

TITLE XV: LAND USAGE

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CHAPTER 150: BUILDING REGULATIONS

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IN GENERAL

§ 150.01 ADOPTION OF BUILDING CODE.

The North Carolina State Building Code, as adopted, and amended by the State of North Carolina, is hereby adopted and incorporated by reference as if fully provided herein.

(1993 Code, § 14-1) (Am. Ord. 14-10, passed 8-19-2014)

Statutory Reference:

State building code to apply statewide, see G.S. § 143-138(e)

§ 150.02 FEES.

(A) *Required.* Every person shall be required to apply for a building permit and inspection permit from the Code Enforcement Officer before beginning any construction, installation, repair, removal or remodeling when the activity shall fall within the jurisdiction of the Town Code Enforcement Officer. A building and inspection permit fee structure will be established annually during the town budget process and will be subject to change at any time by the Board of Commissioners. A building permit is valid for the time provided by G.S. § 160D-1111. A site-specific development plan vests for the period of time provided by G.S. 160D-108.1. All other development approvals are valid for the time provided by G.S. 160D-108(d)(2).

(B) *Emergency work.* For the purpose of facilitating emergency work when immediate necessity exists, construction repairs and replacement to structures and buildings damaged by storms, fire, accident or any other emergency, where a delay would likely result in further damage or injury to persons or property, work may be commenced immediately. The required building permit shall be applied for on the next regular working day after work is commenced.

(C) *Transfers.* Permit fees are not transferable.

(D) *Refunds.* Permit fees are not refundable.

(E) *Permit renewal.* Upon written application of the permittee prior to the expiration of the original permit, the Code Enforcement Officer or his or her designee may renew the permit. The renewed permit shall be valid for 90 days from the expiration of the original permit. There will be no fees charged for authorized permit renewals.

(F) *Permit suspension.* All permit fees will be forfeited on any permit invalidated because the authorized work either is not commenced within the valid life of the permit or if the authorized work is suspended or abandoned for a period of six months after time of commencing work.

(1993 Code, § 14-2)

§ 150.03 REQUIRED CERTIFICATIONS, LICENSES.

(A) Any person who is certified as a journeyman, electrician, plumber, gasfitter or mechanical tradesperson or as a master electrician, plumber, gasfitter or mechanical tradesperson by the state shall be considered certified as the same in the town.

(B) Any person who is licensed as either an electrical, plumbing, gas, mechanical or general contractor by the State Board of Examiners shall be considered licensed as the same in the town. It shall be unlawful for any person to work as either an electrical, plumbing, gasfitter, mechanical or general contractor within the town without having a current license issued in accordance with the General Statutes.

(C) No person shall install or alter any electrical equipment or make any addition or alteration in the arrangement of any electrical system in the town, or wire any building for the installation of any electrical lights, meters, heating devices or apparatus requiring the use of electrical current unless the person is considered certified by the State Board of Examiners.

(D) No person shall install or alter any plumbing system or related appurtenances or make any addition or alteration on the arrangement of any plumbing system in the town, or pipe any building for the installation of any appliance meters, heating devices or apparatus requiring the use of potable water supply, sanitary or storm drainage unless the person is considered certified by the State Board of Examiners.

(E) No person shall install or alter any gas system or make any addition or alteration in the arrangement of any gas system in the town, or pipe any building for the installation of any appliance, meters, heating device or apparatus requiring the use of gas unless the person is considered certified by the State Board of Examiners.

(F) No person shall install or alter any mechanical equipment or make any addition or alteration in the arrangement of any mechanical system in the town, unless the person is considered certified by the State Board of Examiners.

(G) The Town Code Enforcement Officer or his or her designee shall enforce this section.
(1993 Code, § 14-3) Penalty, see § 10.99

§ 150.04 INSPECTIONS.

The Town shall have the authority and the duty to inspect property for compliance with this Chapter. The town shall have the discretion to determine when and how such inspections are to be made, and any written warnings that may be given, provided that its policies are reasonably calculated to ensure that this Chapter is enforced. Inspections shall be conducted pursuant to G.S. § 160D-403(e). Any notice of violation shall be in writing and shall be issued pursuant to G.S. § 160D-404(a).

§ 150.05 STOP WORK ORDERS.

Whenever any work or activity subject to regulation pursuant to this Chapter or other applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, the Zoning Administrator or other designee may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped pursuant to G.S. § 160D-404(b).

§ 150.06 CERTIFICATE OF OCCUPANCY.

No building, structure, or use of land that is subject to a building permit required by General Statutes Chapter 160D, Article 11 shall be occupied or used until a certificate of occupancy or temporary certificate pursuant to G.S. 160D-1114 has been issued.

§ 150.07 RESERVATION OF ADDITIONAL REMEDIES.

The Town reserves the right to implement any general enforcement remedy as provided by G.S. § 160D-404(c).

§ 150.08 AMENDMENTS.

An amendment to this chapter may be adopted by the Board of Commissioners only by ordinance and only after the notice and public hearing requirements contained in G.S. § 160D-601 have been satisfied. A simple majority of voting Board members present at the meeting upon which the amendment is presented is required to adopt any amendment to this chapter as provided by G.S. § 160A-75. The Mayor or Town Administrator may refer any amendment to the Planning Board for review and comment.

§ 150.09 APPEALS.

The Board of Adjustment shall hear all administrative appeals arising under this chapter in accordance with G.S. §§ 160D-302, -405, -406, -705 and other applicable laws, as may be amended. Appeals from the Board of Adjustment shall be made to Superior Court as provided by applicable law.

SMOKE DETECTORS

§ 150.15 DEFINITIONS.

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

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

OWNER. One or more persons, jointly or severally, in whom is vested all or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgagee in possession.

(1993 Code, § 14-26)

§ 150.16 REQUIRED; LOCATION.

Smoke and carbon monoxide detectors shall be located and maintained as required by the North Carolina State Building Code.

(1993 Code, § 14-27) (Am. Ord. 14-10, passed 8-19-2014)

§ 150.17 SPECIFICATIONS.

(A) The smoke detectors installed must be capable of sensing visible or invisible products of combustion and providing a suitable alarm.

(B) Appropriate permits as required must be secured for the installation of smoke detectors powered by alternating current; however, no fee will be charged for the permit.

(C) Smoke detectors shall be installed in conformance with the provisions of the State Building Code and Electrical Code.

(D) Battery operated smoke detectors with an approved listing may be installed in a dwelling or dwelling unit constructed before April 1, 1993. Any dwelling or dwelling unit constructed or renovated after April 1, 1993, shall have installed a 115-volt permanently connected automatic smoke detector.

(E) All 115-volt smoke detectors shall be supplied by a branch circuit serving one or more of the required lighting outlets and permanently connected ahead of switching devices.

(1993 Code, § 14-28)

§ 150.18 RESPONSIBILITY FOR PROVIDING, MAINTAINING.

(A) The owner or agent of the owner of a dwelling unit shall provide smoke detectors as required by this subchapter and shall maintain them in good working order.

(B) The owner or agent of the owner of a dwelling unit which is rented or leased shall furnish the tenant at the beginning of each tenancy, and at least annually thereafter, with written certification that all smoke detectors required are present, have been inspected and are in good working order.

(C) The tenant shall be responsible for reasonable care of the smoke detector and for interim testing, repair and maintenance and for providing written notice to the owner for repair of any malfunctioning smoke detector. The owner shall be obligated to provide and pay for service, repair or replacement of any malfunctioning smoke detector. Service, repair or replacement must occur within five days of receipt of written notice from the tenant that a smoke detector is in need of service, repair or replacement.

(1993 Code, § 14-29)

§ 150.19 ENFORCEMENT AND ADMINISTRATION.

The Code Enforcement Officer, or his or her duly authorized representative, is authorized to administer and enforce this chapter. Development approvals and determinations, as defined by G.S. § 160D-102, subject to this Chapter are governed by G.S. § 160D-403. Development approvals attach to and run with the land as provided by G.S. § 160D-104.

(1993 Code, § 14-30)

§ 150.20 COMPLIANCE WITH BUILDING CODE.

Nothing in this subchapter shall excuse any owner for the required buildings from compliance with all other applicable provisions of the North Carolina Building Code. All dwelling units will be in compliance by the date of adoption of this code of ordinances.

(1993 Code, § 14-31)

STREET NUMBERS

§ 150.30 DISPLAY; SPECIFICATIONS; NOTICE OF VIOLATION.

(A) The owner, agent, or occupant of any residential, commercial, or other building or structure within the town shall cause such building or structure to be numbered in accordance with the street number or address assigned by Halifax County.

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(B) The street numbers on all such buildings and structures shall not be less than four inches high, and not less than three inches high. All numbers shall be of a contrasting color to the background to which they are attached, and located in such a manner as to be readily identified from the street on which the building or structure is located.

(C) No person shall alter, deface or take down any number placed on any property in accordance with this section, except for repair or replacement of such number

(D) Any violation of this article subjects the offender to a civil penalty of one hundred dollars (\$100) and any other penalty as provided herein.
(Ord. 2011-07, passed 10-17-2011; Am. Ord. 9-17-18) Penalty, see § 150.99

VACANT PROPERTY REGISTRATION, MAINTENANCE AND SECURITY

§ 150.40 INTENT AND SCOPE.

It is the purpose and intent of the Enfield Board of Commissioners to establish vacant property maintenance standards as a mechanism to preserve the integrity of the town and to protect the town from becoming blighted through the lack of adequate maintenance and security of abandoned and vacant property. Additionally the town desires to deter crime and theft of materials, to minimize loss of property value to vacant properties and surrounding occupied property, to reduce the risk of damage from fire, flooding or other hazards, and to promote the comfort, happiness and emotional stability of area residents. The town finds that the presence of vacant property poses special risks to the health, safety, and welfare of the community and therefore requires heightened regulatory attention. The provisions of this subchapter shall apply to all property within the incorporated jurisdiction of the town.
(Ord. 14-13, passed 12-15-2014)

§ 150.41 DEFINITIONS.

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

DAYS. Consecutive calendar days.

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EVIDENCE OF VACANCY. Any aesthetic condition that on its own or combined with other conditions present would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation; extensively chipped or peeling exterior paint; exterior walls, porches, steps, roofs or other improvements in poor condition; broken windows and other signs of general disrepair; accumulation of newspapers, circulars, flyers or mail; past due utility notices or disconnected utilities; accumulation of trash, junk or debris; the absence of window coverings such as curtains, blinds, or shutters which demonstrate vacancy; the absence of furnishings or personal items consistent with habitation; boarded windows; and statements by neighbors, passersby, delivery agents, and/or other credible individuals that the property is vacant.

OWNER. Any person or entity having legal or equitable title in any real property located within the corporate jurisdiction of the town; provided that a trustee to a deed of trust shall not be considered an owner.

PROPERTY. Any real property or portion thereof situated within the corporate boundary of Enfield.

RECORD OWNER. The person(s) or entity(ies) listed as an owner(s) on the recorded deed, Halifax County Tax Office records, or probated will or heir by intestacy.

UTILITIES. Water, sewer, telephone, gas, cable, electricity, and other common public utility services.

VACANT. Property that is not occupied or put to active use by a person or entity on a regular basis.
(Ord. 14-13, passed 12-15-2014)

§ 150.42 REGISTRATION REQUIRED.

(A) All owner(s) of vacant property must register such property as vacant with the town on a form approved by the town. Registration is required within 30 days of: (i) the property becoming vacant; or (ii) receiving a notice of registration requirement from the town.

(B) The town shall send a notice of registration requirement to the record owner of any property that exhibits evidence of vacancy. The owner shall register the property within 30 days unless the owner can provide clear and convincing evidence to the town, within such time period, that the property is not vacant.

(C) The registration shall contain the following information:

- (1) Name of the owner(s) or owner(s)'s designee;
- (2) Mailing address (and physical address, if different);

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- (3) Email address;
- (4) Telephone number;
- (5) Name and contact information of any other responsible party;
- (6) Name and contact information of any mortgagor; and
- (7) Date on which the property became vacant.

(D) Any changes in the information required in this section shall be reported to the town in writing within 30 days of such change.

(E) Vacant property shall remain subject to the maintenance and security requirements of this subchapter as long as they remain vacant.

(F) Once the property is no longer vacant or is sold, the owner must provide written proof of occupancy or sale to the town within 30 days.

(Ord. 14-13, passed 12-15-2014)

§ 150.43 MAINTENANCE REQUIREMENTS.

Property subject to this subchapter must be maintained such that the exterior of all improvements, yards, decks and porches, windows and doors, and other features of the property do not exhibit any evidence of vacancy. Without limiting the foregoing, areas of wood rot, peeling paint, excessive vegetative growth, or other such building or property deterioration shall be corrected in order to eliminate any evidence of vacancy.

(Ord. 14-13, passed 12-15-2014)

§ 150.44 SECURITY REQUIREMENTS.

Vacant property shall comply with the following security requirements:

(A) The property shall be maintained in a secure manner so as not to be accessible to unauthorized persons.

(B) This includes, without limitation, securing all windows, doors, and any other such opening to inhibit access to the interior of any improvement located on the property.

(Ord. 14-13, passed 12-15-2014)

RESIDENTIAL RENTAL PROPERTY REGISTRATION

§ 150.50 INTENT AND SCOPE.

The purpose of this subchapter is to establish a registration requirement for owners of residential rental property, subject to G.S. § 160D-1207, so that the Town may expeditiously identify and contact the owner when excessive levels of criminal activity have occurred on or in the property and otherwise enforce the provisions of the Code of Ordinances.

(Ord. 14-14, passed 12-15-2014)

§ 150.51 DEFINITIONS.

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

RECORD OWNER. The person(s) or entity(s) listed as an owner on the recorded deed, Halifax County Tax Office records, or probated will or heir by intestacy.

RESIDENTIAL RENTAL PROPERTY. Property that contains a single-family rental dwelling unit or multi-family rental dwelling units for use by residential tenants that has (1) more than four verified violations in a rolling 12-month period, (2) two or more ***VERIFIED VIOLATIONS*** in a rolling 30-day period, or (3) been identified within the top ten percent (10%) of properties with crime or disorder problems as set forth by further ordinance of the Town. The term includes but is not limited to the following: apartments, mobile homes, mobile home spaces, town homes and condominium unit(s). A rental dwelling unit includes property that is provided to an individual or entity for residential purposes upon payment of rent or any other consideration in lieu of rent.

VERIFIED VIOLATION. The term means all of the following:

(1) The aggregate of all violations of housing ordinances or codes found in an individual rental unit of residential real property during a 72-hour period.

(2) Any violations that have not been corrected by the owner or manager within 21 days of receipt of written notice from the Town of the violations. Should the same violation occur more than two times in a 12-month period, the owner or manager may not have the option of correcting the violation.

(Ord. 14-14, passed 12-15-2014)

§ 150.52 REGISTRATION OF RESIDENTIAL RENTAL PROPERTY REQUIRED.

(A) Each record owner of residential rental property shall register such property with the town by providing the following information to the Town Administrator or his or her designee on a form provided by the town:

(1) The address(s) for the residential rental property, which shall include the street name(s), number(s) and zip code;

(2) The name, business and personal address, telephone number and e-mail address of each owner of the property. If the mailing address includes a post office box, the registrant shall also provide a physical address where such person can be located;

(3) The number of units located on the residential property; and

(4) The current tenant(s) of record on any written lease, or the identity of the tenant(s) if there is no written lease.

(B) Each residential rental property parcel shall be registered separately.

(C) Each record owner of residential rental property shall update the town within five business days of any change to the information required by this section.

(Ord. 14-14, passed 12-15-2014)

§ 150.99 PENALTY.

(A) Any violation of § 150.30 subjects the offender to a civil penalty of \$100 and any other penalty as provided in § 10.99.

(B) The town may institute injunction, mandamus or other appropriate action in any judicial proceeding to prevent the violation of this subchapter.

(C) Any notice of violation shall be in writing and shall be issued pursuant to G.S. 160D-404(a).
(Ord. 2011-07, passed 10-17-2011; Am. Ord. 14-13, passed 12-15-2014; Am. Ord. 14-14, passed 12-15-2014)

CHAPTER 151: SUBDIVISIONS

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IN GENERAL

§ 151.01 TITLE AND PURPOSE.

(A) This chapter shall be known and may be cited as the Subdivision Regulations of the Town of Enfield, North Carolina, and may be referred to as the subdivision regulations.
(1993 Code, § 66-1)

(B) The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the town. It is further designed to provide for the orderly growth and development of the town; for the coordination of streets and highways within proposed subdivisions with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety and the general welfare. This chapter is designed to further facilitate adequate provision of water, sewerage, parks, schools and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

(C) Development approvals and determinations, as defined by G.S. § 160D-102, subject to this Chapter are governed by G.S. § 160D-403. Development approvals attach to and run with the land as provided by G.S. § 160D-104. A site-specific development plan vests for the period of time provided by G.S. 160D-108(d)(3).
(1993 Code, § 66-2)

§ 151.02 DEFINITIONS.

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

BLOCK. A piece of land bounded on one or more sides by streets or roads.

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BUFFER STRIP. A strip of land which shall be a minimum of 20 feet in width and may be composed of evergreen bushes, trees, anchor shrubs that at least two rows are provided from the ground to a height of five feet within six years and foliage overlaps within six years, or a barrier constructed of stone, block, brick or other suitable building material, with a minimum height of five feet.

BUILDING SETBACK LINE. A line parallel to the front property line in front of which no structure shall be erected. Setbacks shall be figured from the right-of-way line.

DEDICATION. A gift, by the owner, or a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, **DEDICATION** must be made by written instrument, and is completed with an acceptance.

EASEMENT. A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation or persons.

HALF-STREET. A street whose centerline coincides with a subdivision plat boundary, with 1/2 the street right-of-way width being contained within the subdivision plat.

LOT. Includes the words “plot,” “parcel” or “tract.” A **LOT** is a portion of a subdivision, or any other parcel of land, intended as a unit of transfer of ownership or for development, or both. Lot types:

(1) **CORNER LOT.** A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

(2) **INTERIOR LOT.** A lot other than a corner lot with only one frontage on a street.

(3) **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 of the County prior to the adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this chapter.

(4) **REVERSED FRONTAGE LOT.** A lot on which the frontage is at right angles or approximately right angles (interior angles less than 135 degrees) to the general pattern in the area. A reversed frontage lot may also be a corner lot, an interior lot or a through lot.

(5) **SINGLE-TIER LOT.** A lot which backs upon a limited access highway, a railroad, a physical barrier or another type of land use and to which access from the rear is usually prohibited.

(6) **THROUGH LOT** or **DOUBLE FRONTAGE LOT.** A lot other than a corner lot with frontage on more than one street. Through lots abutting two streets may be referred to as double frontage lots.

OFFICIAL MAPS OR PLANS. Any maps or plans officially adopted by the Board of Commissioners of the town.

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OPEN SPACE. An area of land or water generally lacking in humanmade structures and reserved for its unaltered state.

PLAT. A map or plan of a parcel of land which is to be, or has been subdivided.

PUBLIC OR COMMUNIZE SEWAGE SYSTEM. A single system of sewage collection treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county or municipality or a public utility.

RECREATION AREA OR PARK. An area of land or combination of land and water resources that is developed for active and/or passive recreation pursuits with various humanmade features that accommodate like activities.

STREET. A dedicated and accepted public right-of-way for vehicular traffic. The following classifications shall apply:

(1) Rural roads:

(a) **LOCAL ROAD.** A road which primarily provides access to adjacent land and for travel over relatively short distances.

(b) **MAJOR COLLECTOR.** A road which serves major intra-county travel corridors and traffic generators and provides access to the arterial system.

(c) **MINOR ARTERIAL.** A rural link in a network joining cities and larger towns and providing intrastate and inter-county service at relatively high overall travel speeds with minimum interference to through movement. This network would primarily serve traffic.

(d) **MINOR COLLECTOR.** A road which provides service to small local communities and links locally important traffic generators with their rural hinterland.

(e) **PRINCIPAL ARTERIAL.** A rural link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterials.

(2) Specific type rural or urban streets:

(a) **ALLEY.** A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

(b) **CUL-DE-SAC.** A short street having but one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided.

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(c) **DEAD END STREET.** Has the same meaning as a cul-de-sac without a defined vehicle turnaround.

(d) **FREEWAY, EXPRESSWAY or PARKWAY.** Divided multi-lane roadway designed to carry large volumes of traffic at relatively high speeds. A **FREEWAY** is a divided highway providing for continuous flow of vehicles with no direct access to abutting property or streets and with access to selected crossroads provided via connecting ramps. An **EXPRESSWAY** is a divided highway with full or partial control of access and generally with grade separations at major intersections. A **PARKWAY** is a highway for noncommercial traffic, with full or partial control of access, and usually located within a park or a ribbon of park-like development.

(e) **FRONTAGE ROAD.** A local street or road that is parallel to a full or partial access control facility and functions to provide access to adjacent land.

(f) **LOCAL RESIDENTIAL STREET.** Cul-de-sacs, loop streets less than 2,500 feet in length or streets less than one mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic from more than 100 dwelling units.

(g) **RESIDENTIAL COLLECTOR STREET.** A local access street which serves as a connector street between local residential streets and the thoroughfare system. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

(3) Urban streets:

(a) **LOCAL STREET.** A street used as a link, not part of a higher-order urban system which serves primarily to provide direct access to abutting land and access to higher systems.

(b) **MAJOR THOROUGHFARES.** Thoroughfares which consist of interstate, other freeway and expressway links and major streets that provide for the expeditious movement of volumes of traffic within and through urban areas.

(c) **MINOR THOROUGHFARES.** Thoroughfares are important streets in the urban system and perform the function of collecting traffic from local access streets and carrying it to the major thoroughfare system by facilitating a minor through traffic movement and may also serve abutting property.

SUBDIVIDER. Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as defined in this chapter.

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 divisions 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 any regulations enacted pursuant to this chapter:

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(a) 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 as shown in this chapter.

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

(c) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

(d) 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 as shown in this chapter.

(e) The divisions of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

STRUCTURE. Includes the word “building.”

USED FOR. Includes the meaning “designed for.”
(1993 Code, § 66-3)

§ 151.03 AUTHORITY AND JURISDICTION.

(A) This chapter is hereby adopted under the authority and provisions of G.S. §§ 160D-801 *et seq.*
(1993 Code, § 66-4)

(B) The regulations contained in this chapter shall govern each and every subdivision within the Town of Enfield and its extraterritorial jurisdiction as shown on the official extraterritorial boundary map.
(1993 Code, § 66-5)

§ 151.04 PREREQUISITE TO PLAT RECORDATION.

After the effective date of this chapter, each individual subdivision plat of land within the town’s jurisdiction shall be approved by the Board of Commissioners of the town.
(1993 Code, § 66-6)

§ 151.05 ACCEPTANCE OF STREETS.

No street shall be maintained by the town nor street dedication accepted for ownership and maintenance in any subdivision for which a plat is required to be approved unless and until the final plat has been approved by the town.
(1993 Code, § 66-7)

§ 151.06 THOROUGHFARE PLANS.

Where a proposed subdivision includes any part of a thoroughfare which has been designated as that upon the officially adopted thoroughfare plan of the town, that part of the thoroughfare shall be platted by the subdivider in the location shown on the plan and at the width specified in this chapter.
(1993 Code, § 66-8)

§ 151.07 SCHOOL SITES ON LAND USE PLAN.

If the Board of Commissioners and the School Board have jointly determined the specific location and size of any school sites to be reserved and this information appears in the comprehensive land use plan, the Planning Board shall immediately notify the School Board whenever a plan for a subdivision is submitted which includes all or part of a school site to be reserved. The School Board shall promptly decide whether it still wishes the site to be reserved. If the School Board does not wish to reserve the site, it shall so notify the Board of Commissioners. If the Board does wish to reserve the site, the subdivision shall not be approved without a reservation. The School Board shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the School Board has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation.
(1993 Code, § 66-9)

§ 151.08 ZONING AND OTHER PLANS.

Similarly, proposed subdivisions must comply in all respects with the requirements of Chapter 153 in effect in the area to be subdivided, and any other officially adopted plans.
(1993 Code, § 66-10)

§ 151.09 TRANSPORTATION IMPROVEMENT PLANS.

If the State Department of Transportation has determined the specific location and size of any road or right-of-way improvements necessitating the reservation of land, and this information appears in its officially adopted transportation improvement program, the Planning Board shall immediately notify the Department of Transportation whenever a preliminary plat for a subdivision is submitted, which includes all or part of a road improvement area to be reserved. If the Department of Transportation does

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not wish to reserve the site, it shall so notify the Planning Board. If the Department of Transportation does wish to reserve the site, the subdivision shall not be approved without a reservation. The Department of Transportation shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Department of Transportation has not purchased or begun proceedings to condemn the site within 18 months, the subdivider may treat the land as freed of the reservation.
(1993 Code, § 66-11)

§ 151.10 GENERAL PROCEDURE FOR PLAT APPROVAL.

(A) After the effective date of the ordinance from which this chapter derives, no subdivision plat of land within the town's jurisdiction shall be filed or recorded until it has been submitted to and approved by the Board of Commissioners as set forth in § 151.04, and until this approval is entered in writing on the face of the plat by the Mayor and attested by the Town Clerk.

(B) The Town Administrator shall request that the Register of Deeds not file or record a plat of a subdivision of land located within the territorial jurisdiction of the town that has not been approved in accordance with these provisions, nor shall the Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this section.

(C) No lots identified within a proposed subdivision may be sold prior to approval and recordation of that subdivision.
(1993 Code, § 66-12) Penalty, see § 10.99

§ 151.11 STATEMENT BY OWNER.

The owner of land shown on a subdivision plat submitted for recording, or his or her authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision regulation jurisdiction of any other jurisdiction.
(1993 Code, § 66-13)

§ 151.12 EFFECT OF PLAT APPROVAL ON DEDICATIONS.

