued in violation of this chapter.

(B) *Exemption based on on-site determination.* When a landowner or other affected party including the Division believes that the maps have inaccurately depicted surface waters, he or she shall consult the Town of Haw River. Upon request, a Town of Haw River representative who has successfully completed the Division of Water Quality's Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division, shall make an on-site determination. The Town of Haw River may also accept the results of site assessments made by other parties who have successfully completed such training. Any disputes over on-site determinations shall be referred to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor, in writing. A determination of the Director as to the accuracy or application of the maps is subject to review as provided in G.S. Chapter 150B, Articles 3 and 4. Surface waters that appear on the maps shall not be subject to these buffer requirements if a site evaluation reveals any of the following cases:

(1) Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. (A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.)

(2) Ephemeral streams.

(3) The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir, or pond.

(4) Ditches or other man-made water conveyances, other than modified natural streams.

(C) *Exemption when existing uses are present and ongoing.* This chapter shall not apply to uses that are existing and ongoing; however, this chapter shall apply at the time an existing, ongoing use is changed to another use. Change of use shall involve the initiation of any activity that does not meet either of the following criteria for existing, ongoing activity:

(1) It was present within the riparian buffer as of the effective date of this chapter and has continued to exist since that time. Existing uses shall include agriculture, buildings, industrial facilities, commercial areas, transportation facilities, maintained lawns, utility lines and on-site sanitary sewage systems, any of which involve either specific, periodic management of vegetation or displacement of vegetation by structures or regular activity. Only the portion of the riparian buffer occupied by the footprint of the existing use is exempt from this chapter. Change of ownership through purchase or inheritance is not a change of use. Activities necessary to maintain uses are allowed provided that the site remains similarly vegetated, no impervious surface is added within 50 feet of the surface water where it did not previously exist as of the effective date of this chapter, and existing diffuse flow is maintained. Grading and revegetating Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised, the ground is stabilized and existing diffuse flow is maintained.

(2) Projects or proposed development that are determined by the Town of Haw River to meet at least one of the following criteria:

(a) Project requires a 401 Certification/404 Permit and these were issued prior to the effective date this chapter, and prior to the effective date of this chapter;

(b) Projects that require a state permit, such as landfills, NPDES wastewater discharges, land application of residuals and road construction activities, have begun construction or are under contract to begin construction and had received all required state permits and certifications prior to the effective date of this chapter;

(c) Projects that are being reviewed through the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor and that have reached agreement with DENR on avoidance and minimization by the effective date of this chapter;

(d) Projects that are not required to be reviewed by the Clean Water Act Section 404/National Environmental Policy Act Merger 01 Process (published by the US Army Corps of Engineers and Federal Highway Administration, 2003) or its immediate successor if a Finding of No Significant Impact has been issued for the project and the project has the written approval of the Town of Haw River prior to the effective date of this chapter;

(e) Projects that have a vested right per G.S. § 160A-385.1.

(D) *Zones of the riparian buffer*. The protected riparian buffer shall have two zones as follows:

(1) Zone One shall consist of a vegetated area that is undisturbed except for uses provided for in the Table of Uses, § 158.08(B). The location of Zone One shall be as follows:

(a) For intermittent and perennial streams, Zone One shall begin at the top of the bank and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to a vertical line marking the top of the bank.

(b) For ponds, lakes and reservoirs located within a natural drainage way, Zone One shall begin at the normal water level and extend landward a distance of 30 feet, measured horizontally on a line perpendicular to a vertical line marking the normal water level.

(2) Zone Two shall consist of a stable, vegetated area that is undisturbed except for uses provided for in the Table of Uses, § 158.08(B). Grading and revegetating in Zone Two is allowed provided that the health of the vegetation in Zone One is not compromised. Zone Two shall begin at the outer edge of Zone One and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones One and Two shall be 50 feet on all sides of the surface water.

(E) *Diffuse flow requirements*. Diffuse flow of runoff shall be maintained in the riparian buffer by dispersing concentrated flow prior to its entry into the buffer and reestablishing vegetation as follows:

(1) Concentrated runoff from new ditches or man-made conveyances shall be converted to diffuse flow at non-erosive velocities before the runoff enters Zone Two of the riparian buffer;

(2) Periodic corrective action to restore diffuse flow shall be taken as necessary and shall be designed to impede the formation of erosion gullies; and

(3) As set out in division (D) above and § 158.08(B), the zones of the riparian buffer and Table of Uses respectively, no new stormwater conveyances are allowed through the buffers except for those specified in the Table of Uses, § 158.08(B), addressing stormwater management ponds, drainage ditches, roadside ditches, and stormwater conveyances.
(Ord. passed 11-1-10)

§ 158.08 POTENTIAL USES AND ASSOCIATED REQUIREMENTS.

(A) *Approval for new development*. The Town of Haw River shall issue an approval for new development only if the development application proposes to avoid impacts to riparian buffers defined in § 158.07(A), or where the application proposes to impact such buffers, it demonstrates that the applicant has done the following, as applicable:

(1) Determined the activity is exempt from requirements of this chapter;

(2) Received an authorization certificate from the Town of Haw River pursuant to § 158.09(A);

(3) For uses designated as "Allowable with Mitigation" in the Table of Uses in division (B) below, received approval of mitigation plan pursuant to § 158.09(C); and

(4) Received a variance pursuant to § 158.09(B).

(B) *Table of Uses*. The following chart sets out potential new uses within the buffer, or outside the buffer with impacts on the buffer, and categorizes them as exempt, allowable, or allowable with mitigation. All uses not categorized as exempt, allowable, or allowable with mitigation are considered prohibited and may not proceed within the riparian buffer or outside the buffer if the use would impact the buffer, unless a variance is granted pursuant to § 158.09(B). The requirements for each category are given in division (C) following the Table of Uses.

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Access trails: Pedestrian access trails leading to the surface water, docks, fishing piers, boat ramps and other water dependent activities:			
• Pedestrian access trails that are restricted to the minimum width practicable and do not exceed 4 feet in width of buffer disturbance, and provided that installation and use does not result in removal of trees as defined in this chapter and no impervious surface is added to the riparian buffer	X		
• Pedestrian access trails that exceed 4 feet in width of buffer disturbance, the installation or use results in removal of trees as defined in this chapter or impervious surface is added to the riparian buffer		X	
Airport facilities:			
• Airport facilities that impact equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• Airport facilities that impact greater than 150 linear feet or one-third of an acre of riparian buffer			X
• Activities necessary to comply with FAA requirements (e.g. radar uses or landing strips)[1]		X	

[1] Provided that:
- No heavy equipment is used in Zone One.
- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones one and two meet the requirements of § 158.07(D), (E)

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Archaeological activities	X		
Bridges		X	
Canoe access provided that installation and use does not result in removal of trees as defined in this chapter and no impervious surface is added to the buffer.	X		
Dam maintenance activities: • Dam maintenance activities that do not cause additional buffer disturbance beyond the footprint of the existing dam or those covered under the U.S. Army Corps of Engineers Nationwide Permit No. 3 • Dam maintenance activities that do cause additional buffer disturbance beyond the footprint of the existing dam or those not covered under the U.S. Army Corps of Engineers Nationwide Permit No.3	X	X	
Drainage ditches, roadside ditches and stormwater conveyances through riparian buffers: • New stormwater flows to existing drainage ditches, roadside ditches, and stormwater conveyances provided flows do not alter or result in the need to alter the conveyance and are managed to minimize the sediment, nutrients and other pollution that convey to waterbodies • Realignment of existing roadside drainage ditches retaining the design dimensions, provided that no additional travel lanes are added and the minimum required roadway typical section is used based on traffic and safety considerations • New or altered drainage ditches, roadside ditches and stormwater outfalls provided that a stormwater management facility is installed to control nutrients and attenuate flow before the conveyance discharges through the riparian buffer • New drainage ditches, roadside ditches and stormwater conveyances applicable to linear projects that do not provide a stormwater management facility due to topography constraints provided that other practicable BMPs are employed	X	X X	X
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).			

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Driveway crossings of streams and other surface waters subject to this chapter:			
• Driveway crossings on single family residential lots that disturb equal to or less than 25 linear feet or 2,500 square feet of riparian buffer	X		
• Driveway crossings on single family residential lots that disturb greater than 25 linear feet or 2,500 square feet of riparian buffer		X	
• In a subdivision that cumulatively disturb equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• In a subdivision that cumulatively disturb greater than 150 linear feet or one-third of an acre of riparian buffer			X
Driveway impacts other than crossing of a stream or other surface waters subject to this chapter			X
Fences:			
• Fences provided that disturbance is minimized and installation does not result in removal of trees as defined in this chapter	X		
• Fences provided that disturbance is minimized and installation results in removal of trees as defined in this chapter		X	
Fertilizer application: one-time application to establish vegetation	X		
Grading and revegetation in Zone Two provided that diffuse flow and the health of existing vegetation in Zone One is not compromised and disturbed areas are stabilized until they are revegetated	X		
Greenway/hiking trails designed, constructed and maintained to maximize nutrient removal and erosion protection, minimize adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practical		X	
Historic preservation	X		
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).			

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Maintenance access on modified natural streams: a grassed travel way on one side of the water body when less impacting alternatives are not practical. The width and specifications of the travel way shall be only that needed for equipment access and operation. The travel way shall be located to maximize stream shading		X	
Mining activities: • Mining activities that are covered by the Mining Act provided that new riparian buffers that meet the requirements of § 158.07(D) and (E) are established adjacent to the relocated channels • Mining activities that are not covered by the Mining Act OR where new riparian buffers that meet the requirements of § 158.07(D) and (E) are not established adjacent to the relocated channels • Wastewater or mining dewatering wells with approved NPDES permit	X	X X	X
Playground equipment: • Playground equipment on single family lots provided that installation and use does not result in removal of vegetation • Playground equipment installed on lands other than single-family lots or that requires removal of vegetation	X X	X	
Ponds created by impounding streams and not used as stormwater BMPs: • New ponds provided that a riparian buffer that meets the requirements of § 158,07(D) and (E) is established adjacent to the pond • New ponds where a riparian buffer that meets the requirements of § 158.07(D) and (E) is NOT established adjacent to the pond		X	X
Protection of existing structures, facilities and stream banks when this requires additional disturbance of the riparian buffer or the stream channel		X	
Railroad impacts other than crossings of streams and other surface waters subject to this chapter			X
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).			