Pursuant to G.S. § 160D-806, the approval of a plat shall not be deemed to constitute or affect the acceptance by the municipality or public of the dedication of any street or other ground, public utility line or other public facility shown on the plat. However, the Board of Commissioners may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance of dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the town shall not place on the town any duty to open, operate, repair or maintain any street, utility line or other land or facility, and the Town of Enfield shall in no event be held to answer in any civil action or proceeding for failure to open, repair or maintain any street located outside its corporate limits.
(1993 Code, § 66-14) Penalty, see § 10.99

§ 151.13 PENALTIES FOR VIOLATION.

(A) After the effective date of this chapter, any person who, being the owner or agent of the owner of any land located within the territorial jurisdiction of this chapter, thereafter subdivides his or her land in violation of this chapter or transfers or sells land by reference to, exhibition of or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this chapter and recorded in the office of the Register of Deeds, shall be subject to the provisions of § 10.99. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The town, through its attorney or other official designated by the Board of Commissioners, may enjoin illegal subdivision, transfer or sale of land by action for injunction. Further, violation of this chapter shall be punishable in accordance with § 10.99

(B) Each day's continuing violation of this chapter shall be a separate and distinct offense.

(C) Notwithstanding division (B) above, this chapter may be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

(D) Nothing in this section shall be construed to limit the use of remedies available to the town. The town may seek to enforce this chapter by using any one, all or a combination of remedies.
(1993 Code, § 66-15)

§ 151.14 VARIANCES.

Where, because of severe topographical or other conditions peculiar to the site, strict adherence to the provisions of this chapter would cause an unnecessary hardship, the Board of Commissioners may authorize a variance to the terms of this chapter only to the extent that is absolutely necessary and not to an extent which would violate the intent of this chapter.
(1993 Code, § 66-16)

§ 151.15 AMENDMENTS.

(A) The Board of Commissioners may from time to time amend the terms of this chapter, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendation. The Planning Board shall have 45 days from the time the proposed amendment is submitted to it within which to submit its report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have recommended approval of the amendment.

(B) An amendment to this chapter may be adopted by the Board of Commissioners only by ordinance and only after the notice and public hearing requirements contained in G.S. § 160D-601 have been satisfied. A simple majority of voting Board members present at the meeting upon which the amendment is presented is required to adopt any amendment to this chapter as provided by G.S. § 160A-75. The Mayor or Town Administrator may refer any amendment to the Planning Board for review and comment.

(1993 Code, § 66-17)

§ 151.16 ABROGATION.

It is not intended that this chapter repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(1993 Code, § 66-18)

§ 151.17 ADMINISTRATOR DESIGNATED.

The holder of the office of Code Enforcement Officer is hereby appointed to serve as Subdivision Administrator.

(1993 Code, § 66-19)

§ 151.18 STOP WORK ORDERS.

Whenever any work or activity subject to regulation pursuant to this Chapter or other applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, the Zoning Administrator or other designee may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped pursuant to G.S. § 160D-404(b).

§ 151.19 RESERVATION OF ADDITIONAL REMEDIES

The Town reserves the right to implement any general enforcement remedy as provided by G.S. § 160D-404(c).

PROCEDURE FOR REVIEW AND APPROVAL OF SUBDIVISION PLATS

§ 151.30 PLAT REQUIRED ON ANY SUBDIVISION OF LAND.

Pursuant to G.S. § 160D-804, a final plat shall be prepared, approved and recorded pursuant to the provisions of this subchapter whenever any subdivision of land takes place.
(1993 Code, § 66-46)

§ 151.31 APPROVAL PREREQUISITE TO PLAT RECORDATION.

Pursuant to G.S. § 160D-803, no final plat of a subdivision within the jurisdiction of the town as established in § 151.35 shall be recorded by the Register of Deeds of the County until it has been approved by the Board of Commissioners of the town as provided in this subchapter. To secure approval of a final plat, the subdivider shall follow the procedures established in this subchapter.
(1993 Code, § 66-47) Penalty, see § 10.99

§ 151.32 PROCEDURES FOR REVIEW OF MAJOR AND MINOR SUBDIVISIONS.

All subdivisions shall be considered major subdivisions except those defined as minor subdivisions in this section. A ***MINOR SUBDIVISION*** is defined as one involving no new public or private streets or roads, or right-of-way dedication, no easements, no utility extension, and where ten or fewer lots result after the subdivision is completed. Major subdivisions shall be reviewed in accordance with the procedures in sections §§ 151.34 through 151.36. Minor subdivisions shall be reviewed in accordance with the provisions in § 151.33. However, if the subdivider owns, leases, holds an option on or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road or right-of-way from the property to be subdivided, the subdivision shall not qualify under the minor subdivision procedure. Furthermore, the minor subdivision procedure may not be used a second time within three years on any property less than 1,500 feet from the original property boundaries by anyone who owned, had an option on or any legal or equitable interest in the original subdivision at the time the subdivision received preliminary or final plat approval.
(1993 Code, § 66-48)

§ 151.33 PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS.

(A) The subdivider shall submit a final plat of the minor subdivision to the Subdivision Administrator not less than seven days prior to the Planning Board meeting at which it will be reviewed.

(B) The final plat shall be prepared by a registered land surveyor currently licensed and registered in the state by the State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions and mapping requirements set forth in G.S. § 47-30 and the Standards of Practice for Land Surveying in North Carolina.

(C) Five copies, plus any additional copies as required by the Subdivision Administrator, of the final plat shall be submitted; two of these shall be on reproducible material, three shall be black or blue line paper prints. Materials and drawing medium for the original shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the County Register of Deeds.

(D) The final plat shall be of a size suitable for recording with the County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

(E) Submission of the final plat shall be accompanied by a filing fee, paid by the subdivider, in accordance with the town's fee schedule.

(F) The final plat shall meet the specifications in § 151.36.

(G) The following signed certificate shall appear on all five copies of the final plat.

(1) *Certificate of ownership and dedication.* I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Enfield and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines as noted.

Owner _____

Date _____

(2) *Certificate of survey and accuracy.* In accordance with G.S. § 47-30: There shall appear on each plat a certificate by the person under whose supervision the survey or plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of a certificate shall be acknowledged before any officer authorized to take acknowledgments by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

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(H) (1) The certificate required in division (G)(2) shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments and shall be in substantially the following form:

“I, _____, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book ____ Page ____, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book ____ Page ____; that this plat was prepared in accordance with G.S. § 47-30 as amended. Witness my original signature, registration number, and seal this ____ day of _____, A.D. 20____.”

Surveyor
Seal or Stamp
Registration Number

(2) The certificate of the notary shall comply with North Carolina law.

(I) The Planning Board shall review the final plat at or before its next regularly scheduled meeting which follows at least seven days after the Subdivision Administrator receives the final plat and shall recommend approval, conditional approval with modifications to bring the plat into compliance or disapproval of the final plat with reasons within 45 days of its first consideration of the plat.

(1) During its review of the final plat, the Planning Board may recommend that the Board of Commissioners appoint an engineer or surveyor to confirm the accuracy of the final plat. If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be recommended for approval until the errors have been corrected.

(2) If the Planning Board recommends approval of the final plat, it shall transmit all copies of the plat and its written recommendations to the Board of Commissioners through the Subdivision Administrator.

(3) If the Planning Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one print of the plat for its minutes, return its written recommendation and two reproducible copies of the plat to the subdivider, and transmit one print of the plat and its written recommendation to the Board of Commissioners through the Subdivision Administrator.

(4) If the Planning Board recommends disapproval of the final plat, it shall instruct the subdivider concerning resubmission of a revised plat and the subdivider may make changes as will bring the plat into compliance with the provisions of this chapter and resubmit same for reconsideration by the Planning Board, or appeal the decision to the Board of Commissioners.

(J) Failure of the Planning Board to make a written recommendation within 45 days after its first review shall constitute grounds for the subdivider to apply to the Board of Commissioners for approval.

(K) If the Planning Board recommends approval or conditional approval with modifications to bring the plat into compliance, or the subdivider appeals to the Board of Commissioners, the Board of

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Commissioners shall review and approve or disapprove the final plat within 65 days after the plat and recommendations of the Planning Board have been received by the Subdivision Administrator.

(L) If the Board of Commissioners approves the final plat, approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of approval for recording.

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Enfield, North Carolina and that this plat has been approved by the Board of Commissioners of the Town of Enfield for recording in the Office of the Register of Deeds of Halifax County.

Mayor _____
Enfield, North Carolina

Date _____

(M) If the final plat is disapproved by the Board of Commissioners, the reasons for disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. One copy of the reasons and one print of the plat shall be retained by the Board of Commissioners as part of its proceedings; one copy of the reasons and three copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make changes as will bring the final plat into compliance and resubmit same without fee for reconsideration by the Planning Board and Board of Commissioners or by the Board of Commissioners as determined by the Board of Commissioners.

(N) If the final plat is approved by the Board of Commissioners, the original tracing and one print of the plat shall be retained by the subdivider. One reproducible tracing and one print shall be filed with the Town Clerk and one print shall be returned to the Planning Board for its records.

(O) The subdivider shall file the approved final plat with the Register of Deeds of the county within 60 days of the Board of Commissioners' approval; otherwise approval shall be null and void. (1993 Code, § 66-49) Penalty, see § 10.99

§ 151.34 PRELIMINARY PLAT SUBMISSION AND REVIEW FOR MAJOR SUBDIVISIONS.

(A) *Submission procedure.*

(1) For every subdivision within the territorial jurisdiction established by § 151.03(B), which does not qualify for the minor subdivision procedure, the subdivider shall submit to the Subdivision Administrator a preliminary plat which shall be reviewed by the Subdivision Review Board and approved by the Board of Commissioners before any construction or installation of improvements may begin.

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(2) Three copies of the preliminary plat (as well as any additional copies which the Subdivision Administrator determines are needed to be sent to other agencies) shall be submitted to the Subdivision Administrator. Submission of the preliminary plat shall be accompanied by a filing fee, paid by the subdivider, in accordance with the town's fee schedule.

(3) Preliminary plats shall meet the specifications in § 151.37.

(B) *Creation of Subdivision Review Board.* All major subdivision plats shall be reviewed by a Subdivision Review Board which shall make a recommendation for approval or disapproval to the Board of Commissioners. The Subdivision Review Board shall be composed of the following members:

(1) Chairperson of Planning Board serves as Chairperson of Board;

(2) Member of Board of Commissioners appointed by the Mayor;

(3) Two at-large members to be appointed by the Board of Commissioners (initially one member shall be appointed for a four-year term, and one member shall be appointed for a two-year term. Thereafter terms shall be for four years.);

(4) Town Administrator; and

(5) Director of Public Works and Utilities.

(C) *Review by other agencies.* After having received the preliminary plat from the subdivider, the Subdivision Administrator shall submit copies of the preliminary plat and any accompanying material to other officials and agencies concerned with new development including, where applicable, but not limited to: the County Health Departments, the Director of Public Works and Utilities, the District Engineer of the North Carolina Department of Transportation (four copies) and the County Soil Conservation Service, for review and recommendation, staff review.

(D) *Review procedure.*

(1) The Subdivision Review Board shall review the preliminary plat at or before its next meeting which shall be held at least 14 days after the Subdivision Administrator receives the preliminary plat and the comments from the appropriate agencies.

(2) The Subdivision Review Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance or disapproval with reasons, within 45 days of its first consideration of the plat.

(3) If the Subdivision Review Board recommends approval of the preliminary plat, it shall retain one copy of the plat for its minutes and transmit two copies of the plat, to the Board of Commissioners with its recommendation.

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(4) If the Subdivision Review Board recommends conditional approval of the preliminary plat, it shall keep one copy of the plat for its minutes, transmit two copies of the plat and its recommendation to the Board of Commissioners, and return the remaining copy of the plat and its recommendation to the subdivider.

(5) If the Subdivision Review Board recommends disapproval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit one copy of the plat and its recommendation to the Board of Commissioners and return the remaining copy of the plat and its recommendation to the subdivider.

(6) If the preliminary plat is disapproved, the subdivider may make the recommended changes and submit a revised preliminary plat, or appeal the decision to the Board of Commissioners.

(7) If the Subdivision Review Board does not make a written recommendation within 45 days after its first consideration of the plat, the subdivider may apply to the Board of Commissioners for approval or disapproval.

(8) If the Board of Commissioners approves the preliminary plat, approval shall be noted on two copies of the plat. One copy of the plat shall be retained by the Board of Commissioners and one copy shall be returned to the subdivider. If the Board of Commissioners approves the preliminary plat with conditions, approval shall be noted on two copies of the plat along with a reference to the conditions. One copy of the plat along with the conditions shall be retained by the Board of Commissioners and one copy of the preliminary plat along with the conditions shall be returned to the subdivider. If the Board of Commissioners disapproves the preliminary plat, the reasons for disapproval shall be specified in writing. One copy of the plat and the reasons shall be retained by the Board of Commissioners and one copy shall be returned to the subdivider.

(1993 Code, § 66-50)

§ 151.35 FINAL PLAT SUBMISSION AND REVIEW.

(A) *Preparation of final plat, installation of improvements.* Upon approval of the preliminary plat by the Board of Commissioners, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and the requirements of this chapter. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this chapter or guaranteed their installation as provided herein. No final plat will be accepted for review by the Subdivision Review Board or the Board of Commissioners unless accompanied by written notice by the Subdivision Administrator acknowledging compliance with the improvement and guarantee standards of this chapter. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time; that portion shall conform to all requirements of this chapter. The first final plat shall be submitted within 12 months after the date on which the preliminary plat was approved; otherwise, the preliminary plat shall become null and void unless an extension of time is applied for and granted by the Board of Commissioners before the date on which the preliminary plat would become null and void.

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(B) *Improvements guarantees.*

(1) *Agreement and security required.* Subject to G.S. § 160D-804.1, and in lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. Once an agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the Board of Commissioners if all other requirements of this chapter are met. The agreement shall be for a period of one year, unless extended pursuant to G.S. § 160D-804.1.

To secure this agreement, the subdivider shall provide, subject to the approval of the Board of Commissioners, either one or a combination of the following guarantees, not exceeding 1.25 times the entire cost as provided herein:

(a) *Surety performance bond.* The subdivider shall obtain a performance bond from a surety bonding company authorized to do business in the state. The bonds shall be payable to the town and shall be in an amount equal to 1.25 times the entire cost of installing all required improvements. The duration of the bond shall be until a time as the improvements are accepted by the Board of Commissioners.

(b) *Letter of credit.* The subdivider shall provide a letter of credit issued by any financial institution licensed to do business in North Carolina

(c) *Cash or equivalent security.* The subdivider shall deposit cash or other instrument readily convertible into cash at face value, either with the town or in escrow with a financial institution designated as an official depository of the town. The use of any instrument other than cash shall be subject to the approval of the Board of Commissioners. If cash or other instrument is deposited in escrow with a financial institution as provided above, then the subdivider shall file with the Board of Commissioners an agreement between the financial institution and himself or herself guaranteeing the following:

1. That the escrow account shall be held in trust until released by the Board of Commissioners and may not be used or pledged by the subdivider in any other matter during the term of escrow; and

2. That in the case of a failure on the part of the subdivider to complete the improvements, the financial institution shall, upon notification by the Board of Commissioners and submission by the Board of Commissioners to the financial institution of an engineer's estimate of the amount needed to complete the improvements, immediately either pay to the town the funds needed to complete the improvement, up to the full balance of the escrow account, or deliver to the town any other instruments fully endorsed or otherwise made payable in full to the town.

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(2) *Default.*

(a) Upon default, meaning failure on the part of the subdivider to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account shall, if requested by the Board of Commissioners pay all or any portion of the bond or escrow fund to the Town up to the amount needed to complete the improvements based on an engineering estimate.

(b) Upon payment, the Board of Commissioners, in its discretion, may expend a portion of the funds as it deems necessary to complete all or any portion of the required improvements.

(c) The town shall return to the subdivider any funds not spent in completing the improvements.

(3) *Release of guarantee security.* The Board of Commissioners may release a portion of any security posted as the improvements are completed and recommended for approval by the Town Administrator. Within 45 days after receiving the Town Administrator's recommendation, the Board of Commissioners shall approve or disapprove the improvements. If the Board of Commissioners approves the improvements, then it shall immediately release any security posted on that portion.

(4) *Defects guarantee.* The Board of Commissioners shall require a guarantee from the subdivider guaranteeing utility taps, curbs, gutters, street construction including pavement, sidewalks, drainage facilities, seeding and grading of road shoulders, water and sewer lines and other improvements for one year. The one year shall begin from the date of town certification of completion of all improvements by the Board of Commissioners.

(C) *Submission procedure.*

(1) The subdivider shall submit the final plat, so marked, to the Subdivision Administrator.

(2) The final plat shall be prepared by a registered land surveyor currently licensed and registered in the state by the State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions and mapping requirements set forth in G.S. § 47-30 and the Standards of Practice for Land Surveying in North Carolina.

(3) Five copies plus any additional copies as required by the Subdivision Administrator of the final plat shall be submitted; two of these shall be on reproducible material; three shall be black or blue line paper prints. Material and drawing medium for the original shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the County Register of Deeds.

(4) The final plat shall be of a size suitable for recording with the County Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. Maps may be placed on more than one sheet with appropriate match lines.

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(5) Submission of the final plat shall be accompanied by a filing fee, paid by the subdivider, in accordance with the town's fee schedule.

(6) The final plat shall meet the specifications in § 151.37.

(7) The following signed certificates shall appear on all five copies of the final plat:

(a) *Certificate of ownership and dedication.* I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Enfield and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks and other sites and easements to public or private use as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer and water lines to the Town of Enfield.

Owners _____

Date _____

(b) *Certificate of survey and accuracy.* In accordance with G.S. § 47-30: There shall appear on each plat a certificate by the person under whose supervision the survey or plat was made, stating the origin of the information shown on the plat, including a recorded deed and plat references shown thereon. The ratio of precision as calculated by latitudes and departures before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of a certificate shall be acknowledged before any officer authorized to take acknowledgments by the registered land surveyor preparing the plat. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only the first sheet must contain the certification and all subsequent sheets must be signed and sealed.

1. The certificate required above shall include the source of information for the survey and data indicating the accuracy of closure of the plat before adjustments and shall be in substantially the following form:

“I, _____, certify that this plat was drawn under my supervision from (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, etc.) (other); that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____ that this plat was prepared in accordance with G.S. § 47-30 as amended. Witness my original signature, registration number, and seal this _____ day of _____, A.D. 20_____.”

Surveyor
Seal or Stamp
Registration Number

2. The certificate of the notary shall comply with North Carolina law.

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(c) *Certificate of approval of the design and installation of streets, utilities and other required improvements.* I hereby certify that all streets, utilities, and other required improvements have been installed in an acceptable manner and according to town specifications and standards in the _____ Subdivision, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of Enfield have been received, and that the filing fee for this plat, in the amount of \$ _____ has been paid.

Town Manager _____

Date _____

(8) The Subdivision Review Board shall review the final plat at or before its next meeting which shall be called at least 14 days after the Subdivision Administrator receives the final plat and shall recommend approval, conditional approval with modifications to bring the plat into compliance, or disapproval of the final plat with reasons within 45 days of its first consideration of the plat.

(9) During its review of the final plat, the Subdivision Review Board may appoint a registered land surveyor to confirm the accuracy of the final plat (if agreed to by the Board of Commissioners). If substantial errors are found, the costs shall be charged to the subdivider and the plat shall not be recommended for approval until errors have been corrected.

(10) If the Subdivision Review Board recommends approval of the final plat, it shall transmit all copies of the plat and its written recommendations to the Board of Commissioners through the Subdivision Administrator.

(11) If the Subdivision Review Board recommends conditional approval of the final plat with modifications to bring the plat into compliance, it shall retain one print of the plat for its minutes, return its written recommendations and two reproducible copies of the plat to the subdivider and transmit one print of the plat and its written recommendation to the Board of Commissioners through the Subdivision Administrator.

(12) If the Subdivision Review Board recommends disapproval of the final plat, it shall instruct the subdivider concerning resubmission of a revised plat and the subdivider may make changes as will bring the plat into compliance with the provisions of this chapter, and resubmit same for reconsideration by the Subdivision Review Board, or appeal the decision to the Board of Commissioners.

(13) Failure of the Subdivision Review Board to make a written recommendation within 45 days shall constitute grounds for the subdivider to apply to the Board of Commissioners for approval.

(14) If the Subdivision Review Board recommends approval or conditional approval with modifications to bring the plat into compliance, or the subdivider appeals to the Board of Commissioners, the Board of Commissioners shall review and approve or disapprove the final plat within 65 days after the plat and recommendations of the Subdivision Review Board have been received by the Subdivision Administrator.

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(15) If the Board of Commissioners approves the final plat, approval shall be shown on each copy of the plat by the following signed certificate:

Certificate of approval for recording.

I hereby certify that the subdivision plat shown hereon has been found to comply with the Subdivision Regulations of the Town of Enfield, North Carolina and that this plat has been approved by the Board of Commissioners of the Town of Enfield for recording in the Office of the Register of Deeds of Halifax County.
 Mayor
 Town of Enfield, North Carolina
 Date

(16) If the final plat is disapproved by the Board of Commissioners, the reasons for disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. One copy of the reasons and one print of the plat shall be retained by the Board of Commissioners as part of its proceedings; one copy of the reasons and three copies of the plat shall be transmitted to the subdivider. If the final plat is disapproved, the subdivider may make changes as will bring the final plat into compliance and resubmit same for reconsideration by the Subdivision Review Board and Board of Commissioners or by the Board of Commissioners as determined by the Board of Commissioners.

(17) If the final plat is approved by the Board of Commissioners, the original tracing and one print of the plat shall be retained by the subdivider. One reproducible tracing and one print shall be filed with the Town Clerk, and one print shall be returned to the Subdivision Review Board for its records.

(18) The subdivider shall file the approved final plat with the Register of Deeds of the County within 60 days of the Board of Commissioners' approval; otherwise, approval shall be null and void. (1993 Code, § 66-51) Penalty, see § 10.99

§ 151.36 INFORMATION CONTAINED IN OR DEPICTED ON PRELIMINARY AND FINAL PLATS.

The preliminary and final plats shall depict or contain the information indicated in the following table. An "x" indicates that the information is required.

<i>Information</i>	<i>Final Plat</i>	<i>Preliminary Plat</i>
<i>Title Block Containing:</i>		
Property designation	x	x
Name of owner	x	x
Location (including township, county and state)	x	x

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<i>Information</i>	<i>Final Plat</i>	<i>Preliminary Plat</i>
<i>Title Block Containing:</i>		
Date or dates survey was conducted and plat prepared	X	X
A scale of drawing in feet per inch listed in words or figures	X	X
A bar graph	X	X
Name, address, registration number and seal of the registered land surveyor	X	X
The name of the subdivider	X	X
A sketch vicinity map showing the relationship between the proposed subdivision and surrounding area	X	X
Corporate limits, township boundaries, county lines, if on the subdivision tract	X	X
The names, addresses and telephone numbers of all owners, mortgagers, registered land surveyors, land planners, architects, landscape architects and professional engineers responsible for the subdivision	X	X
The registration numbers and seals of the professional engineers	X	X
Date of plat preparation	X	X
North arrow and orientation	X	X
The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown		X
The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings and the location of existing boundary lines of adjoining lands	X	
The names of owners of adjoining properties	X	X
The names of any adjoining subdivisions of record or proposed and under review	X	X
Minimum building setback lines	X	X
The zoning classifications of the tract to be subdivided and adjoining properties		X
Existing property lines on the tract to be subdivided and on adjoining properties	X	X

TITLE XV: LAND USAGE

<i>Information</i>	<i>Final Plat</i>	<i>Preliminary Plat</i>
<i>Title Block Containing:</i>		
Existing buildings or other structures, watercourses, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining	X	X
Proposed lot lines; lot and block numbers and approximate dimensions		X
The lots numbered consecutively throughout the subdivision	X	
Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or streambeds and any other natural features affecting the site		X
The exact location of the flood hazard areas from the appropriate Federal Emergency Management Agency maps	X	X
<i>The following data concerning streets:</i>		
Proposed streets	X	X
Existing and platted streets on adjoining properties and in the proposed subdivision	X	X

<i>Information</i>	<i>Final Plat</i>	<i>Preliminary Plat</i>
Rights-of-way, location and dimensions	X	X
Pavement widths		X
Approximate grades		X
Design engineering data for all corners and curves	X	X
Typical street cross-sections		X
Street names	X	X
Street maintenance agreement in accordance with § 151.54	X	

TITLE XV: LAND USAGE

<i>Information</i>	<i>Final Plat</i>	<i>Preliminary Plat</i>
Type of street dedication; all streets must be designated as public; where public streets are involved which will be dedicated to the town, the subdivider must submit all street plans to the Director of Public Works and Utilities for approval prior to preliminary plat approval; public streets which will not be dedicated to a municipality, must meet all construction requirements as though the street was to be dedicated to the municipality. Further, the subdivider must submit the following documents to the North Carolina Department of Transportation District Highway Office for review: a complete site layout, including any future expansion anticipated; horizontal alignment indicating general curve data on site layout plan; vertical alignment indicated by percent grade, PI station, and vertical curve length on site plan layout; the District Engineer may require the plotting of the ground profile and grade line for roads where special conditions or problems exist; typical section indicating the pavement design and width and the slopes, widths and details for either the curb and gutter or the shoulder and ditch proposed; drainage facilities and drainage areas	x	x
Where streets are dedicated to the public, but not accepted into a municipal or the state system before lots are sold, a statement explaining the status of the street in accordance with § 151.54(B)	x	
If any street is proposed to intersect with a state-maintained road, the subdivider shall apply for driveway approval as required by the North Carolina Department of Transportation, Division of Highways Manual on Driveway Regulations; evidence that the subdivider has obtained approval	x	x
<i>The location and dimensions of all:</i>		
Utility and other easements	x	x
Riding trails	x	x
Natural buffers	x	x

<i>Information</i>	<i>Final Plat</i>	<i>Preliminary Plat</i>
Pedestrian or bicycle paths	x	x
Parks and recreation areas with specific type indicated	x	x

TITLE XV: LAND USAGE

<i>Information</i>	<i>Final Plat</i>	<i>Preliminary Plat</i>
School sites	X	X
Areas to be dedicated to or reserved for public use	X	X
Areas to be used for purposes other than residential with the purpose of each stated	X	X
The future ownership (dedication or reservation for public use to governmental body, for owners to duly constituted homeowners association or for tenants remaining in subdivider's ownership) of recreation and open space lands		X
<i>The plans for utility layouts including:</i>		
Sanitary sewers, prepared by a registered engineer		X
Storm sewers, prepared by a registered engineer		X
Other drainage facilities, if any, prepared by a registered engineer, except incidental drainage	X*	X
Water distribution lines, prepared by a registered engineer illustrating connections to existing systems, showing line sizes, the location of fire hydrants, blowoffs, manholes, force mains and gate valves		X
Natural gas lines		X
Telephone lines	X*	X
Electric lines	X*	X
Plans for individual water supply and sewage disposal systems, if any	X	X
Profiles based upon mean sea level datum for sanitary sewers and storm sewers		X
*Required on final plat only for minor subdivisions, but not required on final plat for major subdivision.		
<i>Site calculations including:</i>		
Acreage in total tract to be subdivided		X
Acreage in parks and recreation areas and other nonresidential uses		X
Total number of parcels created		X
Acreage in the smallest lot in the subdivision		X

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<i>Information</i>	<i>Final Plat</i>	<i>Preliminary Plat</i>
Linear feet in streets		x
The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is located on the U.S. Department of Interior's National Register of Historic Places	x	x
Sufficient engineering data to determine readily and reproduce on the ground every straight or curved line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings or deflection angles, radii, central angles and tangent distances for the center line of curved property lines that are not the boundary line of curved streets; all dimensions shall be measured to the nearest 1/10 of a foot and all angles to the nearest minute	x	
The accurate locations and descriptions of all monuments, markers and control points	x	
A copy of any proposed deed restrictions or similar covenants; restrictions are mandatory when private recreation areas are established	x	x
A copy of the erosion control plan submitted to the appropriate authority, if a plan is required	x	
Topographic map with contour intervals of no greater than 5 feet at a scale of no less than 1 inch= 200 feet		x
All certifications required in § 151.36 or § 151.33 if applicable	x	
Any other information considered by either the subdivider, Subdivision Board or Board of Commissioners to be pertinent to the review of the plat	x	x

(1993 Code, § 66-52)

§ 151.37 RECOMBINATION OF LAND.

(A) Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of the plat shall be attached, declaring the same to be vacated.

(B) An instrument shall be approved by the same agencies as approved the final plat. The governing body may reject any instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

TITLE XV: LAND USAGE

(C) An instrument shall be executed, acknowledged or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed, shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys and public grounds, and all dedications laid out or described in the plat.

(D) When lots have been sold, the plat may be vacated in the manner provided in divisions (A) through (C) above by all owners of the lots in the plat joining in the execution of the writing.
(1993 Code, § 66-53)

§ 151.38 RESUBDIVISION PROCEDURES.

For any re-platting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.
(1993 Code, § 66-54)

REQUIRED IMPROVEMENTS AND MINIMUM STANDARDS OF DESIGN

§ 151.50 GENERALLY.

Each subdivision shall contain the improvements specified in this subchapter, which shall be installed in accordance with the requirements of this chapter and paid for by the subdivider, unless other means of financing is specifically stated in this chapter. Land shall be dedicated and reserved in each subdivision as specified in this subchapter. Each subdivision shall adhere to the minimum standards of design established by this subchapter.
(1993 Code, § 66-71)

§ 151.51 SUITABILITY OF LAND.

(A) Land which has been determined by the Board of Commissioners on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct the conditions and to eliminate dangers.

(B) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the County Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose provided.

(C) (1) All subdivision proposals shall be consistent with the need to minimize flood damage.

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(2) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
(1993 Code, § 66-72) Penalty, see § 10.99

§ 151.52 NAME DUPLICATION.

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within the town and its extraterritorial jurisdiction or in the county.
(1993 Code, § 66-73) Penalty, see § 10.99

§ 151.53 SUBDIVISION DESIGN.

(A) *Blocks.*

(1) The lengths, widths and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements, needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.

(2) Blocks shall not be less than 400 feet or more than 1,800 feet in length.

(3) Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions or where abutting a water area.

(4) Where deemed necessary by the Board of Commissioners, a pedestrian crosswalk at least 15 feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area or to areas such as shopping centers, religious or transportation facilities.

(5) Block numbers shall conform to the town street numbering system, if applicable.

(B) *Lots.*

(1) All lots in new subdivisions shall conform to the zoning requirements of the district in which the subdivision is located. Conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all dimensional requirements of Chapter 153. It is not sufficient merely for the average lot to meet zoning requirements.

(2) Lots shall meet any applicable County Health Department requirements.

(3) Double frontage lots shall be avoided wherever possible.

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

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(5) The dwelling shall be placed on the lot so that the front shall face and be parallel to the addressed street.

(C) *Easements*. Easements shall be provided as follows:

(1) *Utility easements*. Easements for underground or aboveground utilities shall be provided, where necessary, across lots or centered on rear or side lot lines and shall be at least 20 feet wide for water and sanitary sewer lines and as required by the companies involved, for telephone, gas and power lines. The Board of Commissioners will determine whether one easement is sufficient or whether several easements are necessary to accommodate the various facilities, and the subdivider shall provide the required easements.

(2) *Drainage easements*. Where a subdivision is traversed by a stream or drainageway, an easement shall be provided conforming with the lines of the stream and of sufficient width as will be adequate for the purpose.

(1993 Code, § 66-74)

§ 151.54 STREETS.

(A) *Type of street required*. All subdivision lots shall abut on a public street. All public streets shall be dedicated to the town, the state or the public, as determined appropriate by the Board of Commissioners. All public streets shall be built to the standards of this chapter and all other applicable standards of the town and the State Department of Transportation. Public streets not dedicated to the town which are eligible for acceptance into the state highway system shall be constructed to the standards necessary to be put on the state highway system or the standards in this chapter, whichever is more strict, in regard to each particular item, and shall be put on the system. Streets not dedicated to the town which are not eligible to be put on the state highway system because there are too few lots or residences shall nevertheless be dedicated to the public and shall be in accordance with the standards in this chapter or the standards necessary to be put on the state highway system, whichever is more strict in regard to each particular item, so as to be eligible to be put on the system at a later date. A written maintenance agreement with provisions for maintenance of the street until it is put on the state system shall be included with the final plat.

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(B) *Subdivision street disclosure statement.* All streets shown on the final plat shall be designated in accordance with G.S. § 136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the state system, a statement explaining the status of the street shall be included with the final plat before lots are sold.

(C) *Half-streets.* The dedication of half-streets of less than 60 feet at the perimeter of a new subdivision shall be prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street shall be furnished by the subdivider. Where there exists a half-street in an adjoining subdivision, the remaining half shall be provided by the proposed subdivision. However, in circumstances where more than 60 feet of right-of-way is required, a partial width right-of-way, not less than 60 feet in width, may be dedicated when adjoining undeveloped property is owned or controlled by the subdivider, provided that the width of the partial dedication is so as to permit the installation of facilities as may be necessary to serve abutting lots. When the adjoining property is subdivided, the remainder of the full required right-of-way shall be dedicated.

(D) *Marginal access streets.* Where a tract of land to be subdivided adjoins a principal arterial street, the subdivider may be required to provide a marginal access street parallel to the arterial street or reverse frontage on a minor street for the lots to be developed adjacent to the arterial. Where reverse frontage is established, private driveways shall be prevented from having direct access to the principal arterial.

(E) *Access to adjacent properties.* Where in the opinion of the Board of Commissioners it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of the property and a temporary turnaround provided. The extension dedicated shall have the same right-of-way width as the street being extended.

(F) *Nonresidential streets.* The subdivider of a nonresidential subdivision shall provide streets in accordance with I. F-4 of the State Department of Transportation, Division of Highways Subdivision Roads, Minimum Construction Standards, current issue and the standards in this chapter, whichever are more strict in regard to each particular item.

(G) *Design standards.*

(1) The design of all streets and roads within the jurisdiction of this chapter shall be in accordance with the accepted policies of the State Department of Transportation, Division of Highways, as taken or modified from the American Association of State Highway and Transportation Officials (AASHTO) manuals.

(2) The current issue of the State Department of Transportation, Division of Highways Subdivision Roads Minimum Construction Standards shall apply for any items not included in this chapter, or where more strict than this chapter.

(3) The provision of street rights-of-way shall conform to and meet the requirements of the thoroughfare plan of the town as approved by the Planning Board and adopted by the Board of Commissioners and the State Board of Transportation.

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(4) The urban planning area shall consist of that area within the urban planning boundary as depicted on the mutually adopted Enfield thoroughfare plan.

(5) The rural planning area shall be that area outside the urban planning boundary.

(1) *Right-of-way widths.* Right-of-way widths shall not be less than the following and shall apply except in those cases where right-of-way requirements have been specifically set out in the thoroughfare plan.

<i>Rural</i>	<i>Minimum Right-of-Way (Feet)</i>
(a) Principal arterial: Freeways Other	350 200
(b) Minor arterial	100
(c) Major collector	100
(d) Minor collector	100
(e) Local road	50*
*The desirable minimum right-of-way is established as 50 feet. If curb and gutter are provided, 50 feet of right-of-way is adequate on local residential streets.	

<i>Urban</i>	<i>Minimum Right-of-Way (Feet)</i>
(a) Major thoroughfare other than freeway and expressway	90
(b) Minor thoroughfare	70
(c) Local street	50*
(d) Cul-de-sac	50
(e) Cul-de-sac turnaround	100
*The desirable minimum right-of-way is established as 50 feet. If curb and gutter are provided, 50 feet of right-of-way is adequate on local residential streets.	
The subdivider will only be required to dedicate a maximum of 100 feet of right-of-way. In cases where over 100 feet of right-of-way is desired, the subdivider will be required only to reserve the amount in excess of 100 feet. In all cases in which right-of-way is sought for an access controlled facility, the subdivider will only be required to make a reservation.	

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(2) *Street widths.* Widths for street and road classifications other than local shall be as required by the thoroughfare plan. Width of local roads and streets shall be as follows:

(a) *Local residential.*

1. Curb and gutter section, 26 feet, face-to-face of curb.
2. Shoulder section, 20 feet to edge of pavement, four-foot shoulders.

(b) *Residential collector.*

1. Curb and gutter section, 34 feet, face-to-face of curb.
2. Shoulder section, 20 feet to edge of pavement, six-foot shoulders.

(3) *Geometric characteristics.* The standards outlined below shall apply to all subdivision streets proposed for addition to the state highway system or municipal street system. In cases where a subdivision is sought adjacent to a proposed thoroughfare corridor, the requirements of dedication and reservation discussed under right-of-way shall apply.

(a) *Design speed.* The design speeds for subdivision-type streets shall be:

<i>Minimum</i>		<i>Desirable</i>
<i>Rural</i>		
50	Minor collector roads	60
50*	Local roads including residential collectors and local residential	50
<i>Urban</i>		
50	Major thoroughfares other than freeway or expressway	60
50	Minor thoroughfares	60
40**	Local streets	40
*Based on projected annual average daily traffic of 400-750. In cases where a road will serve a very limited area and small number of dwelling units, minimum design speeds can be reduced further, but in no case below 25.		
**Based on projected annual average daily traffic of 50-250		

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(b) *Maximum and minimum grades.*

1. The maximum grades in percent shall be:

<i>Design Speed</i>	<i>Grade</i>
60	4
50	5
40 or less	6

2. A minimum grade for curbed streets normally should not be less than 0.5%; a grade of 0.35% may be allowed where there is a high type pavement accurately crowned and in areas where specific drainage conditions may control.

3. Grades for 100 feet each way from intersections should not exceed 5%.

4. For streets and roads with projected annual average daily traffic less than 250, short grades less than 500 feet long, may be 150% greater.

(c) *Minimum sight distances.*

1. In the interest of public safety, no less than the minimum sight distance applicable shall be provided in every instance.

2. Vertical curves that connect each change in grade shall be provided and calculated using the following parameters. (General practice calls for vertical curves to be multiples of 50 feet. Calculated lengths shall be rounded up in each case.)

Design speed (mph)	20	30	40	50	60
Stopping sight distance:					
Min. stopping distance, feet	150	200	275	400	525
Des. stopping distance, feet	150	200	325	475	650
Minimum K* value for:					
1. Min. crest vert. curve	16	28	55	85	160
Des. crest vert. curve	16	28	65	145	300
2. Min. SAG vert. curve	24	35	55	75	105
Des. SAG vert. curve	24	35	60	100	155

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*K is a coefficient by which the algebraic difference in grade may be multiplied to determine the length in feet of the vertical curve which will provide minimum sight distance. Sight distance provided for stopped vehicles at intersections shall be in accordance with *A Policy on Geometric Design of Rural Highways* and Chapter 153 of this code.

(d) 1. The following table shows the maximum degree of curve and related maximum superelevation for design speeds.

2. The maximum rate of roadway superelevation (e) for rural roads with no curb and gutter is .08.

3. The maximum rate of superelevation for urban streets with curb and gutter is .06 with .04 being desirable.

<i>Degree (Rounded) Curve Degrees</i>	<i>Design Speed (mph)</i>	<i>Maximum e*</i>	<i>Minimum Radius (Rounded) Feet</i>
19.0	30	.04	300
10.0	40	.04	560
6.0	50	.04	950
4.0	60	.04	1,500
21.0	30	.06	275
11.5	40	.06	510
7.0	50	.06	850
4.5	60	.06	1,375
23.0	30	.08	250
12.5	40	.08	460
7.5	50	.08	760
5.0	60	.08	1,200

*Rate of roadway superelevation, foot per foot.

(4) *Intersections.*

(a) Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle less than 60 degrees.

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(b) Property lines at intersections should be set so that the distance from the edge of pavement, of the street turnout, to the property line will be at least as great as the distance from the edge of pavement to the property line along the intersecting streets. This property line can be established as a radius or as a sight triangle. Greater offsets from the edge of pavement to the property lines will be required, if necessary, to provide sight distance for the vehicle on the side street.

(c) Offset intersections are to be avoided unless exception is granted by the Division of Highways or the town as applicable. Intersections which cannot be aligned should be separated by a minimum length of 200 feet between survey and centerlines.

(d) Intersections with arterials, collectors and thoroughfares shall be at least 1,000 feet from centerline to centerline, or more if required by the State Department of Transportation.

(5) *Cul-de-sacs*. Permanent dead-end streets should not exceed 500 feet in length unless necessitated by topography or property accessibility and in no case shall be permitted to be over 900 feet. Measurement shall be from the point where the centerline of the dead-end street intersects with the center of a through street to the center of the turnaround of the cul-de-sac. Where one cul-de-sac intersects with another cul-de-sac, the end of each cul-de-sac shall be no more than 500 to 900 feet from a through street, measured as stated above. The distance from the edge of pavement on the vehicular turnaround to the right-of-way line shall not be less than the distance from the edge of pavement to the right-of-way line on the street approaching the turnaround. Cul-de-sacs should not be used to avoid connection with an existing street or to avoid the extension of an important street, unless exception is granted by the Board of Commissioners.

(6) *Alleys*.

(a) Alleys shall be required to serve lots used for commercial and industrial purposes except that this requirement may be waived where other definite and assured provision is made for service access. Alleys shall not be provided in residential subdivisions unless necessitated by unusual circumstances.

(b) The width of an alley shall be at least 20 feet.

(c) Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead-end as may be approved by the Board of Commissioners.

(d) Sharp changes in alignment and grade shall be avoided.

(e) All alleys shall be designated in accordance with the State Department of Transportation standards.

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(H) *Other requirements.*

(1) *Through traffic discouraged on residential collector and local streets.* Residential collector and local streets shall be laid out in a way that their use by through traffic will be discouraged. Streets shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools or other places of public assembly.

(2) *Sidewalks.* Sidewalks may be required by the Board of Commissioners on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Sidewalks shall be constructed to a minimum width of four feet, and shall consist of a minimum thickness of four inches of concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six inches of concrete at driveway crossings.

(3) *Street names.* Proposed streets which are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the town, and its

extraterritorial jurisdiction or the county irrespective of the use of a suffix such as street, road, drive, place, court and the like. Street names shall be subject to the approval of the Board of Commissioners.

(4) *Street name signs.* The subdivider shall be required to provide street name signs for all intersections within the subdivision. These street name signs shall be purchased through the town, and installed by town workers. The subdivider shall pay the town for the signs and their installation.

(5) *Permits for connection to state roads.* An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office, of the nearest district engineer of the Division of Highways.

(6) *Offsets to utility poles.* Poles for overhead utilities should be located clear of roadway shoulders, preferably a minimum of at least 30 feet from the edge of pavement on major thoroughfares. On streets with curb and gutter, utility poles should be set back a minimum distance of six feet from the face of curb.

(7) *Wheelchair ramps.* In accordance with G.S. § 136-44.14, all street curbs in the state being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically disabled at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

(8) *Horizontal width on bridge deck.*

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(a) The clear roadway widths for new and reconstructed bridges serving two-lane, two-way traffic shall be as follows:

1. *Shoulder section approach.*

a. *Under 800 ADT Design Year.* Minimum 28 feet width face-to-face of parapets or rails or pavement width plus ten feet, whichever is greater.

b. *800-2000 ADT Design Year.* Minimum 34 feet width face-to-face of parapets or rails or pavement width plus 12 feet, whichever is greater.

c. *Over 2000 ADT Design Year.* Minimum 40 feet. Desirable 44 feet width face-to-face of parapets or rails.

2. *Curb and gutter approach.*

a. *Under 800 ADT Design Year.* Minimum 24 feet face-to-face of curbs.

b. *Over 800 ADT Design Year.* Width of approach pavement measured face-to-face of curbs.

(b) Where curb and gutter sections are used on roadway approaches, curbs on bridges shall match the curbs on approaches in height, in width of face-to-face of curbs and in crown drop. The distance from face of curb to face of parapet or rail shall be one foot, six inches minimum, or greater if sidewalks are required.

(c) The clear roadway widths for new and reconstructed bridges having four or more lanes serving undivided 2-way traffic shall be as follows:

1. *Shoulder section approach.* Width of approach pavement plus width of usable shoulders on the approach left and right.

2. *Curb and gutter approach.* Width of approach pavement measured face-to-face of curbs.

(9) *Curb and gutter.* Curb and gutter shall be provided where deemed necessary by the Board of Commissioners with advice from the Planning Board, Public Services Director or the town's consulting engineer in order to provide adequate drainage, or because high traffic volumes, soil conditions or other similar conditions or special problems exist.

(1993 Code, § 66-75) Penalty, see § 10.99

§ 151.55 UTILITIES.

(A) *Water and sanitary sewer systems.*

(1) Each lot in all subdivisions within the corporate limits of the town shall be provided, at the subdivider's expense, with an extension of the municipal water and sanitary sewer systems.

(2) Each subdivision in the extraterritorial area of the town may be connected at the subdivider's expense to the municipal water and sanitary sewer systems if approved by the Board of Commissioners.

(3) Water and sanitary sewer lines, connections and equipment shall be in accordance with the town standards and policies. Water and sewer taps and meters, meter curb boxes and conservation stops shall be installed at the subdivider's expense on each lot within the corporate limits of the town, or if the subdivider is utilizing the town's water and sewer system in a subdivision outside the corporate limits, in each lot within the subdivision.

(4) All lots in subdivisions not connected to municipal or county water or sanitary sewer systems must have a suitable source of water supply and sanitary sewage system, which complies with the regulations of the applicable county and state agencies.

(B) *Storm water drainage system.* The subdivider shall provide a surface water drainage system constructed to the standards of the North Carolina Department of Transportation, as reflected in the current issue of the Handbook for the Design of Highway Surface Drainage Structures, subject to review by the Director of Public Works and Utilities.

(1) No surface water shall be channeled or directed into a sanitary sewer.

(2) Where feasible, the subdivider shall connect to an existing storm drainage system.

(3) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.

(4) Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act, G.S. § 143-34.12, Chapter 113A, Article 4, and North Carolina Administrative Code Title 15, Chapter 4 and any locally adopted erosion and sedimentation control ordinances.

(5) The minimum grade along the bottom of a surface drainage course should be a vertical fall of at least one foot in each 200 feet of horizontal distance.

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(6) Streambanks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, G.S. § 143-34.12, Chapter 113A, Article 4 and North Carolina Administrative Code Title 15, Chapter 4.

(7) Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967 and North Carolina Administrative Code Title 15, subchapter 2K.

(8) In all areas of special flood hazard, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

(C) *Street lights.* All subdivisions in which the size of the smallest lot is less than 40,000 square feet shall have street lights installed throughout the subdivision at the subdivider's expense in accordance with the standards of the Town of Enfield.

(D) *Parking lot lights.* All infrastructure needed for any subdivision that includes plans for parking lot lights shall be installed at the subdivider's expense in accordance with the standards of the Town. LED lighting shall be utilized. Parking lot lights and related infrastructure located on property that is not owned by the Town shall be serviced and maintained at the subdivider's expense.

(E) *Electrical service.* Electrical service shall be installed in accordance with a written plan or diagram approved by the Town. All conduit for electrical lines shall be installed underground at the subdivider's expense. The Town will then install the necessary electrical lines through the conduit at the Town's expense. The Town shall also install all other infrastructure necessary to provide electrical service up to and including the connection at the electrical meter at its expense.
(1993 Code, § 66-76; Am. Ord. 2-19-18)

§ 151.56 PLACEMENT OF MONUMENTS.

Unless otherwise specified by this chapter, the Standards of Practice for Land Surveying as adopted by the State Board of Registration for Professional Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21 NCAC 56), shall apply when conducting surveys for subdivisions, to determine the accuracy for surveys and placement of monuments, control corners, markers and property corner ties; to determine the location, design and material of monuments, markers, control corners and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions. All property corners shall be monumented with permanent monuments.

(1993 Code, § 66-77)

§ 151.57 CONSTRUCTION PROCEDURES.

(A) No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities.

(B) No building, zoning or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this chapter until all the requirements of this chapter have been met. The subdivider, prior to commencing any work within the subdivision, shall provide for adequate inspection. The approving authorities having jurisdiction or their representatives shall inspect and approve all completed work prior to release of the sureties. Inspections shall be conducted pursuant to G.S. § 160D-403(e).
(1993 Code, § 66-78) Penalty, see § 10.99

§ 151.58 OVERSIZED IMPROVEMENTS.

The town may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the town requires the installation of improvements in excess of the standards required in this chapter, including all standards adopted by reference, the town shall pay the cost differential between the improvement required and the standards in this chapter. The town may recoup this cost through fees.
(1993 Code, § 66-79)

§ 151.59 AS-BUILT DRAWINGS.

At the time of the developer's request to dedicate the improvements to the town, the developer shall provide as-built drawings of all improvements and utilities.
(1993 Code, § 66-80)

§ 151.60 BUFFERING.

Whenever a residential subdivision is located adjacent to an office, institutional, commercial or industrial use which does not have a buffer, or property zoned for these uses, and a buffer is not required between these and the subdivision, the subdivider shall provide a buffer as defined in § 151.02. The width of the buffer shall be in addition to the lot area required by Chapter 153. The buffer shall become part of the lot on which it is located, or in the case of commonly owned property, shall be deeded to the homeowners association.

§ 151.61 REPAIR OF PUBLIC STREETS AND OTHER PUBLIC SPACES BEFORE FINAL APPROVAL.

If any public street or other public space or right of way is damaged by any development provided by this Chapter, the Town shall withhold issuance of any final plat, permit or other approval until the damaged property has been repaired and returned to its original condition, or such other arrangement is agreed to in writing by the developer and the Town Administrator.
(1993 Code, § 66-81) (Ord. 11-19-18)

CHAPTER 152: HOUSING CODE

Section

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HOUSING CODE; GENERALLY

§ 152.01 DEFINITIONS.

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

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ABANDONED STRUCTURE. Any structure, other than a dwelling, dwelling unit, habitable room, multiple dwelling, rooming unit or roominghouse, which is a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities, and which cannot be repaired, altered or improved so as to no longer constitute health or safety hazard at a cost of less than 50% of its value.

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 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 can be repaired, altered or improved to comply with all of the minimum standards established by this chapter, at a cost not in excess of 50% of its value, as determined by findings 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 the finding of the Inspector.

DWELLING. As defined by G.S. § 160D-102(15).

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

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

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

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

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

INSPECTOR. The Inspector of the town appointed to administer this chapter and shall include any agent of the Inspector who is authorized by the Inspector.

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MODULAR HOME. A factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code and bears a seal or label as provided in G.S. § 143-139.1.

(Ord. passed 7-12-2004)

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 a part thereof, in which dwelling units or rooming units are let.

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

(a) Has title to any dwelling, dwelling unit or abandoned structure, with or without accompanying actual possession thereof; or

(b) Has charge, care or control of any dwelling, dwelling unit or abandoned structure, as owner, or as executor, administrator, trustee or guardian of the estate of the owner. Any person thus representing the actual owner shall be bound to comply with the provisions of this subchapter, and the rules and regulations adopted pursuant thereto, to the same extent as if he or she were the owner.

PARTIES IN INTEREST. All individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

PLUMBING. Includes all of the following supplied facilities and equipment: gas pipes, gas-burning equipment, water pipes, mechanical garbage disposal units (mechanical sink grinder), waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catchbasin, drains, vents and any other similar supplied fixtures, together with all connections to water, sewer or gas lines.