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Railroad crossings of streams and other surface waters subject to this chapter:			
• Railroad crossings that impact equal to or less than 40 linear feet of riparian buffer	X		
• Railroad crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• Railroad crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer			X
Recreational and accessory structures in Zone Two:			
• Sheds and gazebos in Zone Two, provided they are not prohibited under local water supply ordinance:			
o Total footprint less than or equal to 150 square feet per lot		X	
o Total footprint greater than 150 square feet per lot			X
• Wooden slatted decks and associated steps, provided the use meets the requirements of § 158.07(D) and (E)			
o Deck at least eight feet in height and no vegetation removed from Zone One		X	
o Deck less than eight feet in height or vegetation removed from Zone One			X
Removal of previous fill or debris provided that diffuse flow is maintained and vegetation is restored	X		
Road impacts other than crossings of streams and other surface waters subject to this chapter			X
Road crossings of streams and other surface waters subject to this chapter:			
• Road crossings that impact equal to or less than 40 linear feet of riparian buffer	X		
• Road crossings that impact greater than 40 linear feet but equal to or less than 150 linear feet or one-third of an acre of riparian buffer		X	
• Road crossings that impact greater than 150 linear feet or one-third of an acre of riparian buffer			X
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).			

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Road relocation: Relocation of existing private access roads associated with public road projects where necessary for public safety: • Less than or equal to 2,500 square feet of buffer impact • Greater than 2,500 square feet of buffer impact		 X	 X
Stormwater BMPs: • Wet detention, bioretention, and constructed wetlands in Zone Two if diffuse flow or discharge is provided in Zone One • Wet detention, bioretention, and constructed wetlands in Zone One		 X	 X
Scientific studies and stream gauging	X		
Streambank or shoreline stabilization		X	
Temporary roads, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation: At the end of five years the restored buffer shall comply with the restoration criteria in § 158.09(C)(7): • Less than or equal to 2,500 square feet of buffer disturbance • Greater than 2,500 square feet of buffer disturbance • Associated with culvert installation or bridge construction or replacement	 X	 X X	
Temporary sediment and erosion control devices, provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions immediately after construction is complete and replanted immediately with comparable vegetation, except that tree planting may occur during the dormant season. A one-time application of fertilizer may be used to establish vegetation. At the end of five years the restored buffer shall comply with the restoration criteria in § 158.09(C)(7): • In Zone Two provided ground cover is established within timeframes required by the Sedimentation and Erosion Control Act, vegetation in Zone One is not compromised, and runoff is released as diffuse flow in accordance with § 158.07(E)	 X		
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).			

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Temporary sediment and erosion control devices (Cont'd)			
• In Zones one and two to control impacts associated with uses approved by the Town of Haw River or that have received a variance, provided that sediment and erosion control for upland areas is addressed, to the maximum extent practical, outside the buffer		X	
• In-stream temporary erosion and sediment control measures for work within a stream channel that is authorized under Sections 401 and 404 of the Federal Water Pollution Control Act	X		
• In-stream temporary erosion and sediment control measures for work within a stream channel		X	
Utility, electric, aerial, perpendicular crossing of streams and other surface waters subject to this chapter: [2,3,5]			
• Disturb equal to or less than 150 linear feet of riparian buffer	X		
• Disturb greater than 150 linear feet of riparian buffer		X	

[2] Provided that, in Zone One, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the Town of Haw River, as defined in § 158.09(A).

- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil, Stumps shall remain where trees are cut.
- Riprap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[3] Provided that poles or aerial infrastructure shall not be installed within ten feet of a water body unless the Town of Haw River completes a no practical alternative evaluation as defined in § 158.09(A).

[5] Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Utility, electric, aerial, other than perpendicular crossings:[5] • Impacts in Zone Two • Impacts in Zone One[2, 3]		X	X
Utility, electric, underground, perpendicular crossings:[3, 4, 5] • Disturb less than or equal to 40 linear feet of riparian buffer • Disturb greater than 40 linear feet of riparian buffer	X	X	

[2] Provided that, in Zone One, all of the following BMPs for overhead utility lines are used. If all of these BMPs are not used, then the overhead utility lines shall require a no practical alternative evaluation by the Town of Haw River, as defined in § 158.09(A).

- A minimum zone of 10 feet wide immediately adjacent to the water body shall be managed such that only vegetation that poses a hazard or has the potential to grow tall enough to interfere with the line is removed.
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil, Stumps shall remain where trees are cut.
- Riprap shall not be used unless it is necessary to stabilize a tower.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Active measures shall be taken after construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[3] Provided that poles or aerial infrastructure shall not be installed within ten feet of a water body unless the Town of Haw River completes a no practical alternative evaluation as defined in § 158.09(A).

[4] Provided that, in Zone One, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by the Town of Haw River, as defined in § 158.09(A).

- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[5] Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Utility, electric, underground, other than perpendicular crossings:[4]			
• Impacts in Zone Two	X		
• Impacts in Zone One[1]	X		
Utility, non-electric, perpendicular crossings of streams and other surface waters subject to this chapter:[3,5]			
• Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width	X		
• Disturb equal to or less than 40 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width		X	
• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor equal to or less than 10 feet in width		X	
• Disturb greater than 40 linear feet but equal to or less than 150 linear feet of riparian buffer with a maintenance corridor greater than 10 feet in width			X
• Disturb greater than 150 linear feet of riparian buffer			X

[1] Provided that:
- No heavy equipment is used in Zone One.
- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones one and two meet the requirements of § 158.07(D), (E)

[3] Provided that poles or aerial infrastructure shall not be installed within ten feet of a water body unless the Town of Haw River completes a no practical alternative evaluation as defined in § 158.09(A).

[4] Provided that, in Zone One, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by the Town of Haw River, as defined in § 158.09(A).
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[5] Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Utility, non-electric, other than perpendicular crossings:[4, 5]			
• Impacts in Zone Two		X	
• Impacts in Zone One[1]			X
Vegetation management:			
• Emergency fire control measures provided that topography is restored	X		
• Mowing or harvesting of plant products in Zone Two	X		
• Planting vegetation to enhance the riparian buffer	X		
• Pruning forest vegetation provided that the health and function of the forest vegetation is not compromised	X		
• Removal of individual trees that are in danger of causing damage to dwellings, other structures or human life, or are imminently endangering stability of the streambank	X		
• Removal of individual trees which are dead, diseased or damaged	X		
• Removal of poison ivy	X		
• Removal of invasive exotic vegetation as defined in: Smith, Cherri L. 1998, *Exotic Plant Guidelines*, Dept. of Environment and Natural Resources, Division of Parks and Recreation. Raleigh, NC Guideline #30	X		

[1] Provided that:
- No heavy equipment is used in Zone One.
- Vegetation in undisturbed portions of the buffer is not compromised.
- Felled trees are removed by chain.
- No permanent felling of trees occurs in protected buffers or streams.
- Stumps are removed only by grinding.
- At the completion of the project the disturbed area is stabilized with native vegetation.
- Zones one and two meet the requirements of § 158.07(D), (E)

[4] Provided that, in Zone One, all of the following BMPs for underground utility lines are used. If all of these BMPs are not used, then the underground utility line shall require a no practical alternative evaluation by the Town of Haw River, as defined in § 158.09(A).
- Woody vegetation shall be cleared by hand. No land grubbing or grading is allowed.
- Vegetative root systems shall be left intact to maintain the integrity of the soil. Stumps shall remain, except in the trench where trees are cut.
- Underground cables shall be installed by vibratory plow or trenching.
- The trench shall be backfilled with the excavated soil material immediately following cable installation.
- No fertilizer shall be used other than a one-time application to re-establish vegetation.
- Construction activities shall minimize the removal of woody vegetation, the extent of the disturbed area, and the time in which areas remain in a disturbed state.
- Measures shall be taken upon completion of construction and during routine maintenance to ensure diffuse flow of stormwater through the buffer.
- In wetlands, mats shall be utilized to minimize soil disturbance.

[5] Perpendicular crossings are those that intersect the surface water at an angle between 75 degrees and 105 degrees.

* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).

Table of Uses			
Use	***Exempt****	***Allowable****	***Allowable with Mitigation****
Vehicular access roads leading to water-dependent structures as defined in 15A NCAC 02B .0202, provided they do not cross the surface water and have minimum practicable width not exceeding ten feet		X	
Water dependent structures as defined in 15A NCAC 02B .0202 where installation and use result in disturbance to riparian buffers		X	
Water supply reservoirs: • New reservoirs where a riparian buffer that meets the requirements of § 158.07(D) and (E) is established adjacent to the reservoir • New reservoirs where a riparian buffer that meets the requirements of § 158.07(D) and (E) is not established adjacent to the reservoir		X	X
Water wells: • Single family residential water wells • All other water wells	X	X	
Wetland, stream and buffer restoration that results in impacts to the riparian buffers: • Wetland, stream and buffer restoration that requires NC Division of Water Quality approval for the use of a 401 Water Quality Certification • Wetland, stream and buffer restoration that does not require Division of Water Quality approval for the use of a 401 Water Quality Certification	X	X	
Wildlife passage structures		X	
* To qualify for the designation indicated in the column header, an activity must adhere to the limitations defined for it in a given listing as well as the requirements established in § 158.08(C).			

(C) *Requirements for categories of uses*. Uses designated in division (B) above as exempt, allowable, and allowable with mitigation within a riparian buffer shall have the following requirements:

(1) *Exempt*. Uses designated as exempt are permissible without authorization by the Town of Haw River provided that they adhere to the limitations of the activity as defined in division (B) above. In addition, exempt uses shall be designed, constructed and maintained to minimize soil disturbance and to provide the maximum water quality protection practicable, including construction, monitoring, and maintenance activities.

(2) *Allowable*. Uses designated as allowable may proceed provided that there are no practical alternatives to the requested use pursuant to § 158.09(A). This includes construction, monitoring, and maintenance activities. These uses require written authorization from the Town of Haw River.

(3) *Allowable with mitigation*. Uses designated as allowable with mitigation may proceed provided that there are no practical alternatives to the requested use pursuant to § 158.09(A) and an appropriate mitigation strategy has been approved pursuant to § 158.09(C). These uses require written authorization from the Town of Haw River.
(Ord. passed 11-1-10)

§ 158.09 PERMITS, PROCEDURES, REQUIREMENTS AND APPROVALS.

(A) *Determination of no practical alternatives/request for authorization certificate*.

(1) Persons who wish to undertake uses designated as allowable or allowable with mitigation shall submit a request for a "no practical alternatives" determination to the Town of Haw River. The applicant shall certify that the project meets all the following criteria for finding "no practical alternatives":

(a) The basic project purpose cannot be practically accomplished in a manner that would better minimize disturbance, preserve aquatic life and habitat, and protect water quality;

(b) The use cannot practically be reduced in size or density, reconfigured or redesigned to better minimize disturbance, preserve aquatic life and habitat, and protect water quality; and

(c) Best management practices shall be used if necessary to minimize disturbance, preserve aquatic life and habitat, and protect water quality.

(2) The applicant shall also submit at least the following information in support of their assertion of "no practical alternatives":

(a) The name, address and phone number of the applicant;

(b) The nature of the activity to be conducted by the applicant;

(c) The location of the activity, including the jurisdiction;

(d) A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;

(e) An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat and protect water quality; and

(f) Plans for any best management practices proposed to be used to control the impacts associated with the activity.