PUBLIC AUTHORITY. The Board of Commissioners or any officer who is in charge of any department or branch of the government of the town health, fire, building regulations or other activities concerning dwellings or abandoned structures 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.

ROOMINGHOUSE. 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, wife, son or daughter, mother, father, sister or brother of the owner or operator.

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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.

SUBSTANDARD DWELLING OR STRUCTURE. A dwelling, dwelling unit, multiple dwellings, apartment house or any other space used or intended to be used as a habitable living space in any building or structure which does not meet the basic minimum requirements of this subchapter for that use.

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 utility system on the same premises for more than 30 consecutive days.

UNFIT FOR HUMAN HABITATION. Conditions exist in a dwelling which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this subchapter.

(B) Whenever the words dwelling, dwelling unit, rooming use, rooming unit, premises and abandoned structure are used in this subchapter, they shall be construed as though they were followed by the words “or any part thereof.”

(1993 Code, § 14-51)

Statutory Reference:

Minimum housing standards, see G.S. §§ 160D-1201 et seq.

§ 152.02 PURPOSE OF SUBCHAPTER.

(A) Pursuant to G.S. § 160D-1201, it is hereby found and declared that there exists in the town:

(1) Dwellings which are unfit for human habitation due to dilapidation; defects increasing the hazards of fire, accidents and other calamities; lack of ventilation, light and sanitary facilities; and other conditions rendering dwellings unsafe or unsanitary, dangerous and otherwise detrimental to the health, safety, morals and welfare of the residents of the town.

(2) Certain abandoned structures which, due to the attraction of insects and rodents, conditions creating a fire hazard, dangerous conditions contributing a threat to children or frequent use by vagrants as living quarters in the absence of sanitary facilities, are a health hazard and are otherwise inimical to the welfare of the town.

(B) In order to protect the health, safety and welfare of the residents of the town, it is the purpose of this subchapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, and in addition to provide for the regulations of abandoned structures, as expressly authorized by G.S. § 160D-1205.

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(C) Development approvals and determinations, as defined by G.S. § 160D-102, subject to this subchapter are governed by G.S. § 160D-403. Development approvals attach to and run with the land as provided by G.S. § 160D-104.

(1993 Code, § 14-52)

§ 152.03 CONFLICTS WITH OTHER PROVISIONS.

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

(1993 Code, § 14-54)

§ 152.04 DUTIES AND POWERS OF INSPECTOR.

(A) The Inspector is hereby designated as the officer to enforce the provisions of this subchapter and to exercise the duties and powers herein prescribed. It shall be the duty of the Inspector to:

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

(2) Investigate any structures located in the town, in order to determine which structures are abandoned structures by reason of constituting a health or safety hazard, and for the purpose of carrying out the objectives of this subchapter with respect to abandoned structures;

(3) Take action, together with other appropriate departments and agencies, public and private, as may be necessary to effect rehabilitation of housing that is deteriorated;

(4) To keep a record of the results of inspections made under this subchapter and an inventory of abandoned structures and of those dwellings that do not meet the minimum standards of fitness prescribed in this subchapter; and

(5) To perform other duties as may be prescribed in this subchapter.

(1993 Code, § 14-71)

(B) The Inspector is authorized to exercise powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this subchapter including the following:

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

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(2) Investigate structures in the town to determine which structures are abandoned structures;

(3) Administer oaths and affirmations, examine witnesses and receive evidence;

(4) Enter upon premises for the purpose of making examinations and inspections pursuant to G.S. § 160D-403(e); and

(5) Appoint and fix the duties of officers, agents and employees as he or she deems necessary to carry out the purposes of this subchapter.
(1993 Code, § 14-72)

§ 152.05 INSPECTIONS.

Inspections to enforce the provisions of this Chapter shall be conducted pursuant to G.S. §§ 160D-403(e) and -1207. For the purpose of making inspections, the Inspector is hereby authorized to enter, examine and survey at all reasonable times and all dwellings, dwelling units, rooming units, abandoned structures and premises. The owner or occupant of every dwelling, dwelling unit, rooming unit or abandoned structure or person in charge thereof, shall give the Inspector free access to the dwelling, dwelling unit, rooming unit or abandoned structure and its premises at all reasonable times for the purposes of inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his or her agent or employees, access to any part of a dwelling or dwelling unit and its premises at all reasonable times for the purpose of making repairs or alterations as are necessary to effect compliance with the provisions of this subchapter or with any lawful order issued pursuant to the provisions of this subchapter.
(1993 Code, § 14-73)

§ 152.06 PROCEDURE FOR ENFORCEMENT.

(A) *Preliminary investigation; notice; hearing.* Whenever a petition is filed with the public officer by a public authority, or whenever a petition is filed by at least five residents of the town charging that any dwelling is unfit for human habitation, or whenever it appears to the public officer either on his or her own action or upon his or her investigation of a written complaint filed by an adult occupant of a specific dwelling that any dwelling is unfit for human habitation, the public officer shall, if his or her preliminary investigation discloses a basis for charges, issue and cause to be served upon the owner of and parties in interest in dwellings a complaint and a notice that a hearing will be held before the public officer or his or her designated agent not less than ten days nor more than 30 days after serving of the complaint. Any complaint or other notice of violation shall be in writing and shall be issued pursuant to G.S. 160D-404(a).

(B) *Procedure after hearing on dwelling or dwelling unit.* After notice and hearing on the dwelling or dwelling unit, the Inspector shall state in writing his or her determination whether the dwelling unit is unfit for human habitation; and if so, whether it is deteriorated or dilapidated.

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(1) 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 the 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 the dwelling or dwelling unit to comply with the minimum standards of fitness established by this subchapter within a specified period of time not to exceed 90 days. The order may also direct and require the owner to vacate and close the dwelling or dwelling unit until repairs, alterations and improvements have been made.

(2) If the Inspector determines that the dwelling is dilapidated, he or she shall state in writing his or her findings of fact to support the determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve the dwelling or dwelling unit to comply with the minimum standards of fitness established by this subchapter, or else vacate and remove or demolish the same within a specified period of time not to exceed 90 days.

(C) *Procedure after hearing on abandoned structure.* After notice and hearing, the Inspector shall state in writing his or her determination whether the structure is an abandoned structure. If the Inspector determines that the structure is an abandoned structure, he or she shall state in writing his or her findings of fact to support the determination, and shall issue and cause to be served upon the owner thereof an order directing and requiring the owner to either repair, alter and improve the structure to correct those conditions which constitute a hazard to health or safety, or else remove or demolish the same within a specified period of time not to exceed 90 days.

(D) *Failure to comply with order for abandoned structure or dilapidated dwelling.* After failure of an owner of an abandoned structure, or a dilapidated dwelling or dwelling unit, to comply with an order of the Inspector within the time specified therein, the Board of Commissioners shall adopt an ordinance ordering the Inspector to cause the particular dwelling, dwelling unit or abandoned structure to be vacated and closed and moved or demolished, as provided in the original order of the Inspector, and pending removal or demolition, to placard the dwelling or abandoned structure as provided by G.S. §§ 160D-1203 and 152.08. This ordinance shall be recorded in the office of the Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner has been given a reasonable opportunity to bring the dwelling or structure into conformity with the housing code but fails to comply with the order to remove or demolish the dwelling, the Inspector may cause such dwelling to be removed or demolished after the Board of Commissioners adopts a subsequent ordinance ordering the Inspector to take such action. This subsequent ordinance shall be recorded in the office of the Register of Deeds in the county where the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(E) *Failure to comply with order for deteriorated dwelling.* After failure of an owner of a deteriorated dwelling or dwelling unit to comply with an order of the Inspector within one year, the Board of Commissioners shall adopt an ordinance ordering the Inspector to cause the particular dwelling, dwelling unit to be repaired, altered, improved or vacated and closed and moved or demolished, as provided G.S. §§ 160D-1203(6). This ordinance shall be recorded in the office of the Register of Deeds and shall be indexed in the name of the property owner in the grantor index.

(F) *Mandatory compliance procedures.* All property owners shall be given every consideration in their efforts to comply with the order of findings of the Inspector. In all cases where a property and structure are under an order of finding, the property owner shall diligently pursue the steps necessary to comply with the order of finding within the time limit set forth in the order.
(1993 Code, § 14-74)

§ 152.07 METHODS OF SERVICE OF COMPLAINTS AND ORDERS.

(A) Complaints or orders issued by the Inspector shall be delivered upon the owner of an abandoned structure and the owner of and parties in interest in a dwelling, as the case may be, as provided by G.S. § 160D-404(a). If the whereabouts of the 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 delivery of a complaint or order upon the person may be made by publishing the same once each week for two successive weeks in a newspaper printed and in circulation in 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 order.

(B) No person without written consent of the Inspector shall remove or permit the removal of any complaint, notice or order posted in accordance with the provisions of this code. Any person violating or failing to comply with the provisions of this section shall be subject to the provisions of § 10.99.
(1993 Code, § 14-75) Penalty, see § 152.99

§ 152.08 IN REM ACTION BY INSPECTOR.

(A) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling or abandoned structure, the public officer may cause the dwelling or abandoned structure to be repaired, altered or improved or to be vacated and closed; the Inspector may cause to be posted on the main entrance of any dwelling or abandoned structure so closed, 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 violation of this section and is subject to the provisions of § 10.99.

(B) If the owner fails to comply with an order to remove or demolish the dwelling or abandoned structure, the Inspector may cause the dwelling to be removed or demolished. The duties of the Inspector set forth in division (A) above and this division shall not be exercised until the Board of Commissioners has by ordinance ordered the Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties which the Inspector shall have found unfit for human habitation or found to be a health or safety hazard and which property shall be described in the ordinance. No ordinance shall be adopted to require demolition of a dwelling or abandoned structure until the owner has first been given a reasonable opportunity to bring it into conformity with the housing code or to correct the conditions which constitute a health or safety hazard. The ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(C) Dwellings or abandoned structures ordered vacated by the Inspector shall have all outer doors firmly locked and basement, cellar and first-story windows barred or boarded to prevent entry, and shall not again be used for human habitation until written approval is secured from the Inspector.

(1993 Code, § 14-76)

§ 152.09 COSTS DECLARED LIEN ON PREMISES.

The amount of the cost of proceedings under this subchapter, including attorney's fees and 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 this section shall be a lien against the real property upon which cost was incurred. A lien shall be filed, have the same priority, and be enforced and the costs be collected as provided by G.S. §§ 105-375 *et seq.*

(1993 Code, § 14-77)

§ 152.10 DISPOSITION OF ABANDONED PERSONAL PROPERTY FOUND IN HOUSING ORDERED DEMOLISHED.

Any article of personal property found by the Inspector to be abandoned in a house or abandoned structure which the Board of Commissioners has ordered the Inspector to demolish and being found by the Inspector to have an appraised value of \$50 or more shall be disposed of in the following manner:

(A) The Inspector shall first make an effort to communicate with the owner of the articles of personal property and to request that he or she remove the same from the premises.

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(B) If the Inspector is unable to communicate with the owner of the articles of personal property promptly or if the owner thereof fails or refuses to remove the property from the premises after being requested to do so, the articles of personal property found on the premises may be removed for safekeeping in a storage facility owned by the town. Written notice of each removal of personal property shall be promptly given to the owner of the articles of personal property to the extent that the identity of the person is known or may be reasonably ascertained. The owner or any other person who may be entitled to possession of any articles of personal property, before obtaining possession thereof, shall pay to the town all reasonable costs incident to the removal, storage and locating the owner of the property or any other person who may be entitled to possession thereof. Should the owner or other person entitled to possession fail or refuse to pay the costs, or should the identity or whereabouts of the owner be unknown and unascertainable after a diligent search has been made and after notice to him or her at his or her last known address, the Inspector may, after holding the property for 30 days, dispose of the same by public sale after ten days' public notice published in a local newspaper of general circulation, and the proceeds of the sale shall be forwarded to the Finance Officer of the town. The Finance Officer shall pay, from the proceeds of the sale, costs of removal, storage, investigation as to ownership and sale, the liens, in that order; and the remaining proceeds shall be deposited in the general fund of the town, subject to the following provisions. If the ownership of the property is established satisfactorily to the Finance Officer, the owner shall be paid by the officer so much of the proceeds from the sale of the property as remains after paying the cost of removal, storage, investigation as to ownership and sale and any other liens thereon.

(1993 Code, § 14-78)

§ 152.11 ALTERNATIVE REMEDIES.

The Town reserves the right to implement any general enforcement remedy as provided by G.S. § 160D-404(c). Neither this subchapter nor any of its provisions shall be construed to impair or limit in any way the power of the town to define and declare nuisances and to cause their abatement by summary action or otherwise, or to enforce this subchapter by criminal process as authorized by G.S. § 14-4, and the enforcement of any remedy provided in this subchapter shall not prevent the enforcement of any other remedy provided in this code or in other ordinances or laws.

(1993 Code, § 14-79)

§ 152.12 APPEALS.

The Board of Adjustment shall hear all administrative appeals arising under this chapter in accordance with G.S. §§ 160D-302, -405, -406, -705 and other applicable laws, as may be amended. Appeals from the Board of Adjustment shall be made to Superior Court as provided by applicable law.

§ 152.13 AMENDMENTS.

An amendment to this subchapter may be adopted by the Board of Commissioners only by ordinance and only after the notice and public hearing requirements contained in G.S. § 160D-601 have been satisfied. A simple majority of voting Board members present at the meeting upon which the amendment is presented is required to adopt any amendment to this chapter as provided by G.S. § 160A-75. The Mayor or Town Administrator may refer any amendment to the Planning Board for review and comment.

HOUSING CODE; MINIMUM STANDARDS

§ 152.25 COMPLIANCE.

(A) This subchapter contains the minimum standards of fitness for dwellings and dwelling units. Every dwelling and dwelling unit used as a human habitation, or held out for use as a human habitation, shall comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter. No person shall occupy as owner-occupant, or let to another for occupancy or use as a human habitation, any dwelling or dwelling unit which does not comply with all of the minimum standards of fitness for human habitation and all of the requirements of this subchapter.

(B) Development approvals and determinations, as defined by G.S. § 160D-102, subject to this subchapter are governed by G.S. § 160D-403. Development approvals attach to and run with the land as provided by G.S. § 160D-104.

(1993 Code, § 14-96) Penalty, see § 152.99

§ 152.26 STRUCTURAL CONDITION.

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

(B) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used. Kitchen and bathroom floors will be easily cleanable and covered with resistant floor covering so as to impede water and spills.

(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 a condition that they will not fail or collapse.

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

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(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 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 weathertight and watertight.

(H) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in a 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.
(1993 Code, § 14-97) Penalty, see § 152.99

§ 152.27 BASIC EQUIPMENT AND FACILITIES.

(A) *Plumbing system.*

(1) Each dwelling unit shall be connected to a potable water supply and to the public sewer 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 plumbing fixtures and appliances shall meet the standards of the State 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 or shower shall be located in a room affording privacy to the user.

(B) *Heating system.* Every dwelling and dwelling unit shall have a heating system for providing heat in accordance with either division (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 70°F measured three feet above the floor during ordinary winter conditions.

(2) *Other heating facilities.* Where a central or electric heating system is not provided, the owner of each dwelling and dwelling unit shall provide a suitable heating system so as to heat all habitable rooms with a minimum temperature of 70°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 wall-type electric convenience receptacles, connected in a manner as determined by the State Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall-type electric light fixture. If wall or ceiling light fixtures are not provided in any habitable room, each habitable room shall contain at least one floor or wall-type electric convenience receptacle.

(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) There shall be no bare wire, open joints or spliced cables. All switches, outlets, receptacles, ceiling fixtures or other fixtures shall be in good condition and properly installed with appropriate covers. Flexible cords shall not be used as a substitute for the fixed wiring of a dwelling.

(4) All fixtures, receptacles, equipment and wiring shall be maintained in good repair, capable of being safely used in accordance with the State Electrical Code.
(1993 Code, § 14-98; Am. Ord. 3-19-18) Penalty, see § 152.99

§ 152.28 VENTILATION.

(A) *Generally.* 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 the room. Whenever walls or other portions of structures face a window of any room and 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, 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 the room, the total window area of the skylight shall equal at least 15% of the total floor area of the room.

(B) *Habitable rooms.* Every habitable room shall have at least one window or skylight that can be easily opened, or another 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.

(C) *Bathrooms and water closet rooms.* Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms except that no window or skylight shall be required in adequately ventilated bathrooms and water closet rooms equipped with an approved ventilation system.
(1993 Code § 14-99) Penalty, see § 152.99

§ 152.29 SPACE, USE AND LOCATION.

(A) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the State Residential Building Code or State Plumbing Code. In addition:

(1) 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.

(2) In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over and at least 35 square feet of floor area for each occupant under 12 years of age.

(B) *Ceiling height.* At least 1/2 of the required floor area of every habitable room shall have a ceiling height of not less than seven feet, six inches.

(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 4-1/2 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, total open window area and ceiling height are equal to those required for habitable rooms; and

(3) The required minimum window area of every habitable room is entirely above the grade adjoining the window area, except where the windows face a stairwell, window well or access.
(1993 Code, § 14-100)

§ 152.30 SAFE AND SANITARY MAINTENANCE.

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

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(B) *Interior floor, walls and ceilings.* Every floor, interior wall and ceiling shall be substantially rodentproof; 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 rodentproof, and shall be kept in sound working condition and good repair.

(D) *Stairs, porches and appurtenances.* Every inside and outside 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. Stairwells and flights of stairs more than five risers high shall have rails not less than two feet six inches measured vertically from the nose of the threads at the top of the rail.

(E) *Bathroom floors.* Every bathroom floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit the floor to be easily kept in a clean and sanitary condition.

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

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

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

(I) *Egress.* Every dwelling unit shall be provided with adequate means of egress as required.

(J) *Underpinnings.* The space between the ground and the first floor of every dwelling shall be enclosed with a mason curtain wall which shall be substantially weatherproof and rodentproof. Mobile and manufactured homes shall be enclosed with a curtain wall of masonry.

(K) *Fences and accessory buildings.* Fences and other accessory buildings shall be maintained in safe and substantial condition, or be demolished.

(1993 Code, § 14-101) Penalty, see § 152.99

§ 152.31 CONTROL OF INSECTS, RODENTS AND INFESTATIONS.

(A) *Screens.* Every door, window or other device opening to outdoor space and used or intended to be used for ventilation shall be provided with an approved type screen for protection against mosquitoes, flies and other insects.

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(B) *Rodent control.* Every basement or cellar window used for 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 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 any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for 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 rodentproof or reasonably insectproof 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 occupant of the dwelling or dwelling unit shall be responsible for the removal of rubbish.

(E) *Garbage storage and disposal.* Every dwelling and every dwelling unit shall be supplied with approved outside garbage cans required by town ordinances, or approved mechanical garbage disposal units.

(1993 Code, § 14-102)

§ 152.32 APPLICABLE TO ROOMINGHOUSES; EXCEPTIONS.

All of the provisions of this subchapter, and all of the minimum standards and requirements of this subchapter, shall be applicable to roominghouses, and to every person who operates a roominghouse, or who occupies or lets to another for occupancy any rooming unit in any roominghouse, except as provided in the following divisions:

(A) *Water closet, hand lavatory, 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 roominghouse wherever facilities are shared. All 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 facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. The 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.

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(C) *Sanitary conditions.* The operator of every roominghouse shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the roominghouse; 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 roominghouse 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 § 152.27(A) shall be located within the roominghouse and within a room which affords privacy and is separate from the habitable rooms, and which is accessible from a common hall, without having to go outside the roominghouse or through any other room therein.
(1993 Code, § 14-103)

§ 152.33 RESPONSIBILITIES OF OWNERS AND OCCUPANTS.

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

(B) *Dwelling unit.* 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) *Garbage.* Every occupant of a dwelling or dwelling unit shall dispose of all his or her garbage, and any other organic waste which might provide food for rodents, in a clean and sanitary manner, by placing it in the garbage disposal facilities or garbage storage containers. In all cases the occupants shall be responsible for the availability of the garbage storage containers.

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

(E) *Extermination.* See § 152.31.

(F) *Plumbing fixtures.* Every occupant of a dwelling or dwelling unit shall keep all 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 thereof.

(G) *Care of facilities, equipment, structure.* No occupant shall willfully destroy, deface or impair any of the facilities, equipment or any part of the structure of a dwelling unit, dwelling, multi-dwelling or apartment.

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(H) *Care of premises.*

(1) It shall be unlawful for the owner or occupant of a residential building, structure or property to utilize the premises of the residential property for the open storage of any icebox, refrigerator, stove, glass, building material, building rubbish or similar items.

(2) It shall be the duty and responsibility of every owner or occupant to keep the premises of the residential property clean and to remove from the premises all abandoned items, as listed above, including but not limited to weeds, dead trees, trash, garbage and the like, upon notice from the Inspector.

(3) Yards and courts shall be kept clean and free of physical hazards, rubbish, trash, garbage, junked vehicles, vehicle parts and other similar material.

(4) Every premises shall be provided with vehicular access to and from the premises at all times by an abutting public and private street.

(5) No occupant shall obstruct in any manner means of egress from any portion of the premises.

(6) No occupant shall place on the premises any material which causes a fire hazard or otherwise endangers the health or safety of any occupants of a building.

(7) No occupant shall place on the premises for use any oil or gas-fired portable or unvented cook stove or heater.

(1993 Code, § 14-104) Penalty, see § 152.99

§ 152.34 AMENDMENTS.

An amendment to this subchapter may be adopted by the Board of Commissioners only by ordinance and only after the notice and public hearing requirements contained in G.S. § 160D-601 have been satisfied. A simple majority of voting Board members present at the meeting upon which the amendment is presented is required to adopt any amendment to this chapter as provided by G.S. § 160A-75. The Mayor or Town Administrator may refer any amendment to the Planning Board for review and comment.

§ 152.99 VIOLATIONS; PENALTY.

(A) It shall be unlawful for the owner of any dwelling, dwelling unit or abandoned structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, an order of the Inspector duly made and served as provided in this subchapter, within the time specified in the order, and each day that any failure, neglect or refusal to comply with the order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any

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dwelling, dwelling unit or abandoned structure, with respect to which an order has been issued pursuant to § 152.07, to occupy or permit the occupancy of the same after the time prescribed in closing, and each day that occupancy continues after the prescribed time shall constitute a separate and distinct offense.

(B) The violation of any provision of this subchapter or any similar ordinance or order issued by the Town with respect to dilapidated, deteriorated or abandoned residential buildings is subject to the penalties contained in section 10.99.

(1993 Code, § 14-53; Am. Ord. 9.16.19) Penalty, see § 152.99

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CHAPTER 153: ZONING

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GENERAL PROVISIONS

§ 153.001 AUTHORITY AND ENACTMENT.

In pursuance of the authority granted by the G.S. Chapter 160D, Article 7, be it ordained by the Board of Commissioners as follows in this chapter.
(1993 Code, § 78-1)

§ 153.002 TITLE.

This chapter shall be known and may be cited as the Zoning Code of the Town of Enfield, North Carolina, and may be referred to as the Zoning Code.
(1993 Code, § 78-2)

§ 153.003 PURPOSE.

(A) For the purpose of promoting the health, safety, morals, and general welfare, this chapter is adopted by the Board of Commissioners to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population and the location and use of buildings, structures, and land for trade, industry, residence or other purposes.

(B) The zoning regulations in this chapter are in accordance with a comprehensive plan and are designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. The regulations have been made with reasonable consideration, among other things, as to the character of the jurisdiction and its areas and their peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.
(1993 Code, § 78-3)

§ 153.004 JURISDICTION.

The area to which this chapter applies is shown on the official zoning map.
(1993 Code, § 78-4)

§ 153.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Except as defined in this section or in other sections of this chapter, all words used in this chapter shall have their customary dictionary definition. Unless the context clearly indicates otherwise, the terms used in this chapter shall have the meanings indicated below.

(A) *Interpretation of commonly used terms and words.*

LOT. Includes the words **PLOT, PARCEL** and **TRACT**.

MAP, ZONING MAP or **ENFIELD ZONING MAP.** Shall mean the official zoning map of Enfield, North Carolina.

STRUCTURE. Includes the word **BUILDING**.

USED. As applied to any land or building, shall be construed to include the words **INTENDED, ARRANGED, OR DESIGNED TO BE USED**.

(B) *Definitions of commonly used terms and words.*

ABUTTING. The property directly touches another piece of property.

ACCESSORY BUILDING, STRUCTURE OR USE. A building, structure or use on the same lot with, or of a nature customarily incidental or subordinate to, and of a character related to the principal use or structure.

ADULT ESTABLISHMENT. Any business or enterprise that has as one of its principal business purposes or as a significant portion of its business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in G.S. § 14-202.10, including but not limited to an adult bookstore, adult motion picture theater, adult mini motion picture theater, adult live entertainment businesses or massage businesses in which a person performing the massage does so while exhibiting anatomical areas specified in G.S. § 14-202.10 or in which the massage involves the intentional stimulation of those specified anatomical areas.

ALLEY. A strip of land, owned publicly or privately, set aside primarily for vehicular service access to the back or side properties otherwise abutting on a street.

BEACH BINGO GAME. “Beach bingo game” shall have the same meaning as per N.C. Gen. Stat. § 14-309.5, et. seq., as amended.

BINGO GAME. “Bingo game” shall have the same meaning as per N.C. Gen. Stat. § 14-309.5, et. seq., as amended.

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BUFFER STRIP. A strip which shall be a minimum of 16 feet in width, shall be composed of evergreen bushes, shrubs and/or trees so that at least two rows of coverage are provided from the ground to a height of six feet within six years and foliage overlaps, or a barrier constructed of stone, block, brick or other suitable building material, with a minimum height of five feet. The 16 feet required for the buffer strip shall be in addition to all normal yard requirements this chapter.