(3) Within 60 days of a submission that addresses division (A)(2) above, the Town of Haw River shall review the entire project and make a finding of fact as to whether the criteria in division (A)(1) above have been met. A finding of "no practical alternatives" shall result in issuance of an authorization certificate. Failure to act within 60 days shall be construed as a finding of "no practical alternatives" and an authorization certificate shall be issued to the applicant unless one of the following occurs:

(a) The applicant agrees, in writing, to a longer period;

(b) The Town of Haw River determines that the applicant has failed to furnish requested information necessary to the Town of Haw River decision;

(c) The final decision is to be made pursuant to a public hearing; or

(d) The applicant refuses access to its records or premises for the purpose of gathering information necessary to the Town of Haw River's decision.

(4) The Town of Haw River may attach conditions to the authorization certificate that support the purpose, spirit and intent of this chapter.

(5) Any appeals of determinations regarding authorization certificates shall be referred to the Director of the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. Chapter 150B, Articles 3 and 4.

(B) *Variances*.

(1) *Requirements for variances*. Persons who wish to undertake prohibited uses may pursue a variance. The Town of Haw River may grant minor variances. For major variances, the Town of Haw River shall prepare preliminary findings and submit them to the Division of Water Quality, c/o the 401 Oversight Express Permitting Unit, or its successor for approval by the Environmental Management Commission. The variance request procedure shall be as follows:

(a) For any variance request, the Town of Haw River shall make a finding of fact as to whether there are practical difficulties or unnecessary hardships that prevent compliance with the riparian buffer protection requirements. A finding of practical difficulties or unnecessary hardships shall require that the following conditions are met:

1. If the applicant complies with the provisions of this chapter, he or she can secure no reasonable return from, nor make reasonable use of, his or her property. Merely proving that the variance would permit a greater profit from the property shall not be considered adequate justification for a variance. Moreover, the Town of Haw River shall consider whether the variance is the minimum possible deviation from the terms of this chapter that shall make reasonable use of the properly possible;

2. The hardship results from application of this chapter to the property rather than from other factors such as deed restrictions or other hardship;

3. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, such that compliance with provisions of this chapter would not allow reasonable use of the property;

4. The applicant did not cause the hardship by knowingly or unknowingly violating this chapter;

5. The applicant did not purchase the property after the effective dale of this chapter, and then request a variance; and

6. The hardship is rare or unique to the applicant's property.

(b) The variance is in harmony with the general purpose and intent of the state's riparian buffer protection requirements and this chapter and preserves its spirit; and

(c) In granting the variance, the public safety and welfare have been assured, water quality has been protected, and substantial justice has been done.

(2) *Minor variances*. A minor variance request pertains to activities that will impact only Zone Two of the riparian buffer. Minor variance requests shall be reviewed and approved based on the criteria in divisions (A)(1) through (A)(3) above by the Town of Haw River pursuant to G.S. Chapter 153A, Article 18, or Chapter 160A, Article 19. The Town of Haw River may attach conditions to the variance approval that support the purpose, spirit and intent of the riparian buffer protection program. Request for appeals to decisions made by the Town of Haw River shall be made in writing to the Director of the Division of Water Quality c/o the 401 Oversight Express Permitting Unit, or its successor. The Director's decision is subject to review as provided in G.S. Chapter 150B, Articles 3 and 4.

(3) *Major variances*. A major variance request pertains to activities that will impact any portion of Zone One or any portion of both Zones One and Two of the riparian buffer. If the Town of Haw River has determined that a major variance request meets the requirements in division (B)(1) above then it shall prepare a preliminary finding and submit it to the NC Environmental Management Commission Division of Water Quality, c/o401 Oversight Express Permitting Unit, or its successor, for approval. Within 90 days after receipt by the Town of Haw River, the Commission shall review preliminary findings on major variance requests and take one of the following actions: approve, approve with conditions and stipulations, or deny the request. Appeals from a Commission decision on a major variance request are made on judicial review to Superior Court.

(C) *Mitigation*.

(1) This item shall apply to persons who wish to impact a riparian buffer in the Jordan Watershed when one of the following applies:

(a) A person has received an authorization certificate pursuant to division (A) above for a proposed use that is designated as "allowable with mitigation"; or

(b) A person has received a variance pursuant to division (B) above and is required to perform mitigation as a condition of a variance approval.

(2) *Issuance of the mitigation approval*. The Town of Haw River shall issue a mitigation approval upon determining that a proposal meets the requirements set out in this chapter. The approval shall identify at a minimum the option chosen, the required and proposed areas, and either the mitigation location or the offset payment amount as applicable.

(3) *Options for meeting the mitigation requirement*. The mitigation requirement may be met through one of the following options:

(a) Payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269 (Jordan Water Supply Nutrient Strategy: Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program) contingent upon acceptance of payments by the NC Ecosystem Enhancement Program, or to a private mitigation bank that complies with banking requirements of the US Army Corps of Engineers, currently set out at http://www.saw.usace.army.mil/WETLANDS/Mitigation/mitbanks. html or from the US Army Corps of Engineers, P.O. Box 1890, Wilmington, NC, 28402-1890, and the applicable trading criteria in Rule 15A NCAC 02B .0273;

(b) Donation of real property or of an interest in real property pursuant to division (C)(6) below; or

(c) Restoration or enhancement of a non-forested riparian buffer pursuant to the requirements of division (C)(7) above.