BUILDING. Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals or chattels.

BUILDING, HEIGHT OF. The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the height level between the eaves and ridge of a gable, hip or gambrel roof.

COMMERCIAL ADULT AMUSEMENT BUILDING. Any building that includes more than two commercial adult game machines, or which offers or provides any prize, money or other thing of value to any commercial adult game machine user.

COMMERCIAL ADULT GAME MACHINE. Any lawful electronic device used for commercial purposes that is designed to simulate gambling or a game of chance and which is marketed primarily for adults. Without limitation, common examples include video poker, blackjack, Texas Hold 'Em, 7-card Stud, Omaha, and craps.

COMMERCIAL CHILD GAME MACHINE. Any lawful electronic device used for commercial purposes that is designed as an amusement game, marketed primarily for children and young adults, involves skill or dexterity, is not a game of chance, and which is commonly found in video arcades. Without limitation, common examples include Pac-Man, Super Mario Brothers, Space Invaders and Donkey Kong. Provided, that no money may be awarded to any user of a commercial child game machine.

COMMUNITY SHELTER. A building used by a government agency or a nonprofit organization to provide a temporary residence and related services to the homeless, victims of domestic violence and others deprived of safe living quarters, but excludes halfway houses for transitional inmates and other such shelters that provide a temporary residence or related services to incarcerated individuals or those who remain on parole or probation, which are prohibited. A ***COMMUNITY SHELTER*** also may be used for meetings, classes, workshops, or similar activities related to the shelters mission, and may serve as offices and residence for individuals providing services related to the shelter.

CONDOMINIUM. A project meeting the requirements of G.S. §§ 47A-1 *et seq.* The type of structure and use rather than condominium form of ownership shall be the determining factor in deciding whether a use is permitted in a district.

DISH ANTENNA (OR EARTH STATION). An accessory structure and shall mean a combination of antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources; a low-noise amplifier which is situated at the

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focal point of the receiving component and whose purpose is to magnify and transfer signals; and a coaxial cable whose purpose is to carry the signals into the interior of the building.

DISH ANTENNA (OR EARTH STATION) HEIGHT. The distance as measured vertically from the highest point of the antenna or dish, when positioned at its lowest angle for operation, to ground level at the bottom of the base which supports the antenna.

DISH ANTENNA (OR EARTH STATION) SETBACK. The distance measured from the center mounting post supporting the antenna.

DWELLING. As defined by G.S. § 160D-102(15).

DWELLING, MULTI-FAMILY. A building arranged to be occupied by more than two families, the building having more than two dwelling units, but excluding mobile homes and town houses.

DWELLING, SINGLE-FAMILY. A building arranged to be occupied by one family, the building housing only one dwelling unit, but excluding mobile homes and town houses.

DWELLING, TWO-FAMILY. A building arranged to be occupied by two families, the building having two dwelling units, but excluding mobile homes and town houses.

DWELLING UNIT. A building or portion thereof designed, arranged and/or used as living quarters for one or more persons as a single family, with cooking facilities, excluding units in rooming, boarding and tourist houses, family or group care homes or hotels or motels or other buildings designed for transient residence.

FAMILY. One or more persons related by blood, adoption or marriage, living together as a single housekeeping unit, exclusive of household servants. A number of persons not exceeding five living together as a single housekeeping unit though not related by blood, adoption or marriage, shall be deemed to constitute a family, as shall a foster care home approved by the state.

FAMILY CARE HOME. A facility as defined in G.S. § 160D-907.

FLOOR AREA, GROSS. The number of square feet of total floor area bounded by the exterior faces of a structure, plus the number of square feet of unenclosed space devoted to the conduct of the use, excluding basement and unenclosed porches, balconies and terraces, unless used in conjunction with the use, such as for outdoor eating, merchandising, storage, assembly or similar uses and excluding off-street parking and loading areas.

FOOD TRUCK. A licensed, motorized vehicle or other mobile food unit that is designed and equipped to serve food and is temporarily located for the purpose of selling food items to the general public. This use includes ice cream trucks.

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HOME OCCUPATION. An incidental use of a dwelling unit for gainful employment involving the manufacture, provision or sale of goods and/or service. The term **HOME OCCUPATION** shall not be deemed to include a tourist home.

JUNKYARD. The use of more than 600 square feet of any lot or tract for the outdoor storage and/or sale of waste paper, rags, scrap metal or other junk, including the storage of automobiles or other vehicles or dismantling of vehicles or machinery or parts thereof.

KENNEL. An establishment for the keeping or breeding of dogs for profit.

LOT. A single lot of record, or more than one contiguous lot of record in the same ownership, which lot or lots of record are not divided by any street or public alley, and excluding any part of a lot or lots of record which, when severed from the contiguous land in the same ownership, creates a nonconformity or a lot or parcel which does not meet the dimensional requirements of this chapter.

LOT, CORNER. A lot which occupies the interior angle at the intersection of two or more right-of-way lines. A lot abutting on the right-of-way of a curved street (or street) shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

LOT COVERAGE, MAXIMUM IN PERCENT. The maximum percent of the lot which may be covered with structures. All yard requirements must be met in addition to lot coverage requirements.

LOT DEPTH. The distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and rearmost points of the side lot lines in the rear. On lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of § 153.015 of this chapter, the foremost points of the side lot lines shall be measured at the place where the access strip joins the main portion of the lot.

LOT OF RECORD. A lot which is part of a subdivision recorded in the office of the Register of Deeds of the county or lot described by metes and bounds the description of which has been so recorded.

LOT WIDTH. The distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard; provided however, that width between side lot lines at their foremost points (where they intersect the right-of-way line, or for lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of § 153.015, at the place where the access strip joins the main portion of the lot) shall not be less than 80% of the required lot width, except in the case of the turning circle of cul-de-sacs where the 80% requirement shall not apply.

MOBILE HOME. As defined by G.S. § 143-145(7). A dwelling meeting the above definition shall be considered a **MOBILE HOME**, even if placed on a permanent foundation. Mobile homes less than 28 feet wide (commonly referred to as single wide mobile homes) are prohibited.

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MOBILE HOME PARK. Any plot of ground upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for these accommodations.

MODULAR HOME. A factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, and bears a seal or label as provided in G.S. § 143-139.1.

NET ACREAGE, ACRES, LAND AREA, SQUARE FOOTAGE OF LAND AREA. Land area with streets, right-of-ways, driveways which serve as access to more than two units or uses, and major transmission line easements not included in its measurement.

PLANNED UNIT DEVELOPMENT. As defined in section § 153.057(C)(2).

PRINCIPAL BUILDING, USE OR STRUCTURE. The main use of a lot or the building or structure in or on which the main use of the lot takes place.

PUBLIC USE. A public use is a building owned or operated by a public entity, including but not limited to emergency services, government services, and public parks and recreation facilities.

RESTAURANT. An establishment whose primary purpose is serving meals to patrons.

RESTAURANT, DRIVE-IN, DRIVE-THROUGH OR TAKE-OUT. Any restaurant with no indoor dining room seating which makes provision for curb service, outdoor service, drive-through service or a drive-in window.

RESTAURANT, INDOOR. Any restaurant except a drive-in, drive-through or take-out restaurant. In order to qualify as an indoor restaurant, the establishment must provide indoor dining room seating to accommodate at least 20 patrons, and must provide indoor restrooms sufficient to accommodate its patrons.

RIGHT-OF-WAY, STREET. Strip of land owned publicly or privately, which affords the principal means of access to abutting property.

ROOF LINE. The top edge of the roof or the top edge of the parapet, whichever forms the top line of the building silhouette, but not including penthouses or equipment structures.

SHOPPING CENTER. Two or more commercial establishments planned and constructed, as a single unit with off-street parking and loading facilities provided on the property.

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SIGN. Any outdoor letter, symbol, number, trademark or other form of publicity or combination of these as well as the surface on which they are painted or to which they are attached, and any background material, coloring, shapes or other trim shall be considered a sign, unless entirely enclosed by a fence or wall so that the above items and any structure or lighting attached to or accessory to them cannot be seen off the premises on which they are located. Works of fine art which in no way identify or advertise a product or business shall be excluded from this definition.

SIGN AREA. The area of the smallest regular polygon composed of eight lines or less, circle, half-circle, ellipse, or combination thereof, which will encompass the entire sign, excluding the base or apron, supports, or other structural members unless some part of the message appears on them, in which case they shall be included. Where symbols, letters, or numbers are attached separately to a structure, including a sign structure or to separate surfaces, the area between the separate items or letters, whether open or solid, shall be computed as part of the sign area. The total **SIGN AREA** for a double-faced sign shall be measured on the largest face of the sign. Where three-dimensional figures are used as signs, the largest dimensions of the figure shall be projected on a vertical plane and measured in the standard manner.

SIGN, HEIGHT. The vertical distance measured from the adjacent street grade or from the ground on which it rests, whichever allows the sign the greatest height, to the top of the sign. Types of signs are as follows:

GROUND SIGN. A sign erected on a freestanding frame, mast, and/or pole and not attached to any building, fence, or wall.

IDENTIFICATION SIGN. A sign which contains any or all of the following: the name of the occupants, owner, or establishment; the type of establishment; the name of the franchise; the hours of operation; and house number, when located on the site of the establishment.

OFF-SITE ADVERTISING SIGN (BILLBOARD). A sign which contains information about an establishment, business, commodity, activity, or service not conducted, sold or offered upon the premises where the sign is located and not otherwise allowed in Table of Permitted Signs, § 153.125, and which is not specifically regulated in Table of Permitted Signs, § 153.125 as a directional sign to churches, meeting halls, civic clubs, or garage sales, or as a temporary sign.

ON-SITE ADVERTISING SIGN. A sign which contains information about an establishment or the products or services that it offers, other than that contained in an identification sign, when located on the same site as the establishment to which it refers.

PROJECTING SIGN. A sign which extends beyond and is attached to a building wall and may extend over a public right-of-way.

ROOF SIGN. A sign attached to and extending upward from the roof of the structure.

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TEMPORARY SIGN. A sign which notifies the public of special events, grand openings, or other significant, temporary occurrences, not of a recurring nature. A **TEMPORARY SIGN** may be constructed of any suitable material; however, any sign constructed of other than a self-supporting material (i.e., wood, metal and the like) except as otherwise permitted in this chapter, shall be considered temporary.

WALL SIGN. A sign which is attached flat to the wall or facade of a building, or to a fence or wall.

SOLAR COLLECTION SYSTEM. One or more panels or other solar energy devices principally used as an accessory use, the primary purpose of which is to provide for the non-commercial collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating.

SOLAR FARM. An energy generation facility or area of land principally used to convert solar energy to electricity, which includes but is not limited to the use of two or more solar collection systems.

SOLAR FARM OVERLAY DISTRICT. That area shaded on the Enfield zoning map that expressly authorizes solar farms as a permitted conditional use.

STRUCTURE. Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, fences, signs and swimming pools.

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

VARIANCE. A relaxation of the terms of this chapter under the specific conditions set forth in § 153.073(B).

YARD. An open space on the same lot with a principal structure or use unobstructed and unoccupied by any structure or portion thereof or parking or loading area, except as provided in this chapter.

YARD, FRONT. A yard extending the full width of the lot and situated between the right-of-way line and the front line of the principal structure or use projected to the side lines of the lot. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines in the case of rounded property corners at street intersections shall be assumed to be the point at which the side and front lines would have met without the rounding. The foremost points of the side lot line in the case of lots having an access strip extending from the front of the main portion of the lot in order to comply with the requirements of § 153.015 shall be measured at the place where the access strip joins the main portion of the lot. However, nothing may be placed in the access strip that is not permitted by this chapter to be placed in a front yard. Front and rear yard lines shall be parallel.

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YARD, REAR. A yard extending the full width of the lot and situated between the rear line of the lot and the principal structure or use projected to the side lines of the lot.

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

ZONING ADMINISTRATOR. The official charged with the enforcement of this chapter. (1993 Code, § 78-5) (Am. Ord. 7-12-2004; Am. Ord. passed 8-8-2005; Am. Ord. 2009-05, passed 8-17-2009; Am. Ord. 2009-07, passed 8-17-2009; Am. Ord. 2010-03, passed 7-19-2010; Am. Ord. 2012-01, passed 4-16-2012; Am. Ord. 2013-02, passed 4-15-2013; Am. Ord. 2013-08, passed 9-16-2013; Am. Ord. 2017-03, passed 5-15-17; Am. Ord. 12.16.19; Am. Ord. 5.17.21)

§ 153.006 APPLICATION OF REGULATIONS.

The regulations set forth in this chapter shall affect all land, every structure, and every use of land and/or structure and shall apply as follows.

(A) No structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved or structurally altered except in compliance with the regulations of this chapter for the district in which it is located.

(B) No structure shall hereafter be erected or altered so as to exceed the height limit or density regulations of this chapter for the district in which it is located.

(C) No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements and other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

(D) No part of a yard or other open space required about any structure or used for the purpose of complying with provisions of this chapter shall be included as a part of a yard or other open space similarly required for another structure or use.

(E) In any district, no more than one principal building or use may be erected on a single lot of record, except as specifically permitted in other sections of this chapter. (1993 Code, § 78-6) Penalty, see § 153.999

§ 153.007 INTERPRETATION OF REGULATIONS.

The regulations in this chapter shall be enforced and interpreted according to the following rules.

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(A) Uses not designated in the district regulations as permitted or special uses shall be prohibited. Special uses are permitted according to the additional regulations imposed. These special uses can be approved only by the Board of Adjustment as specified in this chapter. Applications for conditional zoning are approved by the Board of Commissioners. Additional uses may be added to this chapter by amendment.

(B) Regulations set forth by this chapter shall be minimum regulations. If the requirements set forth in this chapter are at variance with the requirements of any other lawfully adopted uses, regulations, or ordinances, the more restrictive or higher standard shall govern.

(C) Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this chapter, nothing herein contained shall be construed to render these covenants inoperative.

(1993 Code, § 78-7) Penalty, see § 153.999

§ 153.008 EXCEPTIONS AND MODIFICATIONS.

(A) The minimum front yard requirements of this chapter for dwellings shall not apply on any lot where the average front yard of existing dwellings located wholly or in part within 100 feet on each side of the lot within the same block and zoning district and fronting on the same side of the street is less than the required front yard. In these cases, the front yard on the lot may be less than the required front yard but not less than the adjacent dwelling with the greatest front yard depth or the average front yard of existing dwellings located wholly or in part within 100 feet on each side, whichever is greater.

(B) In any residential district for corner lots, the side yard requirements along the side street shall be increased by ten feet.

(C) The Board of Adjustment shall review as a special use, structures such as church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, masts, aerials and similar structures, which exceed the height limitations of this chapter.

(D) Uncovered stairs, landings, terraces, porches, balconies, and fire escapes may project to any yard, but the projection may not exceed six feet and may not be closer than ten feet to any lot line.

(E) Architectural projections, such as chimneys, flues, sills, eaves, belt courses and ornaments, may project into any required yard, but the projection shall not exceed three feet.

(F) The requirements of this chapter do not apply to roads, water, sewer, gas, electric, telephone, and similar utility lines except as specifically mentioned.

(G) Lot width on lots which front on the turnaround circle of a cul-de-sac may be measured at the line formed by connecting the midpoint of the side lot line of the shorter side with a point on a longer side lot line which is the same distance from the front lot line as the midpoint of the shorter side, or if

both side lot lines are the same length, at the line connecting the midpoints of the lot lines. All yard requirements must be met on these lots. If a lot has more than two sides, the side lot lines to be used are the two which connect with the front lot line.

(H) Property that is located within the Town's extraterritorial jurisdiction and that is used for bona fide farm purposes is exempt from this Chapter to the same extent bona fide farming activities are exempt from county zoning pursuant to G.S. 160D-903(c).
(1993 Code, § 78-8) Penalty, see § 153.999

§ 153.009 VISIBILITY AT INTERSECTIONS.

On a corner lot, nothing shall be erected, placed, planted or allowed to grow in a manner as materially to impede vision between a height of 2-1/2 and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect.
(1993 Code, § 78-9) Penalty, see § 153.999

§ 153.010 REGULATIONS CONCERNING HOME OCCUPATIONS.

Home occupations are permitted in all districts only as an incidental use and shall comply with the following regulations.

(A) No person other than a resident of the dwelling shall be engaged in the occupation.

(B) Pedestrian and vehicle traffic at the businesses shall be subject to regulation under other town ordinances, including nuisances and traffic control. Any vehicles shall be parked off the street. The parking of any vehicles on the property, other than an automobile, shall be in an enclosed building as described in division (C) below, or shall be a special use subject to approval by the Board of Adjustment.

(C) No more than 25% of the total actual floor area of the dwelling or 500 square feet, whichever is less, shall be used in the conduct of the home occupation. In addition, one accessory building not exceeding 1,000 square feet, shall be a special use in connection with the home occupation, to house commercial vehicles and/or for storage of materials used in connection with the home occupation. The accessory building may not be used for manufacturing, process, instruction, sales, service or other work in connection with the home occupation. All lot coverage, dimensional, and other requirements of this chapter must be met by the accessory building. The accessory building must resemble a residential garage. A sketch of the proposed building and list of the materials to be used on the outside must be submitted with the application for a special use permit.

(D) A home greenhouse shall be permitted provided that the greenhouse meets the requirements of § 153.011 and that any sales in connection with the greenhouse meet the requirements of this section.

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(E) No outdoor sales or storage shall be permitted in connection with the home occupation. This provision shall not apply to incidental residential yard sales.

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

(G) The use may not emit smoke beyond that which normally occurs in the applicable zoning district, nor shall it emit dust, vibration, odor, smoke, fumes, glare, electrical interference, interference to radio and television reception, or other nuisance and shall not be volatile or present a fire hazard, nor may the occupation discharge into any waterway, stream, lake, or into the ground or septic tank any waste which will be dangerous or a nuisance to persons or animals, or which will damage plants or crops.

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

(I) No customers, clients, patrons or employees other than the residents' household may be on the premises in connection with the home occupation before 7:00 a.m. or after 9:00 p.m.

(J) The following are strictly prohibited as home occupations: car washes; commercial automotive repair garages; truck terminals; slaughterhouses; paint, petroleum and chemical plants; any occupation which involves the bulk storage of liquid petroleum, gasoline, kerosene or other flammable liquids; funeral homes and mortuaries; massage parlors; sale of reading or viewing material of a pornographic nature; movie theaters; animal hospitals and kennels; and bottled gas sales.
(1993 Code, § 78-10) Penalty, see § 153.999

§ 153.011 ACCESSORY USES AND STRUCTURES.

Except as otherwise provided in this section, accessory uses and structures are permitted in any zoning district in accordance with the following regulations.

(A) An accessory building, structure, or use is a permanent building, structure, or use on the same lot or site with, of a nature customarily incidental and subordinate to, and of a character related to the principal use or structure. An accessory building, structure or use is one intended for permanent location and is generally not used for shipping or repeated transport. A portable on demand storage unit (POD) is a mobile shipping container primarily used for storage and intended for temporary use. A POD is generally intended for repeated, mobile transport.

(B) Accessory uses to single-family, two-family and multi-family dwellings may not include commercial uses, except as permitted as home occupations in § 153.010 or for multi-family dwellings, as allowed by the Board of Adjustment in accordance with the provisions of § 153.057 .

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(C) Residences for watchmen and caretakers are permitted accessory uses to research and industrial uses.

(D) No accessory building shall exceed 35 feet in height, nor shall any accessory building exceed the principal building in height. No accessory building shall exceed 1,500 square feet in area, or 20% of the area of the principal building, whichever is less.

(E) An accessory building sharing one or more common walls with the principal building shall be considered part of the principal building for purposes of this chapter and must meet all yard requirements applied to the principal building.

(F) No detached accessory building shall be located closer than ten feet to any other building or mobile home.

(G) Accessory buildings or recreational structures or uses may be located in the rear yard, or may be located in the buildable area on the side of a structure, but the side yard shall not be encroached upon.

(H) No accessory building or recreational structure or use may extend within three feet of a lot line, nor within 20 feet of a street right-of-way line.

(I) Recreational uses and buildings accessory to apartment complexes shall be in accordance with § 153.057.

(J) Fences and walls are permitted as accessory uses provided that they comply with the following.

(1) For the purposes of this section, a fence is a barrier composed of wire, wood, metal, plastic, or a similar material and a wall is a barrier composed of brick, stone, rock, concrete block, or a similar masonry material.

(2) Fences may not exceed seven feet in height, except that in commercial and industrial districts a fence may not exceed ten feet in height. Fences greater than seven feet in height shall be of an open type similar to woven wire or wrought iron. Fences and walls may exceed the height requirements of this section if required or specifically authorized in another section of this chapter.

(3) Fences and walls are exempt from the setback requirements of this chapter.

(4) No fence or wall shall impede vision as regulated in § 153.015.

(5) Fences, if replaced, shall meet the requirements of this section.

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(K) Satellite dish antennas (earth stations) are permitted as an accessory use or structure to any principal use or structure so long as they are not greater than 40 inches in diameter in any residential district or greater than 80 inches in diameter in any non-residential district. Satellite dish antennas that are greater than 40 inches in diameter in any residential district or greater than 80 inches in diameter in any non-residential district are permitted as an accessory use or structure provided that they comply with the following regulations. These standards shall not be interpreted or enforced in any manner contrary to federal or state law.

(1) *General requirements.*

(a) A building permit is required when installing, moving, or substantially constructing or reconstructing a dish antenna.

(b) A dish antenna must be installed in compliance with the manufacturer's specifications as a minimum.

(c) In all residential districts, dish antennas must be installed on the ground.

(d) In commercial and industrial districts, dish antennas may either be installed on the ground or on the roof of the building. If installed on the roof, the dish shall not be larger than 12 feet in diameter, shall not project higher than ten feet above the maximum building height of the zoning district or more than 1/3 the actual building height above the roof, whichever is less, shall be set back from the front and sides of the building at least 18 feet, and shall not be used for any advertising purposes. A dish antenna may be installed on the top of another part of the building which is lower than the roof, such as a balcony or parking deck only if the location is at the rear or side of the building and all other requirements are met.

(e) A dish antenna may be attached to an accessory building which is permanently secured to the ground, but may not be attached to the principal building except as provided for in division (K)(1)(d) above.

(f) If a dish antenna is repainted, the only permissible colors are the original color used by the manufacturer or flat black. The paint must have a dull (nonglossy) finish and no patterns, lettering, or numerals shall be permitted on either side of the dish surface.

(g) No dish antenna shall be installed in any public right-of-way or in any drainage or utility easement.

(2) *Location in yards.*

(a) A dish antenna shall be installed in the rear or side yard only, in all districts except as provided for in divisions (K)(1)(d) and (K)(2)(b) of this section.

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(b) In commercial districts only, a dealer selling dish antennas may have a maximum of one antenna installed in the front or side yard for display purposes providing all other requirements are met. If a dealer displays a dish antenna in the front yard or side yard, his or her permissible sign area shall be reduced by 1/2.

(3) *Setback requirements.*

(a) The minimum required setback for dish antennas from the side lot line shall be the same as for the principal building except on corner lots. On the side abutting the street the minimum required setback shall be the side yard setback requirement plus ten feet.

(b) The minimum required setback for dish antennas from the rear lot line shall be 11 feet or the same as accessory buildings, whichever is greater, but in no case shall any part of the antenna come closer than five feet to the property line.

(c) In districts where there are no side or rear yard requirements, a minimum setback of 11 feet from the side and rear lot lines shall be required of dish antennas, but in no case shall any part of the antenna come closer than five feet to the property line.

(d) In all cases, no dish antenna shall be located within 15 feet of any street right-of-way.

(4) *Maximum height requirements.*

(a) In all residential districts, the maximum height of dish antennas shall be 15 feet or the height of the principal building, whichever is less.

(b) In commercial and industrial districts, the maximum height of dish antennas installed on the ground shall be 20 feet. Dish antennas mounted on the roof of a building shall not project higher than ten feet above the maximum building height.

(L) In addition to complying with the requirements provided in this section, a person may place not more than one POD on an individual lot. Notwithstanding division (G), a POD may be placed in the driveway of the individual lot so long as it is not placed directly in front of the primary structure. Before placing a POD on an individual lot, the owner(s) of the property must apply for and receive a permit from the town authorizing the placement of the POD at that location. No more than one permit shall be issued per individual lot. The permit fee shall be \$15. The permit shall authorize the placement of the POD for not more than 180 days. No permit shall be issued authorizing renewal beyond the 180-day period. Any POD not authorized by this section shall be a nonconforming use in violation of this chapter.

(M) Solar collection systems are permitted as an accessory use provided that they comply with the following regulations.

(1) No freestanding solar panels shall be permitted within the town.

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(2) Roof-mounted solar panels installed on a building or structure with a sloped roof shall not project vertically more than the height requirements for the district in which they are located. The panels shall not be located within three feet of any peak, eave, or valley of the roof to maintain pathways of accessibility.

(3) Systems located on the roof shall provide design review and structural certification if the slope of the panel differs from the roof pitch. All panels on commercial roofs shall provide this information regardless of slopes, as well as any residential roof with greater than 50% coverage.

(4) The manufacturers' or installers' identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.

(5) No solar collection system shall be installed until evidence has been given to the Town Code Enforcement Office that the electric utility company has been informed of the customer's intent to install an interconnected customer-owned generator, if applicable. Off-grid systems shall be exempt from this requirement.

(6) Any panels installed to be used by someone other than the owner of the property shall provide an affidavit or evidence of agreement between the lot owner and facility's owner or operator confirming the facility owner or operator has permission of the property owner to install and utilize solar panels.

(7) Solar panels shall be placed such that concentrated solar radiation or glare shall not be directed onto nearby properties or roadways.

(8) In addition to the requirements listed above, all panels must adhere to all local, state and federal requirements regulating solar collection systems.