(4) *The area of mitigation.* The Town of Haw River shall determine the required area of mitigation, which shall apply to all mitigation options identified in division (C)(3) above and as further specified in the requirements for each option set out in this section, according to the following:

(a) The impacts in square feet to each zone of the riparian buffer shall be determined by the Town of Haw River by adding the following:

1. The area of the footprint of the use causing the impact to the riparian buffer;

2. The area of the boundary of any clearing and grading activities within the riparian buffer necessary to accommodate the use; and

3. The area of any ongoing maintenance corridors within the riparian buffer associated with the use.

(b) The required area of mitigation shall be determined by applying the following multipliers to the impacts determined in division (4)(a) above to each zone of the riparian buffer:

1. Impacts to Zone One of the riparian buffer shall be multiplied by three;

2. Impacts to Zone Two of the riparian buffer shall be multiplied by one and one-half; and

3. Impacts to wetlands within Zones One and Two of the riparian buffer that are subject to mitigation under 15A NCAC 2H .0506 shall comply with the mitigation ratios in 15A NCAC 2H .0506.

(5) *The location of mitigation.* For any option chosen, the mitigation effort shall be located within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 02B .0262, and the same distance from the Jordan Reservoir as the proposed impact, or closer to the Reservoir than the impact, and as close to the location of the impact as feasible. Alternatively, the applicant may propose mitigation anywhere within the same subwatershed of the Jordan watershed, as defined in 15A NCAC 02B .0262, provided that the mitigation proposal accounts for differences in delivery of nutrients to the affected arm of Jordan Reservoir resulting from differences between the locations of the buffer impact and mitigation. Additional location requirements for the property donation option are enumerated in division (C)(6)(c)1. below.

(6) *Donation of property.* Persons who choose to satisfy their mitigation determination by donating real property or an interest in real property shall meet the following requirements:

(a) The donation of real property interests may be used to either partially or fully satisfy the payment of a compensatory mitigation fee to the Riparian Buffer Restoration Fund pursuant to 15A NCAC 02B .0269. The value of the property interest shall be determined by an appraisal performed in accordance with division (C)(6)(d)4. below. The donation shall satisfy the mitigation determination if the appraised value of the donated property interest is equal to or greater than the required fee. If the appraised value of the donated property interest is less than the required fee calculated pursuant to 15A NCAC 02B .0269, the applicant shall pay the remaining balance due.

(b) The donation of conservation easements to satisfy compensatory mitigation requirements shall be accepted only if the conservation easement is granted in perpetuity.

(c) Donation of real property interests to satisfy the mitigation determination shall be accepted only if such property meets all of the following requirements:

1. In addition to the location requirements of division (C)(5) above, the property shall be located within an area that is identified as a priority lor restoration in, or is otherwise consistent with the goals of, the Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin developed by NC Division of Water Quality pursuant to G.S. § 143-214.10;

2. The property shall contain riparian buffers not currently protected by the state's riparian buffer protection program that are in need of restoration as defined in division (7)(d) below;

3. The restorable riparian buffer on the property shall have a minimum length of 1,000 linear feet along a surface water and a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

4. The size of the restorable riparian buffer on the property to be donated shall equal or exceed the area of mitigation responsibility determined pursuant to division (C)(4) above;

5. Restoration shall not require removal of man-made structures or infrastructure;

6. The property shall be suitable to be successfully restored, based on existing hydrology, soils, and vegetation;

7. The estimated cost of restoring and maintaining the property shall not exceed the value of the property minus site identification and transaction costs;

8. The property shall not contain any building, structure, object, site, or district that is listed in the National Register of Historic Places established pursuant to Public Law 89-665, 16 U.S.C. 470 as amended;

9. The property shall not contain any hazardous substance or solid waste;

10. The property shall not contain structures or materials that present health or safety problems to the general public. If wells, septic, water or sewer connections exist, they shall be filled, remediated or closed at owner's expense in accordance with state and local health and safety regulations;

11. The property and adjacent properties shall not have prior, current, and known future land use that would inhibit the function of the restoration effort; and

12. The property shall not have any encumbrances or conditions on the transfer of the property interests.

(d) At the expense of the applicant or donor, the following information shall be submitted to the Town of Haw River with any proposal for donations or dedications of interest in real property:

1. Documentation that the property meets the requirements laid out in division (C)(6)(c) above;

2. US Geological Survey 1:24,000 (7.5 minute) scale topographic map, county tax map, USDA Natural Resource Conservation Service County Soil Survey Map, and county road map showing the location of the property to be donated along with information on existing site conditions, vegetation types, presence of existing structures and easements;

3. A current property survey performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the State Board of Registration for Professional Engineers and Land Surveyors in *Standards of Practice for Land Surveying in North Carolina*. Copies may be obtained from the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, 3620 Six Forks Road, Suite 300, Raleigh, North Carolina 27609;

4. A current appraisal of the value of the property performed in accordance with the procedures of the North Carolina Department of Administration, State Property Office as identified by the Appraisal Board in the *Uniform Standards of Professional North Carolina Appraisal Practice*. Copies may be obtained from the Appraisal Foundation, Publications Department, P.O. Box 96734, Washington, D.C. 20090-6734; and

5. A title certificate.

(7) *Riparian buffer restoration or enhancement*. Persons who choose to meet their mitigation requirement through riparian buffer restoration or enhancement shall meet the following requirements:

(a) The applicant may restore or enhance a non-forested riparian buffer if either of the following applies:

1. The area of riparian buffer restoration is equal to the required area of mitigation determined pursuant to division (C)(4) above; or

2. The area of riparian buffer enhancement is three times larger than the required area of mitigation determined pursuant to division (C)(4) above;

(b) The location of the riparian buffer restoration or enhancement shall comply with the requirements in division (C)(5) above;

(c) The riparian buffer restoration or enhancement site shall have a minimum width of 50 feet as measured horizontally on a line perpendicular to the surface water;

(d) Enhancement and restoration shall both have the objective of establishing a forested riparian buffer according to the requirements of this item. Enhancement shall be distinguished from restoration based on existing buffer conditions. Where existing trees are sparse, that is greater than or equal to 100 trees per acre but less than 200 trees per acre, a buffer may be enhanced. Where existing woody vegetation is absent, that is less than 100 trees per acre, a buffer may be restored;

(e) The applicant shall first receive an authorization certificate for the proposed use according to the requirements of division (A) above. After receiving this determination, the applicant shall submit a restoration or enhancement plan for approval by the Town of Haw River. The restoration or enhancement plan shall contain the following:

1. A map of the proposed restoration or enhancement site;

2. A vegetation plan. The vegetation plan shall include a minimum of at least two native hardwood tree species planted at a density sufficient to provide 320 trees per acre at maturity;

3. A grading plan. The site shall be graded in a manner to ensure diffuse flow through the riparian buffer;

4. A fertilization plan; and

5. A schedule for implementation;

(f) Within one year after the Town of Haw River has approved the restoration or enhancement plan, the applicant shall present proof to the Town of Haw River that the riparian buffer has been restored or enhanced. If proof is not presented within this timeframe, then the person shall be in violation of both the state's and the Town of Haw River's riparian buffer protection program;

(g) The mitigation area shall be placed under a perpetual conservation easement that will provide for protection of the property's nutrient removal functions; and

(h) The applicant shall submit annual reports for a period of five years after the restoration or enhancement showing that the trees planted have survived and that diffuse flow through the riparian buffer has been maintained. The applicant shall replace trees that do not survive and restore diffuse flow if needed during that five-year period.
(Ord. passed 11-1-10)

§ 158.10 COMPLIANCE AND ENFORCEMENT.

(A) *Site inspections.*

(1) Agents, officials, or other qualified persons authorized by the Town of Haw River may periodically inspect riparian buffers to ensure compliance with this chapter.

(2) Notice of the right to inspect shall be included in the letter of approval of each variance and buffer authorization.

(3) *Authority to enter property and conduct investigations and inspections.* Authorized agents, officials or other qualified persons shall have the authority, upon presentation of proper credentials, to enter and inspect at reasonable times any properly, public or private, for the purpose of investigating and inspecting the site of any riparian buffer. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Town of Haw River, while that person is inspecting or attempting to inspect a riparian buffer nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out their official duties. The Town of Haw River shall have the power to conduct such investigations as deemed reasonably necessary to carry out the duties as prescribed in this chapter.

(4) *Notice of violation.*

(a) If it is determined that a person has failed to comply with the requirements of this chapter, or rules, or orders adopted or issued pursuant to this chapter, a notice of violation shall be served upon that person. The notice may be served by any means authorized under G.S. § 1A-1, Rule 4. In the event service cannot be accomplished by registered or certified mail, it may be accomplished in any manner provided in Rule (4)j of the North Carolina Rules of Civil Procedure.

(b) The notice shall specify the violation and inform the person of the actions that need to be taken to comply with this chapter, or rules or orders adopted pursuant to this chapter. The notice shall direct the person to correct the violation within a specified reasonable time. The notice shall inform the person that any person who violates or fails to act in accordance with any of the provisions of this chapter or rules or orders adopted or issued pursuant to this chapter is subject to the civil and criminal penalties and other enforcement actions as provided in this chapter.

(5) *Power to require statements*. The Town of Haw River shall also have the power to require written statements, or the filing of reports under oath, with respect to pertinent questions relating to land-disturbing activities.

(B) *Civil penalties*.

(1) *Assessment of penalties*. Any person who violates or fails to act in accordance with any of the provisions of this chapter or rules or orders adopted or issued pursuant to this chapter shall be subject to a civil penalty. A civil penalty for a violation may be assessed in an amount not to exceed $10,000 per day. If any violation for which a penalty may be assessed is continuous, a civil penalty may be assessed for each day of the violation in an amount not to exceed $25,000 per day for as long as the violation occurs. Each day of a continuing violation shall constitute a separate violation under this division.

(2) *Notice of civil penalty assessment*. The governing body of the Town of Haw River shall provide written notice of the civil penalty amount and the basis for the assessment to the person assessed. The notice of civil penalty assessment shall be served by any means authorized under G.S. § 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment, within 30 days after receipt of the notice of assessment by written demand for a hearing.

(3) *Hearing*. A hearing on the civil penalty shall be conducted by the Town of Haw River Town Council within 30 days after the date the written demand for the hearing is received by the Town of Haw River Town Council. The board conducting the hearing shall make its recommendation to the governing body of the Town of Haw River within 30 days after the date of the hearing.

(4) *Final decision*. The governing body shall issue a final decision on the civil penalty within 30 days of the recommended decision. A copy of the final decision shall be served on the violator by any means authorized under G.S. § 1A-l, Rule 4.

(5) *Appeal of final decision*. Appeal form the final decision of the governing body shall be to the Superior Court of the county in which the violation occurred. Any appeal must be filed within 30 days of receipt of the final decision. A copy of the appeal must be served on the (Town Manager/County Board/other appropriate person) by any means authorized under G.S. § 1A-l, Rule 4.

(6) *Demand for payment of penalty*. An assessment that is not contested is due when the violator is served with a notice of assessment. The civil penalty must be paid within 30 days or the assessment, if not appealed, or within 30 days after the conclusion of the administrative or judicial review of the assessment. If payment is not received within 30 days after demand for payment is made, the Town of Haw River may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court where the violation occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three years of the date the assessment was due.