(9) Solar collection systems shall not be used for displaying any advertising, except for reasonable identification of the manufacturer or operator of the system. In no case shall any identification be visible from the property line.

(10) The design of solar collection systems shall, to the extent reasonably possible, use materials, colors, textures, screening and landscaping that will blend the facility into the natural setting and existing environment.

(11) The following shall be met for decommissioning: solar collection systems which have not been in active and continuous service for a period of one year shall be removed from the property to a place of safe and legal disposal.

(12) Installation of a solar collection system or solar panels is subject to the requirements of § 52.14.

(N) Mobile homes and modular homes are permitted as an accessory use and structure only in the LI (Light Industrial) district subject to the following requirements.

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(1) The principal building must be at least 15,000 square feet.

(2) All building code, land use and other requirements contained in this Code of Ordinances shall apply to any such mobile home or modular home to the full extent possible.

(3) No more than one mobile home or modular home is allowed per 5,000 square feet of primary building space.

(4) A mobile home or modular home shall only be placed on the parcel upon which the primary building is located.

(5) No mobile home or modular home shall be visible from any public right of way.

(6) The authorization for this subdivision shall terminate in the event the business located within the principal building goes out of business or is no longer in regular operation.

(1993 Code, § 78-11) (Am. Ord. 2009-08, passed 8-17-2009; Am. Ord. 2010-03, passed 7-19-2010; Am. Ord. 14-10, passed 8-19-2014; Am. Ord. 10-19-21) Penalty, see § 153.999

§ 153.012 BUFFER STRIPS.

Whenever a buffer strip is required by this chapter, the strip shall meet the specifications of this section, unless different specifications are given in the section where the buffer strip is required:

(A) A buffer strip shall consist of a planted strip which shall be a minimum of 25 feet in width, shall be composed of evergreen bushes, shrubs, and/or trees so that at least two rows of coverage are provided from the ground to a height of six feet within six years and foliage overlaps. A buffer strip may also be constructed of stone, block, brick, or other suitable building material, with a minimum height of five feet. The 25 feet required for the buffer strip shall be in addition to all normal yard requirements of this chapter.

(B) Buffer strips shall be required in the following situations, as well as in any others specified in other sections of this chapter: whenever a manufacturing, processing, retail, wholesale trade, or warehousing use or public utility installation is established, a buffer strip shall be provided wherever the lot on which the use is established abuts or is across an easement or right-of-way from land zoned for residential use.

(C) All buffer strips shall become part of the lot on which they are located, or in the case of commonly owned land, shall belong to the homeowners or property owners association.

(D) The buffer strip shall be maintained for the life of the development. Maintenance shall be the responsibility of the property owner, or, if the property is rented, the lessee.

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(E) If a natural screen is already in place which will adequately fulfill the purpose of the buffer strip, the Zoning Administrator may, in writing, allow a substitution of all or part of this screen for the buffer strip. Written permission of the Zoning Administrator shall be obtained before removing an existing natural buffer in the location on the required buffer strip.

(F) Where, because of intense shade or soil conditions, a planting screen cannot be expected to thrive, the Zoning Administrator may, in writing, allow substitution of a well-maintained wooden fence or masonry wall at least six feet in height.

(G) Where it is clear that a smaller buffer will protect neighboring property from harmful effects, the Board of Adjustment may reduce the buffer to 15 feet and one row of trees.

(H) The Board of Adjustment may require a maintenance bond for the buffers, as a condition of approval.

(1993 Code, § 78-12) Penalty, see § 153.999

§ 153.013 NONCONFORMITIES.

A lawful preexisting use, structure, or lot which does not meet the requirements of this chapter is called a nonconformity. Special provisions apply to nonconformities and these are listed in divisions (A) through (E) of this section. In lieu of the provisions in this section, nonconforming signs shall comply with the requirements in §§ 153.120 *et seq.* and nonconforming mobile home parks shall comply with requirements in §§ 153.050 *et seq.*

(A) Existing nonconforming structures.

(1) The conforming use of a structure as explained in division (D) of this section, existing at the time of the adoption of this chapter, may be continued although the structure's size or location does not conform with the yard, dimensional, height, parking, loading, access, lot area and lot coverage provisions of this chapter. These structures are called substandard structures.

(2) Substandard structures with conforming uses may be added to or enlarged provided that the enlargements comply with the yard, height, parking, loading, access and all other applicable requirements of this chapter for the district in which the structure is located.

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(3) Substandard structures which are damaged or destroyed by fire, explosion, flood or other calamity, may be reconstructed in accordance with preexisting, nonconformities within one year of the disaster. The one-year period begins the day after the disaster. To qualify under this exception, a building permit must be applied for. Construction timing then reverts to applicable building permit requirements. If construction has not begun within the one-year time period, any subsequent construction shall comply with the yard, height, parking, loading, access and all other applicable provisions of this chapter for the district in which the structure is located unless the structure is situated on a substandard lot of record, in which case the provisions concerning substandard lots of record shall apply, or unless the incomplete nature of the damage would make it more feasible to rebuild on the same lot, in which case the Board of Adjustment is authorized to approve a variance to allow the reconstruction or replacement.

(4) A substandard structure may not be moved off the lot on which it is located unless when relocated it complies with the regulations for the district in which it is to be relocated.

(B) *Existing nonconforming uses.* The lawful nonconforming use of a structure, land or water existing at the time of adoption of this chapter may be continued except that:

(1) Only that portion of the land or water in actual use may be so continued and the nonconforming use may not be enlarged or extended, nor may any additional structures be added to be occupied by the nonconforming use, except that existing cemeteries can expand to the boundaries of the property which they owned at the time they became nonconforming, provided that required setbacks are met;

(2) Normal maintenance, repair and incidental alteration of a building occupied by a nonconforming use is permitted provided it does not extend the nonconforming use. A structure occupied by a nonconforming use may be changed to make the structure more in character with the uses permitted in the district in which it is located;

(3) If the nonconforming use is damaged by fire, explosion, flood or other calamity to the extent of more than 75% of its current replacement value, it shall not be restored except so as to comply with the use provisions of this chapter, except that nonconforming single-family and two-family dwellings, and mobile homes, may be restored in accordance with the provisions of division (A)(3) of this section;

(4) If the nonconforming use is discontinued or terminated for a period of more than 180 days, any future use of the structure, land or water shall comply with the provisions of this chapter. However, upon application, the Board of Adjustment may grant an additional 90-day extension if the applicant can prove hardship;

(5) A nonconforming use may not be moved off the lot on which it is located unless when relocated it complies with the regulations for the district in which it is to be relocated;

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(6) The Board of Adjustment may permit as a special use a change in nonconforming use provided that the requirements of division (B)(1), (2), (3), (4) and (5) of this section are met and the Board of Adjustment finds that the new use would be more in character with the uses permitted in the district than the previous use. In permitting the change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter; and

(7) Once a nonconforming use has been changed or altered so as to comply with the provisions of this chapter, it shall not revert back to a nonconforming use. Once the Board of Adjustment has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the Board. If the structure occupied by a nonconforming use is changed so as to be more in character with the uses permitted in the district in which it is located, it shall not subsequently be changed to be less in character.

(C) Existing vacant substandard lots.

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

(2) If two or more adjoining and vacant lots are in one ownership when this chapter is adopted, or at any time after the adoption of this chapter and the lots individually do not meet the minimum dimensional requirements of this chapter for the district in which the lots are located, then the group of lots shall be considered as a single lot or several lots of minimum permitted width and area for the district in which located, and therefore, the provisions of division (C)(1) of this section do not apply. Further, if the lots are joined into one or more standard lots to meet the requirements of this chapter, the new lots must be recorded with the County Recorder of Deeds and cannot be subdivided in the future without appropriate application.

(D) Conforming uses and structures.

(1) Any use or structure existing prior to the effective date of this chapter which conforms to the regulations of this chapter for permitted uses and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located, may be continued, provided any changes in use or structural or other changes shall comply with the provisions of this chapter.

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(2) Any structure or use existing prior to the effective date of this chapter which would be permitted by this chapter as a special use in the district in which it is located, may be continued as if a special use permit had been applied for and issued, provided that any changes in use or structural or other changes shall comply with the provisions of this chapter.

(E) *Effect of amendments.* If subsequent amendments to this chapter or the official zoning map result in the creation of additional nonconformities or conformities, the nonconformities or conformities shall be governed by the provisions of this section unless otherwise stated in the amendment.

(1993 Code, § 78-13) (Am. Ord. 2009-07, passed 8-17-2009)

§ 153.014 COMMERCIAL AND INDUSTRIAL COMPLEXES.

Office centers, institutional and industrial, and similar complexes may have more than one principal building on a single lot provided that the following requirements are met.

(A) Uses in complexes shall be limited to those permitted within the zoning district in which the project is located.

(B) The overall intensity of land use shall be no higher, and the standard of open space no lower, than that permitted in the district in which the project is located.

(C) The distance of every building from the nearest property line shall meet the front yard setback and side yard requirements of the district in which the project is located or 50 feet, whichever is greater.

(D) The building heights shall not exceed the height limits permitted in the district in which the project is located.

(E) The building shall be located so as to provide access for emergency vehicles.

(F) The minimum spacing between buildings in a complex shall be in accordance with the yard requirements of the district in which the project is located.

(1993 Code, § 78-14) Penalty, see § 153.999

§ 153.015 LOTS ON WHICH PRINCIPAL BUILDINGS, STRUCTURES, AND USES ARE ESTABLISHED MUST ABUT STREET.

(A) Except as provided in division (B) of this section, no principal building, structure or use may be erected or established on any lot which does not abut at least 20 feet on one of the following:

(1) A public street dedicated to and maintained by the town or the State Department of Transportation; or

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(2) A street constructed to the standards of the town, or the State Department of Transportation, with a written agreement concerning maintenance of the street.

(B) The Board of Commissioners may authorize, as a conditional rezoning, the erection or establishment of a principal building, structure or use on a lot not meeting these requirements if it is clear that adequate provision for access for the type and intensity of use proposed has been or will be provided, and there are special circumstances, such as the rural nature of the lot and area, which make the application of these requirements to the proposed use infeasible or undesirable.

(1993 Code, § 78-15) Penalty, see § 153.999

§ 153.016 ESTABLISHMENT OF ZONING VESTED RIGHT.

(A) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, of a site specific development plan, following notice and public hearing.

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

(C) Notwithstanding divisions (A) and (B) of this section, 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.

(D) A site specific development plan shall be deemed 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 or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this chapter.

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

(1993 Code, § 78-16)

§ 153.017 APPROVAL PROCEDURES AND APPROVAL AUTHORITY.

(A) Development approvals and determinations, as defined by G.S. § 160D-102, subject to this Chapter are governed by G.S. § 160D-403. Development approvals attach to and run with the land as provided by G.S. § 160D-104.

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(B) Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established in this chapter for a conditional rezoning or special use permit, as applicable. The Board of Commissioners or Board of Adjustment, as applicable, shall be the final approval authority.

(C) If the use for which a vested right is sought would not normally be an allowable use under the code, 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 Board of Commissioners as a conditional zoning district and follow all procedures in the code for obtaining approval.

(D) In order for a zoning vested right to be established upon approval of a site specific development, 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.

(E) 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. 160D-108. Unless terminated at an earlier date, the zoning vested right shall be valid until ____." Should the town chose to extend vested rights, they shall be vested for a period of more than two years, but not more than five years.

(F) Following approval or conditional approval of a site specific development plan, nothing in this chapter shall exempt a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that the 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 applicable terms and conditions of the approval or this chapter. Revocation of any development approval authorized in this Chapter shall be in accordance with G.S. § 160D-403(f). (1993 Code, § 78-17) Penalty, see § 153.999

§ 153.018 DURATION OF RIGHTS.

(A) A zoning right that has been vested as provided in this section shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to division (B) of this section, except that a multi-phase development vests for the period of time provided by G.S. 160D-108. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

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(B) Notwithstanding the provisions of division (A) of this section, the approval authority may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need for or desirability of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific development plan is approved.

(C) Upon issuance of a building permit, the expiration provision of G.S. 160D-1111 and the revocation provisions of G.S. 160D-1115 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. (1993 Code, § 78-18) Penalty, see § 153.999

§ 153.019 TERMINATION OF RIGHTS.

A zoning right that has been vested as provided in this chapter 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 Board of Commissioners, by ordinance after notice and a public hearing, that natural or manmade 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 that action;

(E) Upon findings by the Zoning Administrator or Board of Commissioners, as appropriate, 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; or

(F) Upon the enactment of promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which cases the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing. (1993 Code, § 78-19)

§ 153.020 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. 160D-108. A statement that declares that no zoning vested right has been established under G.S. 160D-108, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any zoning vested right shall be terminated.

(1993 Code, § 78-20)

§ 153.021 LIMITATIONS.

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 160D-108. If G.S. 160D-108 is repealed, this section shall be deemed repealed and the provisions hereof no longer effective.

(1993 Code, § 78-21)

§ 153.022 LEGAL STATUS PROVISIONS.

(A) *Interpretation and application; severability.*

(1) In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety and general welfare.

(2) Wherever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants are at variance with the requirements of this chapter, the most restrictive, or that imposing the highest standards, shall govern.

(3) This chapter and the various parts, sections, subsections and clauses hereof are hereby declared to be severable.

(4) If any part, sentence, paragraph, subsection or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of this chapter shall not be affected thereby.

(5) If any part, sentence, paragraph, subsection, section or clause is adjudged unconstitutional or invalid as applied to a particular property, buildings, or structures the remainder of this chapter shall not be affected hereby.

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(6) Whenever any condition or limitation is included in an order authorizing a zoning permit, special use permit, variance, certificate of zoning compliance, certificate of occupancy or site plan approval, it shall be conclusively presumed that the authorizing officer or body considered the condition or limitation necessary to carry out the spirit and purpose of this chapter, of the requirements of some provisions hereof, and to protect the public health, safety and welfare, and that the officer or Board would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful.

(B) *Statute of limitations.* In accordance with G.S. 160D-1405, a cause of action as to the validity of this chapter, or amendment thereto, shall accrue upon the adoption of this chapter or amendment thereto, and shall be brought within nine months as provided in G.S. 1-54.1.

(C) *Administrator.* The Zoning Administrator shall be recommended by the Town Administrator and appointed by the Board of Commissioners.
(1993 Code, § 78-22)

§ 153.023 GENERAL PROVISIONS GOVERNING CONFLICTS OF INTEREST, MEETING MINUTES; OATH OF OFFICE.

(A) *Conflicts of interest.* No employee or official of the Town, including but not limited to any member of the Board of Commissioners, Board of Adjustment, Planning Board, and the Zoning Administrator, may participate in, deliberate over, make a recommendation or final decision, or vote on any development regulation in violation of the conflict of interest provisions contained in G.S. § 160D-109.

(B) *Meeting minutes.* The Board of Commissioners, Planning Board, Board of Adjustment, and any other appointed board or committee shall keep meeting minutes as provided by G.S. § 160D-308.

(C) *Oath of office.* Each member of the Board of Commissioners, Planning Board, Board of Adjustment, and any other appointed board or committee shall take an oath of office before starting his or her duties as provided by G.S. § 160D-309.

AMENDMENTS

§ 153.035 INITIATION OF AMENDMENTS.

This chapter, including the official zoning map, may be amended only by the Board of Commissioners, according to the procedures of this article. Proposed amendments may be initiated by the Board of Commissioners, Planning Board, or Board of Adjustment of the town. Proposed amendments to the text of this chapter may also be initiated by any resident or property owner within the jurisdiction covered by this chapter, and any property owner within the jurisdiction covered by this chapter may initiate a request for a change in the zoning classification of his or her property.

(1993 Code, § 78-51)

§ 153.036 APPLICATION.

Except for amendments initiated by the Board of Commissioners, Planning Board or Board of Adjustment, no proposed amendment shall be considered by the Board of Commissioners nor a public hearing held until an application containing the following information is submitted by the applicant: a statement of the present zoning regulations or district boundary; the name and signature of the applicant; and if an amendment to the zoning map is proposed, the tax parcel number of the lot proposed to be rezoned; the names and addresses of the owners of the lot in question; and the use of each adjacent property. The applicant shall provide any additional information related to the proposed amendment requested in writing by the Zoning Administrator, Planning Board, or Board of Commissioners. The Zoning Administrator shall transmit the original application to the Board of Commissioners and a copy to the Planning Board. The original application shall be filed in the office of the Zoning Administrator after consideration by the Board of Commissioners. A fee of \$50 shall be paid to the town for each application not initiated by an agency of the town.

(1993 Code, § 78-52) Penalty, see § 153.999

§ 153.037 PROCEDURE FOR AMENDMENTS.

(A) No amendment shall be adopted by the Board of Commissioners until it has received a written recommendation from the Planning Board and the Board of Commissioners has held a public hearing on the amendment. The Planning Board shall consider whether the proposed action is consistent with the current comprehensive land use plan when making a comment or recommendation on plan consistency. If no written recommendation or report is provided by the Planning Board within 30 days of referral of the amendment to that board, the Board of Commissioners may proceed in its consideration of the amendment without the Planning Board recommendation or report.

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(B) An amendment to this chapter may be adopted by the Board of Commissioners only by ordinance and only after the notice and public hearing requirements contained in G.S. § 160D-601 have been satisfied. A simple majority of voting Board members present at the meeting upon which the amendment is presented is required to adopt any amendment to this chapter as provided by G.S. § 160A-75. When adopting or rejecting any zoning text or map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with the current comprehensive land use plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the Board of Commissioners that at the time of action on the amendment the Board was aware of and considered the Planning Board's recommendations and any relevant portions of the comprehensive land use plan. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review.

(C) In addition to subsection (B), a zoning map amendment may be adopted by the Board of Commissioners only after notice has been provided to affected property owners as provided by G.S. § 160D-602.

(1) If a zoning map amendment is adopted and the action was deemed inconsistent with the current comprehensive land use plan, the zoning amendment shall have the effect of also amending any future land use map in the comprehensive plan, and no additional request or application for a plan amendment shall be required. When this occurs, the Zoning Administrator shall note on the current comprehensive land use plan map any zoning map amendment that is approved that is not consistent with the comprehensive land use plan map.

(2) In addition to the consistency statement required in subsection (B), the Board of Commissioners shall also adopt a statement analyzing the reasonableness of any proposed map amendment as provided by G.S. § 160D-605(b). The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

(D) An amendment to zoning regulations or a zoning map that down-zones property shall be as provided by G.S. § 160D-601(d).

(1993 Code, § 78-53) (Am. Ord. 2009-09, passed 8-17-2009) Penalty, see § 153.999

§ 153.038 COMPREHENSIVE LAND USE PLAN.

The Board of Commissioners shall reasonably maintain a comprehensive land use plan that sets forth goals, policies and programs intended to guide the present and future physical, social and economic development of the Town's planning jurisdiction. Comprehensive land use plans are governed by G.S. 160D-501.

§ 153.039 EXTRATERRITORIAL JURISDICTION.

The Zoning Administrator shall follow the notification requirements contained in G.S. § 160D-202(d) in the event of a proposed modification to the boundary of the extraterritorial jurisdiction.

ADMINISTRATIVE PROCEDURES

§ 153.050 ZONING ADMINISTRATOR.

The Zoning Administrator who shall be appointed by the Board of Commissioners is duly charged with the enforcement of the provisions of this chapter. If the Zoning Administrator finds that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for the violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall also take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions. The Zoning Administrator or his or her designee shall have all powers and duties authorized by General Statutes Chapter 160D, Article 4. (1993 Code, § 78-71)

§ 153.051 ZONING PERMIT.

(A) *Generally.* No building or structure or any part thereof shall be erected, extended, enlarged, or structurally altered or moved until a zoning permit has been issued by the Zoning Administrator or his or her authorized representative, except that signs shall require a zoning permit only if required in § 153.121. A fee shall be charged for the issuance of each zoning permit in accordance with the fee structure established with the annual budget.

(B) *Application for permit.* All applications for permits shall be in the form prescribed by the Zoning Administrator and shall include a plat or site plan drawn to scale which shall clearly show:

- (1) The actual shape and dimensions of the lot to be built upon or used and total acreage in the lot;
- (2) The location of the proposed structure or use on the lot;
- (3) The exact location and size of existing structures and uses;
- (4) The existing and intended use of each structure or part of structure;
- (5) The number of dwelling units the building is designed to accommodate, if applicable;
- (6) The height and number of stories of the structure;
- (7) The location and design of any off-street parking and/or loading;
- (8) The location and dimensions of driveways. Driveway approval procedures as required by the State Department of Transportation shall be initiated;
- (9) Date of plan preparation;

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(10) Location and descriptions of landscaping, buffering and signs; and

(11) Any other information as may be necessary for determining whether the provisions of this chapter are being met.

(C) *Additional information.* In addition to the information required in division (B) of this section, any use which involves the grouping of more than one principal building or use on the same lot shall include the following information:

(1) A vicinity map showing the relationship of the proposed development to the surrounding area;

(2) North arrow and declination;

(3) Detailed layouts for all utilities, rights-of-way, and roads and other improvements;

(4) Railroads, bridges, culverts, storm drains, wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams or stream beds, and any other similar features affecting the site;

(5) A copy of any proposed deed restrictions or similar covenants;

(6) For projects over an acre in size, or if otherwise required by the Zoning Administrator, a topographic map showing vertical contours every two feet; and

(7) The names, addresses, and telephone numbers of owners, mortgagees, registered surveyors, land planners, architects, landscape architects, and professional engineer responsible for the development.

(D) *Zoning Administrator action.* The Zoning Administrator may, in writing, exempt the applicant from meeting any plan requirement which is clearly inapplicable to the proposed use.

(E) *Mobile home parks and shopping centers.* Mobile home parks and shopping centers shall comply with the requirements in § 153.057 in lieu of the requirements in this section.

(F) *Cancellation of permit.* Any permit issued shall become invalid unless the work authorized by it shall have been commenced within six months of its date of issue, or if the work authorized by it is suspended or abandoned for a period in excess of one year.

(G) *Revocation of permit.* Revocation of any development approval authorized in this Chapter shall be in accordance with G.S. § 160D-403(f).

(H) *Reservation of additional remedies.* The Town reserves the right to implement any general enforcement remedies as provided by G.S. § 160D-404(c).

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(I) *Stop work order.* Whenever any work or activity subject to regulation pursuant to this Chapter or other applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, the Zoning Administrator or other designee may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped pursuant to G.S. § 160D-404(b).

(J) *Record of zoning permits.* A record of all zoning permits shall be kept on file and open to the public, subject to state law.

(1993 Code, § 78-72) Penalty, see § 153.999

§ 153.052 CERTIFICATE OF OCCUPANCY/COMPLIANCE.

No land shall be used or occupied, and no building or structure erected or altered shall be used or changed in use until a certificate of occupancy/compliance has been issued by the Zoning Administrator stating that the building and/or the proposed use complies with the provisions of this chapter. A certificate of the same shall be required for the purpose of changing any existing use; as well as for maintaining, reviewing, changing or extending any nonconforming use. The aforementioned certificate shall be applied for coincidentally with the application for a zoning permit and shall be issued within ten working days after the erection or alteration of the building or part shall have been completed in conformity with the provisions of this chapter. A record of all the certificates shall be kept on file and open to the public, subject to state law.

(1993 Code, § 78-73) Penalty, see § 153.999

§ 153.053 CONFORMANCE WITH PLANS.

Permits or certificates issued on the basis of plans and applications shall authorize only the use, arrangement, and construction set forth in the approved plans and applications and no other use, arrangement or construction.

(1993 Code, § 78-74) Penalty, see § 153.999

§ 153.054 APPEALS.

The Board of Adjustment shall hear all administrative appeals of the Zoning Administrator arising under this chapter in accordance with G.S. §§ 160D-302, -305, -405, -406, -705 and other applicable laws, as may be amended. Appeals from the Board of Adjustment shall be made to Superior Court as provided by applicable law.

(1993 Code, § 78-76)

§ 153.055 SPECIAL USES AND CONDITIONAL ZONING.

The provisions of this chapter permit some uses to be established by right in the appropriate district while other uses are listed which require a special use permit from the Board of Adjustment or conditional zoning and approval from the Board of Commissioners. Those which require a special use permit from the Board of Adjustment are termed special uses by this chapter. Development that involves broader policy considerations requires approval from the Board of Commissioners and is referred to as conditional zoning. Both types of uses, in some circumstances, may be compatible with and desirable in the districts in which they are designated, but they may also have characteristics which could have detrimental effects on adjacent properties, or even the entire Enfield area, if not properly designed and controlled. Special uses shall be in accordance with the requirements in § 153.057 as well as all other applicable requirements of this chapter. Conditional zoning may include a development agreement pursuant to G.S. § 160D-1001, *et. seq.* Pursuant to G.S. § 160D-703, property may be placed in a special use district or conditional zoning district only in response to a petition by the owners of all of the property to be included.

Specific conditions applicable to these districts may be proposed by the applicant or the Town, but only those conditions approved by the Town and consented to by the applicant in writing may be incorporated into the zoning regulations or permit requirements. The Town may not impose conditions on special use permits that it does not otherwise have the statutory authority to implement.
(1993 Code, § 78-77)

§ 153.056 APPLICATION TO, HEARING BY BOARD OF ADJUSTMENT ON APPEALS, VARIANCES AND SPECIAL USES AND BY THE BOARD OF COMMISSIONERS FOR CONDITIONAL REZONING.

(A) An applicant shall submit the appropriate documents and complete the appropriate forms to appeal an administrative decision of the Zoning Administrator, for a variance, or for a special use permit accompanied by a site plan prepared in accordance with § 153.051 along with any other information required by the Zoning Administrator for proper review of the application.

(B) The Board of Adjustment shall hear all administrative appeals, requests for variances and applications for a special use permit in accordance with G.S. §§ 160D-302, -406, -705 and other applicable laws, as may be amended. Appeals from the Board of Adjustment shall be made to Superior Court as provided by applicable law.