(7) *Use of penalties*. Civil penalties collected pursuant to this chapter shall be credited to the general fund of the Town of Haw River as nontax revenue.

(C) *Criminal penalties*. A violation of the provisions of this chapter or a rule or order adopted pursuant to this chapter shall be punished as provided for in the North Carolina General Statutes for the violation of local ordinances (see G.S. § 14-4). Violation may also be punishable under the provisions of G.S. § 143-215.6B.

(D) *Injunctive relief*.

(1) Civil action in Superior Court. Whenever the governing body of the Town of Haw River 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, it 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 Town of Haw River for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the Superior Court of Alamance County.

(2) *Order to cease violation*. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this chapter.

(E) *Compliance with requirements*. Any person engaged in new activities as defined by this chapter who fails to meet the requirements of this chapter shall be deemed in violation of this chapter.
(Ord. passed 11-1-10)

§ 158.11 SEVERABILITY.

If any one or more sections or portions thereof of this chapter are held to be invalid or unenforceable, all other sections and portions thereof shall nevertheless continue in full force and effect.
(Ord. passed 11-1-10)

§ 158.12 EFFECTIVE DATE.

This chapter will become effective upon approval by the NC Environmental Management Commission and adoption by the Town of Haw River Town Council.
(Ord. passed 11-1-10)

§ 158.13 REVISIONS TO CHAPTER.

The Town of Haw River shall review any revisions to the Model Local Riparian Buffer Protection Ordinance made by the Environmental Management Commission and, within 60 days of receipt of the recommended revisions, submit draft amendments to the Commission for its consideration and comments. Within 90 days after receipt of the Commission's comments, the Town of Haw River will incorporate amendments into this chapter.
(Ord. passed 11-1-10)

§ 158.14 DEFINITIONS.

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

ACCESS TRAILS. Pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.

AIRPORT FACILITIES. All properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases ***AIR NAVIGATION FACILITY***, ***AIRPORT***, or ***AIRPORT PROTECTION PRIVILEGES*** under G.S. § 63-1; the definition of ***AERONAUTICAL FACILITIES*** in G.S. § 63-79(1); the phrase ***AIRPORT FACILITIES*** as used in G.S. § 159-48(b)(l); the phrase ***AERONAUTICAL FACILITIES*** as defined in G.S. §§ 159-81 and 159-97; and the phrase ***AIRPORT FACILITIES AND IMPROVEMENTS*** as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of ***AIRPORT FACILITIES***:

(1) Satellite parking facilities;

(2) Retail and commercial development outside of the terminal area, such as rental car facilities; and

(3) Other secondary development, such as hotels, industrial facilities, freestanding offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of ***AIRPORT FACILITIES***.

CHANNEL. A natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

DBH. Diameter at breast height of a tree measured at four and one-half feet above ground surface level.

DEVELOPMENT. The same as defined in Rule 15A NCAC 2B .0202(23).

DITCH or CANAL. A man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.

EPHEMERAL STREAM. A feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.

EXISTING DEVELOPMENT. Development, other than that associated with agricultural or forest management activities, that meets one of the following criteria:

(1) It either is built or has established a vested right based on statutory or common law as interpreted by the courts, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under Rule 15A NCAC 2B .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) or, for projects requiring a state permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0271 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development), Items (5) and (6); or

(2) It occurs after the compliance date set out in Sub-Item (4)(d) of Rule .0265 (Jordan Water Supply Nutrient Strategy: Stormwater Management for New Development) but does not result in a net increase in built-upon area.

GREENWAY/HIKING TRAILS. Pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.

HIGH VALUE TREE. A tree that meets or exceeds the following standards: for pine species, 14-inch DBH or greater or 18-inch or greater stump diameter; or for hardwoods and wetland species, 16-inch DBH or greater or 24-inch or greater stump diameter.

INTERMITTENT STREAM. A well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.

JORDAN NUTRIENT STRATEGY or JORDAN WATER SUPPLY NUTRIENT STRATEGY. The set of Rules 15A NCAC 2B .0262 through .0273 and .0311(p).

JORDAN RESERVOIR. The surface water impoundment operated by the US Army Corps of Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan nutrient strategy in Rule 15A NCAC 2B .0262(4).

JORDAN WATERSHED. All lands and waters draining to B. Everett Jordan Reservoir.

NEW DEVELOPMENT. Any development project that does not meet the definition of existing development set out in this chapter.

PERENNIAL STREAM. A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.

PERENNIAL WATERBODY. A natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted plants. For the purpose of the state's riparian buffer protection program, the waterbody must be part of a natural drainage way (i.e., connected by surface flow to a stream).

SHORELINE STABILIZATION. The in-place stabilization of an eroding shoreline. Stabilization techniques which include "soft" methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of "hard" engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.

STREAM. A body of concentrated flowing water in a natural low area or natural channel on the land surface.

STREAM RESTORATION. The process of converting an unstable, altered or degraded stream corridor, including adjacent riparian zone and flood-prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium. ***REFERENCED*** or ***REFERENCED REACH*** means a stable stream that is in dynamic equilibrium with its valley and contributing watershed. A reference reach can be used to develop natural channel design criteria for stream restoration projects.

STUMP DIAMETER. The diameter of a tree measured at six inches above the ground surface level.

SURFACE WATERS. All waters of the state as defined in G.S. § 143-212 except underground waters.

TEMPORARY ROAD. A road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.

TREE. A woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.
(Ord. passed 11-1-10)