(C) The Board of Commissioners shall hear all applications for conditional zoning district in accordance with G.S. § 160D-703(b) and other applicable laws, as may be amended. The Planning Board shall be given 30 days to review the application for a conditional zoning district before the hearing. The hearing shall not be held until a Planning Board recommendation has been received or 30 days has elapsed. The Planning Board shall give due notice to the applicant of any meetings at which the application will be considered. The hearings shall be conducted in accordance with the general law and court decisions of this state.

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(D) The Clerk of the Board or his or her designee shall keep minutes of quasi-judicial proceedings of the Board of Adjustment and public hearings of the Board of Commissioners, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. A fee of \$50 shall be paid to the town for each application for an administrative review, variance, special use permit, or for a conditional zoning district not initiated by an officer or agency of the town, to cover the costs of advertising and other administrative expenses involved. No application will be processed until the above fee has been paid.

(1993 Code, § 78-78) (Am. Ord. 14-10, passed 8-19-2014) Penalty, see § 153.999

§ 153.057 CONDITIONS WHICH MUST BE MET BY SPECIAL USES.

(A) *General conditions.* In order for any special use to be granted, the applicant, at the hearing, shall present sufficient evidence to enable the Board of Adjustment to find that the following conditions exist where applicable.

(1) All applicable specific conditions pertaining to the proposed use have been or will be satisfied.

(2) Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.

(3) Off-street parking, loading, refuse and other services areas are located so as to be safe, convenient, allow for access in case of emergency, and to minimize economic, glare, odor and other impacts on adjoining properties and properties in the general neighborhood.

(4) Utilities, schools, fire, police and other necessary public and private facilities and services will be adequate to handle the proposed use.

(5) The location and arrangement of the use on the site, screening, buffering, landscaping and pedestrian ways harmonize with adjoining properties and the general area and minimize adverse impacts.

(6) The type, size and intensity of the proposed use, including the considerations as the hours of operation and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

(B) *Additional conditions.* If the Board of Adjustment approves a special use, it may, as part of the terms of the approval, impose any additional reasonable conditions and safeguards as may be necessary to ensure that the criteria for the granting of a permit will be complied with and to reduce or minimize any potentially injurious effect of the use on adjoining properties, the character of the neighborhood, or the health, safety, morals or general welfare of the community. Where appropriate, the conditions may include requirements that street and utility right-of-way be dedicated to the public and that provision be made for recreational space and facilities.

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(C) *Specific conditions.* In addition to the general conditions in division (B) of this section, special uses shall meet specific conditions for the type of use as indicated in the following requirements.

(1) *Multi-family dwellings and complexes as a special use in R-10 districts.*

(a) Maximum density shall be as indicated in § 153.091.

(b) Where more than one building is to be located on the site, building separation shall be determined as follows.

1. The minimum horizontal distance between the vertical projections of any points on two adjacent buildings shall be determined according to the following table.

2. The vertical projections for each building shall be drawn from that point on each building which is horizontally closest to the other building.

<i>Height of Taller Building</i>	<i>Minimum Horizontal Distance Between Vertical Projections</i>
20 feet or less	16 feet
Between 20.1 and 25.0 feet	25 feet
Between 25.1 and 30.0 feet	30 feet
Between 30.1 and 35.0 feet	40 feet

(c) The minimum distance between the centers of facing windows of different dwelling units shall be 20 feet.

(d) A yard of at least 50 feet shall be provided around the entire perimeter of the site, with the exception of driveways. Parking spaces and accessory buildings shall not be allowed in the required yard.

(e) Access for emergency vehicles to all parts of the complex and to each dwelling unit shall be provided.

(f) Accessory buildings and uses for multi-family dwellings shall be placed in the 50-foot yard around the perimeter of the site.

(g) The Board of Adjustment may approve the inclusion of leasing offices, and of coin-operated laundry facilities, swimming pool snack bars, and similar service uses for residents of the multi-family dwelling provided that they are intended to serve residents of the dwelling or complex only, and will not attract outside traffic to the site.

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(2) *Planned unit developments.* A planned unit development is a project which is at least two gross acres in size to be located on land under unified control, planned as a whole, and developed in a single development operation or in a definitely programmed series of units or stages of development according to comprehensive and detailed plans, with a program for the provision, operation, and maintenance of any areas, improvements, and facilities provided for the common use of the occupants or users of the development. Planned unit developments require conditional zoning approval by the Board of Commissioners.

(a) *Plan submittal.* A site plan showing the proposed development of the area shall be drawn to a scale of not less than one inch equals 50 feet and shall bear the seal of a registered state engineer or surveyor. The plan shall show, at a minimum, the following features with approximate dimensions.

1. Location, arrangements and dimensions of automobile parking spaces, width of aisles, width of bays, angle of parking;
2. Location, arrangements and dimensions of truck loading and unloading spaces and docks;
3. Location and dimensions of vehicular entrances, exits and drives;
4. General drainage system;
5. Location and materials of walls and fences;
6. Ground cover, topography, slopes, banks and ditches;
7. The location and general exterior dimensions of main and accessory buildings;
8. Architectural plans for proposed buildings;
9. The location, dimensions and arrangements of areas to be devoted to planting lawns, trees and other plants;
10. The plans for proposed utility layouts, including sanitary sewers, storm sewers, water distribution lines, natural gas, telephone and electric service, all to be constructed in accordance with town standards;
11. An analysis of anticipated traffic volume;
12. Sediment control plan approved by the County Soil and Water Conservation Service;

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13. Evidence that the State Department of Transportation has been made aware of the proposed development and that the developer will coordinate planning for the development with this agency;

14. Plans for refuse disposal equipment and method of refuse disposal such as compactors, dumpsters; and/or

15. Delineation of areas to be constructed in phases and sequential order. If the development is to be carried out in progressive stages, each stage shall be complete with all necessary parking areas and other supporting facilities completed to serve that portion of the development.

(3) *Public buildings, uses, utilities as a special use in RA, R-15, R-10 and RMH districts.* The Board shall review each application carefully and shall deny the permit if the benefits to the public will not outweigh any adverse effects the use might have.

(4) *Radio and TV stations and transmission towers as a special use in RA districts.*

(a) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure within the planning and land-use jurisdiction of Enfield must (1) submit a completed application on a form provided by the Town or as otherwise requested by the Town with the necessary copies and attachments to the Board of Adjustment; (2) tender a nonrefundable payment of \$1,000 to the Town at the time of the application, which shall be used to offset the Town's reasonable costs in connection with its regulatory review and (3) comply with any local ordinances concerning land use and any applicable permitting processes. The Board of Adjustment shall issue a written decision approving or denying an application under this section within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(b) Telecommunications facilities not exceeding 150' in height are permitted in the RA district. Lattice towers are specifically prohibited. Telecommunications facilities meeting the requirements of this section must be designed with breakpoint technology to minimize the structure's fall radius and must comply with all federal, state and local laws, including but not limited to those promulgated by the Federal Communications Commission (FCC) and the NC Building Code.

(c) The following additional conditions and considerations shall be reviewed when processing any application:

(1) The minimum distance from the center of the transmission tower to the nearest property line shall be two times the height of the tower or the height of the tower plus 200 feet, whichever is greater.

(2) Off-street parking shall be provided at the rate of one space for each employee.

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(3) Public safety, land use, or zoning issues shall be properly addressed and considered, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(4) Information or materials directly related to an identified public safety, land development, or zoning consideration including

(i) whether an existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure;

(ii) whether residential, historic, and designated scenic areas cannot be served from outside the area;

(iii) the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure; and

(iv) whether replacement wireless support structure is necessary to provide the applicant's designed service.

(d) The Board of Adjustment shall require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or if the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. The Board of Adjustment may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

(e) The Board of Adjustment may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. The Board of Adjustment shall not deny an initial land-use or zoning permit based on such documentation but may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(f) This subsection shall not be construed to limit the provisions or requirements of any historic district or landmark regulation. Government-owned telecommunication facilities erected for the purposes of installing equipment necessary to provide communications for public health and safety are exempt from this subsection.

(g) The following list indicates the Town's hierarchy of preferences for telecommunications facilities, in descending order of preference, with the number (1) being the most preferred and the number (6) being the least preferred. When an applicant proposes a lower ranked

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preference, the applicant must establish by clear and convincing evidence that despite diligent efforts to adhere to the established hierarchy within the geographic search area, a higher ranked preference is not technically practicable and/or economically feasible.

- (1) Concealed attached antenna.
- (2) Collocation or combination antenna on existing telecommunication towers.
- (3) Non-concealed attached antenna in private utility easement (on an existing transmission tower structure).
- (4) Telecommunication facilities on town-owned property, preferably concealed (e.g. faux tree, flagpole, banner pole, etc.).
- (5) Dual-function telecommunication facilities in private utility easement (within an existing transmission tower structure)
- (6) New telecommunication facilities on private property, preferably concealed (faux tree, flagpole, banner pole, etc.), then monopole, then other design. Lattice towers are specifically prohibited.

(h) Telecommunications facilities subject to this subdivision shall be removed, at the owner's expense, within 180 days of cessation of use. If such facilities are not removed within this timeframe, the Town may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the Town may cause removal of the facilities with costs levied upon the owner as provided by applicable law. Upon removal of the facilities, the development area shall be returned to its natural state, topography and vegetation consistent with the natural surroundings."

(5) *Community centers as a special use in R-15, R-10, R-7.5 districts, private clubs as a special use in RA, R-15, R-10, R-7.5 and RMH districts.*

(a) Noise from a public address system shall not be heard beyond the property.

(b) The use will not be located in an area where traffic congestion will be a problem for neighboring residential uses.

(6) *Fraternal organizations not open to the public as special use in RA, R-15, R-10, R-7.5, and RMH districts.*

(a) The use shall be located where there shall be no disturbance to residences and shall be adequately designed for its size and purpose.

(b) Noise from the public address system shall not be heard beyond the property where the use is located.

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(c) The use shall not be located in an area where traffic congestion will be a problem for neighboring residential uses.

(7) *Temporary uses such as circuses, carnivals, fairs, as a special use in RA and RMH districts.* The site shall be located at least 200 feet from the nearest occupied residential structure and shall be adequately designed for its size and purpose. The use shall meet any applicable appropriate County Health Department requirements.

(8) *Townhouses as a special use in R-10 districts.*

(a) Minimum lot area, width, depth and lot coverage requirements shall be as indicated in § 153.091.

(b) The yard requirements around the perimeter of townhouse projects with more than two attached townhouses shall be increased to 50 feet.

(c) The minimum number of townhouses attached to each other shall be two and the maximum shall be eight.

(d) Any common areas and common open space shall be deeded to a homeowners association and the developer or owner shall file with the Zoning Administrator and record in the County Register of Deeds office a declaration of covenants and restrictions as well as regulations and bylaws that will govern the open space. Provisions shall include but not be limited to the following:

1. The association shall be established before the homes, buildings or uses are sold;
2. Membership shall be mandatory for each buyer and all successive buyers, unless another arrangement is approved by the Board of Commissioners which adequately protects the interests of the town and the owners;
3. The association shall be responsible for the liability insurance, local taxes and maintenance of recreation and other facilities;
4. Any sums levied by the association that remain unpaid shall become a lien on the individual owner's property which shall be subordinate only to tax and mortgagee liens unless another arrangement is approved by the Board which adequately protects the interest of the town and the owners;
5. An owner of each dwelling unit or each homeowner or other building owner shall have voting rights in the association;
6. Uses of common property shall be appropriately limited; and/or
7. The following information shall also be provided:

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- a. The name of the association;
- b. The manner in which directors of the association are to be selected;
- c. The post office address of the initial registered office;
- d. The name of the city and county in which the registered office is located; and
- e. The number of directors constituting the initial Board of Directors.

(9) *Commercial adult amusement buildings as a special use in CD and CH districts.* The Board will take into consideration the proposed size and number of patrons and their effect on neighboring uses. Hours of operation will be limited to 10:00 a.m. to 2:00 a.m., beginning Monday at 10:00 a.m. and ending on Sunday at 2:00 a.m. (e.g. no Sunday operation). If the establishment offers or provides any prize, money or other thing of value to any machine user as part of playing the game or using the machine, the following additional conditions apply:

- (a) No person under the age of 21 years shall be allowed to enter the establishment;
- (b) No alcohol shall be offered for sale, sold, consumed or possessed on the premises;
- (c) There shall be no more than two such establishments located within the town's zoning jurisdiction at the same time; and
- (d) Each commercial adult amusement building shall permit patron entry only by a magnetically-locked door, which shall remain locked for purposes of entry but allow free exit from the building, and which shall be unlocked only by the owner or operator of the building.

(10) *Day nurseries as a special use in RA, R-15, R-10, R-7.5 and RMH districts.* Before a day care center may be occupied, licensing is required by the State Day Care Licensing Board as provided in G.S. 110-85 through 110-95.

(11) *Amusement parks as a special use in CD and CH districts.* No activities including parking shall be located within 2,000 feet of any residentially zoned land. No lights from the park may shine where they will produce glare which will not be directly cast on a residential structure. Noise from the park shall not be a nuisance to any residentially zoned land. The Board will pay close attention to buffering.

(12) *Campground for youth or organized groups as a special use in RA districts.* The site shall be located where there shall be no disturbance to residences, and shall be adequately designed for its size and purpose. The use shall meet any applicable County Health Department requirements.

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(13) *Manufacturing, processing, warehousing or transportation use, or public use or utility, which involves outdoor storage, service, operations, emits or will emit smoke, odor, dust, fumes, glare, noise or vibration from the building in which it is located, or involves storage of combustible materials or is among the uses listed as exceptions in HI districts.* Conditional zoning district approval required by Board of Commissioners.

(14) *Mobile home parks in RMH districts.*

Conditional zoning district approval required by Board of Commissioners.

(15) *Community shelter as a special use in districts R-A, R-15, R-10, R-7.5 and RMH.*

(a) A minimum floor space of 50 square feet shall be provided for each individual sheltered per bedroom.

(b) No facility shall be located within 1/4 mile of an existing community shelter.

(c) The facility operator shall provide continuous on-site supervision by an employee or volunteer during the hours of operation.

(d) The facility shall provide shelter for no more than two temporary adult residents at one time per bedroom.

(16) *Community shelter as a special use in districts CD and CH.*

(a) A minimum floor space of 50 square feet shall be provided for each individual sheltered per bedroom.

(b) The facility operator shall provide continuous on-site supervision by an employee or volunteer during the hours of operation.

(c) The facility shall provide shelter for no more than two temporary adult residents at one time per bedroom for homeless men and/or women.

(17) *Offices-business, professional and public as a special use in district RO.*

(a) Only offices that have small volumes of traffic are permitted in this district (generally no more than a few customers per day).

(b) The office shall have only one unlit, flat sign affixed to the property not greater than two feet by three feet. Aside from this sign, the exterior of the building shall in all other respects retain its residential character.

(c) Commercial vehicles such as delivery trucks, tractor trailers and similar vehicles are prohibited and may not be parked on the property or on the off-street parking area.

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(d) All other vehicles may only be parked on the off-street parking area and are subject to the conditions contained in § 153.105 entitled “Other office.”

(e) Offices in this district shall not be subleased or assigned.

(f) No office shall be open for business before 7:00 a.m. or after 9:00 p.m.

(g) The property shall be attractively landscaped and maintained in a manner consistent with the adjoining property and surrounding area.

(h) The Board may consider any other reasonable factor designed to ensure the office does not jeopardize the residential character of the district.

(18) *Mobile homes on individual lots.*

(a) The mobile home must be placed on a permanent, brick foundation.

(b) Running lights, wheels and axles must be removed. All regulations from the North Carolina Department of Motor Vehicles must be followed to convert the home to real estate.

(c) A covered porch of no less than 192 square feet (a minimum of 8 feet deep x 24 feet wide) constructed of brick to match the foundation must be affixed to the front of the home.

(d) The pitch of the roof shall be no less than five feet rise for every 12 feet of run.

(e) The front door of the mobile home must face the front of the lot. This requirement does not preclude placing a mobile home specifically designed with the front door on the end of the home on the lot, provided that the front door faces the front of the lot and the home includes the required front porch.

(f) The exterior materials, including but not limited to the siding and roofing materials used on the home, shall be compatible in composition, appearance and durability to the exterior materials commonly used in standard residential construction.

(g) Exterior finishes shall be in good repair and in no case shall the degree of reflectivity of the exterior siding, and roofing exceed that of gloss white paint.

(h) Permanent or precast steps shall be constructed or placed at all exterior doors as necessary.

(i) At least two off-street parking spaces shall be provided.

(j) All areas not used for parking, the mobile home, or required porches shall be grassed or otherwise suitably landscaped to prevent erosion.

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(k) All county and town standards and conditions for approval must be met before a certificate of occupancy is issued.

(l) All requirements for the location of a single-family dwelling on an individual lot shall be met. Any mobile home constructed before July 1, 1976 must be approved by Underwriters Laboratories and any mobile home constructed after that time must meet all applicable state and federal standards.

(m) All mobile homes shall be tied down in accordance with the *State of North Carolina Regulations for Mobile Homes and Modular Housing*.

(n) All the appropriate County Health Department requirements shall be met.

(o) Mobile homes shall not be allowed in the following portions of R-7.5 districts.

1. In the R-7.5 district which lies west of Highway 301 and north of Whitfield Street, mobile homes shall not be allowed in the block which is enclosed by McFarland Road, West Franklin Street, and Park Drive.

2. In the R-7.5 district which lies west of Highway 301 and south of Whitfield Street, mobile homes shall not be allowed in that area which is:

a. Bounded on the east by Nash Street;

b. Bounded on the south by Cook Street and by a line extending straight from Cook Street in a westerly direction toward the point where Cook Street and Holiday Drive would intersect if both were extended;

c. Bounded on the west by the boundary of the R-10 district of which Holiday Drive is a part; and

d. Bounded on the north by the boundary of the CH district which runs along Highway 481/Glenview Road.

(p) Mobile homes shall not be allowed in any R-10 district situated on the west side on Highway 301.

(19) *Modular homes.*

(a) The modular home must be placed on a permanent, brick foundation.

(b) A covered porch of no less than 192 square feet (a minimum of 8 feet deep x 24 feet wide) constructed of brick to match the foundation must be affixed to the front of the home.

(c) The pitch of the roof shall be no less than five feet rise for every 12 feet of run.

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(d) The front door of the modular home must face the front of the lot. This requirement does not preclude placing a modular home specifically designed with the front door on the end of the home on the lot, provided that the front door faces the front of the lot and the home includes the required front porch.

(e) The exterior materials, including but not limited to the siding and roofing materials used on the home, shall be compatible in composition, appearance and durability to the exterior materials commonly used in standard residential construction.

(f) No unit may be placed on a lot that was manufactured more than five years before its placement.

(g) Exterior finishes shall be in good repair and in no case shall the degree of reflectivity of the exterior siding and roofing exceed that of gloss white paint.

(h) Permanent or precast steps shall be constructed or placed at all exterior doors as necessary.

(i) At least two off-street parking spaces shall be provided.

(j) All areas not used for parking, the modular home or required porches shall be grassed or otherwise suitably landscaped to prevent erosion.

(k) All county and town standards and conditions for approval must be met before a certificate of occupancy is issued.

(20) *Adult establishments.*

Conditional zoning district approval required by Board of Commissioners.

(21) *Solar farm as a special use in districts RA and LI.*

(a) Solar farms are allowed in districts RA and LI only in those portions which are located outside the town limits (i.e. ETJ only) and only within the solar farm overlay district.

(b) The cumulative area used for solar farms in all districts combined shall not exceed eighty-five (85) acres.

(c) Solar farms shall be enclosed by perimeter fencing to restrict unauthorized access at a minimum height of six (6) feet.

(d) The manufacturers' or installers' identification and appropriate warning sign shall be posted on or near the panels in a clearly visible manner.

(e) On-site power lines shall, to the maximum extent practicable, be placed underground.

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(f) Solar farms shall adhere to the setback, height, and coverage requirements of the district in which they are located; provided, that the minimum front, rear and side setbacks for a solar farm shall be 100' generally, except that the minimum setback shall be only 50' for any area adjacent to property used exclusively for agricultural use and 200' from any property zoned for residential use.

(g) The design of solar farms shall use materials, colors, textures, screening and landscaping, that will blend the facility into the natural setting and existing environment.

(h) If the solar farm consists of batteries or storage of batteries, adequate design must be provided to ensure all local, state, and federal requirements regulating outdoor battery storage have been met.

(i) The following additional information must be included in all permit applications:

1. A descriptive plot plan including setbacks, panel sizes, locations of property lines, buildings, and road right-of-ways.

2. The applicant must provide a copy of the application for the special use permit to any utility company that provides electricity in any part of the town or within its extraterritorial jurisdiction.

3. An affidavit or evidence of agreement between a lot owner and the facility's owner or operator confirming that the owner or operator has permission of the property owner to apply for the necessary permits for construction and operation of the solar farm.

4. Any other relevant studies, reports, certificates and approvals as may be reasonably required by the town, including but not limited to design review.

5. Screening of the solar farm from the public right-of-way shall consist of native evergreen trees and/or shrubs with either (1) a minimum height of six feet; or (2) in accordance with such landscape plan approved by the Board of Adjustment upon issuance of a Conditional Use Permit. Screening shall be designed and installed such that vegetation is planted and layered at least two (2) rows deep. The owner or operator of any solar farm must replace any chronically diseased or dead vegetation within the vegetation buffer in order to maintain compliance with this section and the approved site plan.

6. All special use permits granted under this division are conditioned upon continued compliance with all local, state and federal building codes and other requirements governing the construction, use and operation of solar farms and related equipment.

(j) The following shall be met for decommissioning:

1. Solar farms which have not been in active and continuous service for a period of one year shall be removed at the owner's or operator's expense.

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2. The site shall be restored to its natural condition within six months of its removal.

(22) Retail or wholesale businesses, service establishments, public uses or utilities other than those specifically listed which emit smoke, odor, dust, fumes or noise from the building in which they are located or involve possible fire hazards in districts CH and LI.

(a) No vibration or noise shall emit from any building or other use between the hours of 8:00 p.m. to 8:00 a.m. if the property located in a CH or LI district is adjacent to an property zoned for residential use.

(b) There shall be a minimum 100 feet landscape and/or architectural buffer between property located in a CH or LI district and any adjacent property zoned for residential use.

(23) *Bingo games and beach bingo games as a conditional use in CD and CH districts.* The Board will take into consideration the proposed size and number of patrons and their effect on neighboring uses. Hours of operation will be limited to 10:00 a.m. to 2:00 a.m., Monday through Saturday (Saturday time includes through 2:00 a.m. on Sunday), and from 4:00 p.m. to 10:00 p.m. on Sunday. If the establishment offers or provides any prize, money or other thing of value to any person playing a bingo game or a beach bingo game, the following additional conditions apply:

(a) No alcohol shall be offered for sale, sold, consumed or possessed on the premises;

(b) There shall be no more than two such establishments located within the Town's zoning jurisdiction at the same time; (c) Bingo games and beach bingo games are permitted only in a building that will permit patron entry through a magnetically-locked door, which shall remain locked for purposes of entry but allow free exit from the building, and which shall be unlocked only by the owner or operator of the building; and (d) Bingo games and beach bingo games are allowed only so long as they are operated in accordance with applicable law, including but not limited to the requirements provided in N.C. Gen. Stat. § 14-309.5, *et. seq.*, as amended.

(24) *Radio and TV stations and transmission towers as a conditional use in CD districts.*

(a) Any person that proposes to construct a new wireless support structure or substantially modify a wireless support structure within the planning and land-use jurisdiction of Enfield must (1) submit a completed application on a form provided by the Town or as otherwise requested by the Town with the necessary copies and attachments to the Board of Adjustment; (2) tender a nonrefundable payment of \$1,000 to the Town at the time of the application, which shall be used to offset the Town's reasonable costs in connection with its regulatory review and (3) comply with any local ordinances concerning land use and any applicable permitting processes. The Board of Adjustment shall issue a written decision approving or denying an application under this section within a reasonable period of time consistent with the issuance of other land-use permits in the case of other applications, each as measured from the time the application is deemed complete.

(b) Only one (1) tapered galvanized steel pole not exceeding 150' in height is permitted in the CD district. Lattice towers are specifically prohibited. A pole meeting the requirements of this section must be designed with breakpoint technology to minimize the pole's fall radius and must comply

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with all federal, state and local laws, including but not limited to those promulgated by the Federal Communications Commission (FCC) and the NC Building Code.

(c) The following additional conditions and considerations shall be reviewed when processing any application:

(1) The minimum distance from the center of the transmission tower to the nearest property line shall be two times the height of the tower or the height of the tower plus 200 feet, whichever is greater.

(2) Off-street parking shall be provided at the rate of one space for each employee.

(3) Public safety, land use, or zoning issues shall be addressed, including aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(4) Information or materials directly related to an identified public safety, land development, or zoning issue including:

(i) whether an existing or previously approved wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure;

(ii) whether residential, historic, and designated scenic areas cannot be served from outside the area;

(iii) the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure; and

(iv) whether replacement wireless support structure is necessary to provide the applicant's designed service.

(d) The Board of Adjustment shall require applicants for new wireless facilities to evaluate the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or if the owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value. The Board of Adjustment may require information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

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(e) The Board of Adjustment may condition approval of an application for a new wireless support structure on the provision of documentation prior to the issuance of a building permit establishing the existence of one or more parties, including the owner of the wireless support structure, who intend to locate wireless facilities on the wireless support structure. The Board of Adjustment shall not deny an initial land-use or zoning permit based on such documentation but may condition a permit on a requirement to construct facilities within a reasonable period of time, which shall be no less than 24 months.

(f) This subsection shall not be construed to limit the provisions or requirements of any historic district or landmark regulation. Government-owned telecommunication facilities erected for the purposes of installing equipment necessary to provide communications for public health and safety are exempt from this subsection.

(g) The following list indicates the Town's hierarchy of preferences for telecommunications facilities, in descending order of preference, with the number (1) being the most preferred and the number (6) being the least preferred. When an applicant proposes a lower ranked preference, the applicant must establish by clear and convincing evidence that despite diligent efforts to adhere to the established hierarchy within the geographic search area, a higher ranked preference is not technically practicable and/or economically feasible.

(1) Concealed attached antenna.

(2) Collocation or combination antenna on existing telecommunication towers.

(3) Non-concealed attached antenna in private utility easement (on an existing transmission tower structure).

(4) Telecommunication facilities on town-owned property, preferably concealed (e.g. faux tree, flagpole, banner pole, etc.).

(5) Dual-function telecommunication facilities in private utility easement (within an existing transmission tower structure)

(6) New telecommunication facilities on private property, preferably concealed (faux tree, flagpole, banner pole, etc.), then monopole, then other design. Lattice towers are specifically prohibited.

(h) Telecommunications facilities subject to this subdivision shall be removed, at the owner's expense, within 180 days of cessation of use. If such facilities are not removed within this timeframe, the Town may give notice that it will contract for removal within 30 days following written notice to the owner. Thereafter, the Town may cause removal of the facilities with costs levied upon the owner as provided by applicable law. Upon removal of the facilities, the development area shall be returned to its natural state, topography and vegetation consistent with the natural surroundings.

(25) *Assembly halls and churches as a conditional use in CD districts.*

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(a) Only assembly halls and churches built of new construction from grade level clearing are permitted. Assembly halls and churches are not permitted in existing commercial buildings.”

(26) *Single-Family, Two-Family and Multi-Family Dwelling Units as a conditional use in district CD.*

(a) Single-Family, Two-Family and Multi-Family Dwelling Units are permitted as a conditional use in district CD only with respect to established buildings existing at the time of adoption of this ordinance (2019). Single-Family, Two-Family and Multi-Family Dwelling Units are prohibited with respect to any building, improvement, addition or portion thereof for which a current certificate of occupancy has not been issued at the time of adoption of this ordinance.

(b) Commercial uses shall be the predominant use in terms of total floor area contained in the building. Residential dwelling units shall be secondary to the commercial character of the building.

(c) Each Single-Family, Two-Family and Multi-Family Dwelling Unit shall be located above the street-level commercial use within the building such dwelling unit is located. Residential use is prohibited at street-level.

(d) Parking requirements for any Single-Family, Two-Family or Multi-Family Dwelling Unit shall be independently maintained as if the use were located in a residential district as further provided in this Chapter.

(e) In addition to other features for building development required under Chapter 150, each dwelling unit shall be equipped with:

1. an approved automatic sprinkler system installed in accordance with the National Fire Protection Association NFPA Standard 13, NFPA 13R or NFPA 13D (or such other standard as may be amended or adopted by NFPA), and which is approved by the Office of the State Fire Marshal and the Enfield Fire Chief;

2. at least one (1) functioning elevator for ingress and egress on each floor approved by the North Carolina Department of Labor; and;

3. at least two (2) stairways for ingress and egress from the bottom floor to every other floor in the building.

(27) *Food trucks as a special use in district CD and CH.*

(a) Food trucks shall obtain a food truck permit from the Town, which must be located in the food truck at all times.

(b) Except for ice cream trucks and food trucks associated with special events approved by the Town, food trucks shall be located only in an off-street parking facility serving a principal building or use.

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(c) Except if associated with a special event approved by the Town, food trucks shall be located at least 300 linear feet from the main entrance or outdoor dining area of any restaurant.

(d) Ice cream trucks may stop and operate from a permitted curbside parking area along a street only where the speed limit is no more than 35 miles per hour. (e) Food trucks shall not locate on any street or within any area of an off-street parking facility in a manner that impedes, endangers, or interferes with pedestrian or vehicular traffic.

(f) Food trucks shall be located at least 15 feet from any fire hydrant.

(g) Food trucks shall not occupy any accessible parking space.

(h) No audio amplification is allowed except for ice cream trucks.

(i) Outdoor seating areas associated with a food truck's vending operation are not permitted.

(j) Food trucks shall not be stored, parked, or left overnight on any public street.

(k) The food truck's operator is responsible for the proper disposal of waste and trash associated with the operation. Town trash receptacles are not to be used for this purpose. Operators shall remove all waste and trash associated with their truck at the end of each day. The operator shall keep all areas within five feet of the truck clean of grease, trash, paper, cups, or cans associated with the vending operation. No liquid waste or grease is to be disposed in tree pits, storm drains, or onto the sidewalks, streets, or other public space. Under no circumstances shall grease be released or disposed of into the Town's sanitary sewer system.

(l) All equipment required for the operation shall be contained within, attached to, or located within three feet of the food truck. All food preparation, storage, and sales/distribution shall be in compliance with all applicable County, State, and federal sanitary regulations.

(1993 Code, § 78-79) (Am. Ord. 2003-4, passed 8-11-2003; Am. Ord. passed 7-12-2004; Am. Ord. passed 8-8-2005; Am. Ord. 07-01, passed 4-16-2007; Am. Ord. 2008-2, passed 7-21-2008; Am. Ord. 09-04, passed 6-15-2009; Am. Ord. 2009-05, passed 8-17-2009; Am. Ord. 2009-07, passed 8-17-2009; Am. Ord. 2010-03, passed 7-19-2010; Am. Ord. 2012-01, passed 4-16-2012; Am. Ord. 2012-03, passed 9-17-2012; Am. Ord. 2013-08, passed 9-16-2013; Am. Ord. 2015-12, passed 11-16-15; Am. Ord. 2016-05, passed 11-21-16; Am. Ord. 2017-06, passed 10-16-2017; Am. Ord. 12-17-18; Am. Ord. 5-28-19; Am. Ord. 11-18-19; Am. Ord. 12.16.19) Penalty, see § 153.999

BOARD OF ADJUSTMENT

§ 153.070 CREATION; MEMBERSHIP.

(A) The Board of Commissioners shall create a Board of Adjustment consisting of five members, which shall consist of residents of the Town and the extraterritorial jurisdiction proportionate to their population as provided in G.S. § 160D-307. The in town members shall be appointed by the Board of Town Commissioners. The extraterritorial members shall be appointed by the County Board of Commissioners in accordance with G.S. § 160D-307.

(B) Members shall be appointed to staggered two-year terms. Terms shall expire on June 30. Members shall serve until the expiration of their terms or until their successors have been appointed.

(C) Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term by the Board of Town Commissioners for in town members, and by the County Board of Commissioners for extraterritorial members.

(D) Faithful attendance at the meetings of the Board of Adjustment is considered a prerequisite for the maintenance of membership on the Board. Unexcused absence from three consecutive meetings shall be deemed adequate reason for termination of membership on the Board of Adjustment by the Board of Commissioners.

(E) The Board of Town Commissioners shall also select two alternate members to serve in the absence of regular members. One alternate member who resides in Enfield shall be appointed by the Board of Town Commissioners and one who resides within the extraterritorial area shall be appointed by the County Board of Commissioners. Both the initial appointment and new terms shall be for three years, and alternate members may be reappointed. Each alternate member, while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

(1993 Code, § 78-96)

§ 153.071 ORGANIZATION; RULES OF PROCEDURE.

(A) The Board of Adjustment shall elect a Chairperson and Vice-Chairperson from its regular members, who shall serve for one year or until reelected or until their successors are elected. The Board shall adopt rules and bylaws in accordance with the provisions of this code and G.S. 160D-302. Meetings of the Board of Adjustment shall be held at the call of the Chairperson and at other times as the Board of Adjustment may determine. The Chairperson, or in his or her absence, the Vice-Chairperson, may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the Board of Adjustment shall be open to the public.

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(B) Hearings by the Board in connection with Board of Adjustment duties shall be conducted in accordance with § 153.056.

(1993 Code, § 78-97) (Am. Ord. 14-10, passed 8-19-2014)

§ 153.072 DECISION; APPEAL.

Every decision of the Board of Adjustment shall be filed in the office of the Zoning Administrator and a written copy thereof shall be delivered to the appellant by personal service or registered mail. Every decision by the Board of Adjustment shall be subject to review by superior court by proceeding in the nature of certiorari. Any appeal to the superior court shall be taken within 30 days after the decision of the Board of Adjustment is filed in the office of the Zoning Administrator, or after a written copy thereof is delivered to the appellant by personal service receipt requested, whichever is later. If the decision is mailed to the appellant, it is deemed to have been received on the third business day after it is sent pursuant to G.S. § 160D-405(c).

(1993 Code, § 78-98) (Am. Ord. 14-10, passed 8-19-2014)

§ 153.073 POWERS AND DUTIES.

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

(A) *Administrative review.* To hear and decide appeals where it is alleged that there is error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of this chapter. An appeal may be taken by any person aggrieved or by an officer, department or board of the town. Appeals shall be taken within times prescribed by the Board of Adjustment by general rule, by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal has been filed with him or her, that because of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of this chapter. In that case, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown. The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give due notice thereof to the parties, and decide it within a reasonable time. The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and shall make any order, requirement, decision or determination that, in its opinion, ought to be made in the premises. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.

(B) *Variances.* To authorize upon appeal in specific cases, the variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal

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enforcement of the provisions of this chapter will, in an individual case, result in practical difficulty, or unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance. The variance may be granted in individual cases of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist.

(1) There are exceptional conditions pertaining to the particular piece of property in question because of its shape, size or topography, that are not applicable to other lands or structures in the same district, or there is a peculiar characteristic of an establishment which makes the parking and/or loading requirements of this chapter unrealistic.

(2) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located. However, pursuant to G.S. § 160D-705(d)(2), a variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

(3) 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.

(4) 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 general welfare.

(5) The special circumstances are not the result of the actions of the applicant.

(6) The variance is not a request to permit a use which is not a permitted use in the district involved.

(C) *Conditions imposed on variances.* In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards to ensure that substantial justice has been done and that the public safety and welfare has been assured. These conditions may be imposed by the Board of Adjustment regarding the location, character, and other features of the proposed building, structure, or use as may be deemed by the Board of Adjustment to protect property values and general welfare of the neighborhood. Nonconformance with the conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

(D) *Special uses.* To hear and decide whether to allow specific special uses to be established in the districts indicated; to decide the questions as are involved in determining whether a special use should be granted; to grant special uses with the conditions and safeguards as are appropriate under this chapter, or to deny special uses when not in harmony with the purpose and intent of this chapter. Application for special uses shall be decided in accordance with the provisions in §§ 153.055, 153.056 and 153.057.

(1993 Code, § 78-99)

DISTRICT REGULATIONS

§ 153.085 ESTABLISHMENT AND PURPOSE OF DISTRICTS.

For the purposes of this chapter, the zoning jurisdiction of the town is divided into the following districts:

(A) *RA - Residential-agricultural district.* The purpose of this district is to provide areas for low-density residential development and agriculture in areas outside the corporate limits of the town.

(B) *R-15 - Residential district.* The purpose of this district is to provide for existing residential subdivisions and the establishment of new subdivisions.

(C) *R-10 - Single-family and multi-family residential district.* The purpose of this district is to provide for a compatible mixture of single-family dwellings and multi-family buildings and complexes.

(D) *R-7.5 - Residential district.* The purpose of this district is to accommodate older neighborhoods where single-family lots were developed at high densities. It is the intent of the town not to expand or allow other development at these densities.

(E) *RMH - Mobile home residential district.* The purpose of this district is to provide areas for the location of mobile homes.

(F) *Residential/office district.* The purpose of this district is to provide a district that allows moderate commercial office use in a residential area.

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

(H) *CD - Downtown commercial district.* The purpose of this district shall be to provide for, enhance and protect shopping facilities in the central business district and to encourage residential use in existing commercial buildings above street-level.

(I) *LI - Light industrial district.* The purpose of this district is to provide locations for manufacturing, wholesaling and warehousing uses which can be conducted without producing harmful effects on the citizens of the Enfield area.

(J) *HI - Heavy industrial district.* The purpose of this district is to provide locations for manufacturing, wholesaling and warehousing uses which are more intense than the LI - Light industrial district.

(1993 Code, § 78-116) (Am. Ord. 2003-4, passed 8-11-2003; Am. Ord. 2013-08, passed 9-16-2013; Am. Ord. 11-18-19)

§ 153.086 ZONING MAP.

(A) The boundaries of the districts are hereby established as shown upon the map accompanying this chapter and made a part hereof. The zoning map and all the notations, references and all amendments thereto, and other information shown thereon is hereby made a part of this chapter and the same as if the information set forth on the map were all fully described and set out in this chapter. The zoning map properly attested is on file in the office of the Zoning Administrator and is available for inspection by the public. The zoning map and any other land development map may be maintained in paper or digital format.

(B) In creation, by this chapter, of the respective districts, the Board of Commissioners has given due and careful consideration to the peculiar suitability of each and every district for the particular regulations applied thereto, and the necessary, proper, and comprehensive groupings and arrangements of the various uses and densities of population in accordance with a well-considered plan for the development of the town and its extraterritorial area.

(C) Development regulations adopted pursuant to this Chapter may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and federal agencies, as further provided by G.S. § 160D-105. For these maps a regulation text or zoning map may reference a specific officially adopted map or may incorporate by reference the most recent officially adopted version of such maps. When zoning district boundaries are based on maps that reference a specific officially adopted map or incorporate by reference the most recent officially adopted version of such maps, the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated State or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection. (1993 Code, § 78-117) (Am. Res. 2004-19, passed 11-8-2004)

§ 153.087 INTERPRETATION OF BOUNDARIES.

The boundaries of the districts as are shown upon the map adopted by this chapter are hereby adopted, and the provisions of this chapter governing the use of land and buildings, the height of buildings, the sizes of yards about buildings, and other matters as hereinafter set forth, are hereby established and declared to be in effect upon all land included within the boundaries of each and every zone shown upon the map. If uncertainty exists as to the boundaries of the use districts shown on the official zoning map which is not resolved by the ordinances establishing and amending the boundaries, the following rules shall apply:

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

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following the lot lines.

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(C) Boundaries indicated as approximately following governmental incorporation or extraterritorial jurisdiction boundaries shall be construed as following the jurisdictional boundaries.

(D) Boundaries indicated as approximately following the center of railroad lines shall be construed to be midway between the main tracks.

(E) Boundaries indicated as approximately following the centerline of streams, rivers, lakes or other bodies of water shall be construed as following the centerline.

(F) Boundaries indicated as following shorelines shall be construed to follow the shorelines, and if the shoreline is changed either naturally or as permitted by law, the boundary shall be construed as moving with the actual shoreline.

(G) Boundaries indicated as following the contours of certain elevations or soils of a particular type shall be construed as following the actual height or soil contour as determined by accepted surveying practices.

(H) Boundaries indicated as parallel to or extensions of natural or manmade features indicated in divisions (A) through (G) of this section shall be so construed.

(I) Distances not specifically indicated shall be determined by the scale of the official zoning map. Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in §§ 153.050 *et seq.* of this chapter.
(1993 Code, § 78-118)

§ 153.088 AMENDMENTS TO OFFICIAL ZONING MAP.

Amendments to the official zoning map shall be adopted by ordinance as provided in §§ 153.035 *et seq.* of this chapter. Promptly after the adoption of an amendment, the Zoning Administrator shall alter or cause to be altered, the official zoning map to indicate the amendment. The Town Clerk shall enter in writing upon the face of the map a certification indicating the alteration and citing the date of adoption and effective date of the amendment, as well as the book and page of record of the ordinance amending the map.

(1993 Code, § 78-119)

§ 153.089 TRUE COPY OF MAP TO BE MAINTAINED.

(A) The Chairperson of the Planning Board shall also maintain a true copy of the official zoning map which shall include thereon all matters shown on the official zoning map.

(B) The true copy shall have no legal effect except as provided in § 153.090.
(1993 Code, § 78-120)

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§ 153.090 REPLACEMENT AND PRESERVATION OF OFFICIAL ZONING MAP AND TRUE COPY.

(A) If the official zoning map is damaged, lost, or destroyed in whole or in part, the governing body may, by resolution, adopt the true copy in whole or in part as the official zoning map, and the Zoning Administrator and Town Clerk shall promptly prepare or cause to be prepared a new true copy of the official zoning map. From time to time, the Board of Commissioners may by resolution adopt a new official zoning map if the prior map becomes difficult to interpret due to the number of amendments or other matters shown thereon, or if the Board of Commissioners desires to replace the map for other reasons, provided that the new map is an exact copy of the prior map.

(B) The Zoning Administrator and Town Clerk shall preserve any and all remaining parts of all prior official zoning maps and true copies thereof pursuant to G.S. § 160D-105, together with all available records pertaining to their adoption, amendment, or repeal.
(1993 Code, § 78-121)

§ 153.091 REGULATIONS FOR DISTRICTS.

(A) *Table of permitted uses.* Uses allowed in the districts named in this chapter shall be in accordance with the following table in which “x” signifies that the use is permitted as of right, “s” indicates that the use is a special use which requires approval of the Board of Adjustment, “c” indicates that the use requires conditional zoning and approval of the Board of Commissioners, and a blank indicates that the use is not permitted in that zoning district.

(B) *Residential districts.*

<i>Use</i>	<i>Districts</i>					
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>R-7.5</i>	<i>RMH</i>	<i>RO</i>
Single-family dwelling on individual lot	x	x	x	x	x	x
Townhouses			s			
Two-family dwelling	x	x	x		x	x
Three or four family dwelling in one building			x			x
Multi-family dwellings and complexes			s			s
Mobile homes on individual lots (double-wides or greater)	s		s - portions	s - portions	x	
Mobile home parks					c	
Modular homes on individual lots	s	s	s*	s *	s	s

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<i>Use</i>	<i>Districts</i>					
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>R-7.5</i>	<i>RMH</i>	<i>RO</i>
Day nurseries	s	s	s	s	s	s
Kindergartens	x	x	x	x	x	x
Public education institutions and private schools having a curriculum the same as ordinary given in public schools	x	x	x	x	x	x
Public buildings; uses and utilities	s	s	s	s	s	s

<i>Use</i>	<i>Districts</i>					
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>R-7.5</i>	<i>RMH</i>	<i>RO</i>
Hospitals, clinics (except animal hospitals), nursing homes, rest homes	s	s	s	s	s	s
Family care homes as defined in G.S. § 160D-907 for persons with disabilities as defined in G.S. § 160D-907, provided that no home may be located within a 1/2 mile radius of an existing family care home	x	x	x	x	x	x
Any agricultural or horticultural use except commercial nurseries, commercial chicken house, yard or hatchery, dairy, livestock pen or yard, horse or mule stable, pigpen or hog pen, or any other use of land for keeping and raising animals or fowls for commercial purposes. Non-commercial buildings or structures used for keeping of livestock, fowls or other non-commercial use permitted shall be located in the rear yard.	x					
Churches, temples, synagogues	x	x	x	x	x	x
Libraries	x	x	x	x	x	x
Museums	x	x	x	x	x	x
Cemeteries	x	x	x	x	x	x
Radio and tv stations and transmission towers	s					
Parks	x	x	x	x	x	x

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<i>Use</i>	<i>Districts</i>					
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>R-7.5</i>	<i>RMH</i>	<i>RO</i>
Golf courses, excluding carpet or miniature	x					
Playgrounds	x	s	s	s	x	s
Community centers	x	s	s	s	s	s
Community shelter	s	s	s	s	s	
Business offices						s
Private clubs	s	s	s	s	s	s
Fraternal organizations not opened to the public	s	s	s	s	s	s
Farming, including sale of products on property where produced	x					

<i>Use</i>	<i>Districts</i>					
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>R-7.5</i>	<i>RMH</i>	<i>RO</i>
Commercial plant nurseries and greenhouses	x					
Riding stables, except within town limits	x					
Planned unit development	c	c	c		c	c
Temporary uses that are not sponsored by the Town such as circuses, carnivals, fairs	s				s	
Campground, commercial	s					
Campground for youth and organized groups	s					
Neighborhood businesses limited to the following types: grocery stores, gift shops, barber and beauty shops, restaurants	c					

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<i>Use</i>	<i>Districts</i>					
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>R-7.5</i>	<i>RMH</i>	<i>RO</i>
Solar farm	s portions (ETJ and solar farm overlay district only)					
* Subject to the provisions of § 153.057 (C)(18) concerning the location of mobile homes						

(C) *Dimensional requirements.* Where there is no public water and/or sewer, lots must meet the requirements of the County Health Department as well as the requirements of this section.

<i>Use</i>	<i>Minimum Lot Area (square feet (ft²))</i>					
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>R-7.5</i>	<i>RMH</i>	<i>RO</i>
Single-family dwelling	20,000	15,000	10,000	7,500	10,000	10,000
Two-family dwelling or two town house units	40,000	25,000	15,000	10,000	12,000	15,000
Multi-family dwelling			20,000 for 3 units plus 5,000 for each additional unit			20,000 for 3 units plus 5,000 for each additional unit
Other proposed building or use	20,000	20,000	15,000	10,000	15,000	15,000

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<i>Use</i>	<i>Minimum Lot Area (square feet (ft²))</i>					
	<i>RA</i>	<i>R-15</i>	<i>R-10</i>	<i>R-7.5</i>	<i>RMH</i>	<i>RO</i>
<i>Minimum Lot Width (feet)</i>						
Single-family dwelling	100	75	80	50	80	80
Zoning	100	100	100	---	100	100
Two-family dwelling						
Multi-family dwelling	100	100	100	---	100	100
Town house	100	100	100	---	100	100
Other principal building or use	100	100	100	75	75	100
Minimum depth (feet)	150	150	100	100	100	100
<i>Minimum Required Yards (Setback) (feet)</i>						
Front	30	30	30	30	30	30
Side (each side)	15	10	10	10	10	10
Rear	25	25	25	25	25	25
Maximum height (feet)	35	35	35	35	35	35
Maximum lot coverage (percent)	40	40	40	40	50	40

(1993 Code, § 78-122) (Am. Ord. 2003-4, passed 8-11-2003; Am. Ord. 7-12-2004; Am. Ord. passed 8-8-2005; Am. Ord. 07-01, passed 4-16-2007; Am. Ord. 2009-07, passed 8-17-2009; Am. Ord. 2010-03, passed 7-19-2010; Am. Ord. 9.16.19) Penalty, see § 153.999

§ 153.092 REGULATIONS FOR COMMERCIAL AND LIGHT INDUSTRIAL DISTRICTS.

(A) *Table of permitted uses.* Uses allowed in the districts named in this section shall be in accordance with the following table in which “x” signifies that the use is permitted as the right, “s” indicates that the use is a special use which requires approval of the Board of Adjustment, “c” indicates that the use requires conditional zoning and approval of the Enfield Board of Commissioners and blank indicates that the use is not permitted in that zoning district.

(B) *Commercial and industrial districts.*

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<i>Use</i>	<i>Districts</i>			
	<i>CD</i>	<i>CH</i>	<i>LI</i>	<i>HI</i>
Any retail or wholesale business, except one that features the display of one or more mobile homes, service establishment, public use, or utility which does not emit smoke (other than restaurants), odor, dust, fumes, glare, noise or vibration from the building in which it is located and does not involve bulk storage of volatile materials or other fire hazards, except commercial amusements.	X	X	X	
The display of one or more mobile homes for sale, rent or other commercial use				
Offices-business, professional and public	X	X		
Financial institutions	X	X		
Assembly halls, including churches	S	X	X	
Indoor restaurants	X	X	X	
Drive-in, drive-through or take-out restaurants	X	X	X	
Shopping centers	X	X	X	
Hotels and motels	X	X		
Automobile service stations and repair shops	X	X		
Car washes	X	X		
Amusement parks	S	S		
Commercial adult game machines within an establishment devoted to another purpose shall be an accessory use and allowed as of right provided that (a) there shall be no more than two machines; and (b) there shall be no prize, money or other thing of value provided to any machine user as part of the game or machine. More than two commercial adult game machines, or any prize, money or other thing of value provided to any commercial adult game machine user as part of the playing the game or using the machine, shall be considered a commercial adult amusement building requiring a special use permit				
Commercial child game machines, regardless of whether they are a primary or accessory use for the building within which they are located. Cash may not be awarded but lawful prizes and other things of value may be awarded.	X	X	X	

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<i>Use</i>	<i>Districts</i>			
	<i>CD</i>	<i>CH</i>	<i>LI</i>	<i>HI</i>
Commercial adult amusement building				

<i>Use</i>	<i>Districts</i>			
	<i>CD</i>	<i>CH</i>	<i>LI</i>	<i>HI</i>
Any retail or wholesale businesses, service establishments, public uses or utility other than those specifically listed which emit smoke, odor, dust, fumes or noise from the building in which they are located or involve possible fire hazards.		s	s	
Any manufacturing, processing, or warehousing use or public use or utility which is enclosed in a building and does not emit smoke, odor, dust, fumes, glare, noise or vibration from the building in which it is located, except acid manufacture, cement, lime, gypsum or plaster of paris, manufacture, distillation of bones, explosive, manufacture or storage, fat rendering, fish and/or fertilizer, plant, garbage, waste parts or dead animal reduction or dumping, gas manufacture, glue manufacture, stockyards or slaughter of animals, tannery or pulp manufacture.			x	
Any manufacturing, processing, warehousing or transportation use or public use or utility which involves outdoor storage, service, operations, emits or will emit smoke, odor, dust, fumes, glare, noise or vibration from the building in which it is located, or involves storage of combustible materials or is among the uses listed as exceptions in the list immediately above.				c
Cafeterias and snack bars for plant employees and offices of plants shall be considered an accessory use.			x	x
Community shelter	s	s		
Billiard table - No person shall maintain or operate any pool room, pool hall, billiard parlor, or billiard table in a commercial zoning district.				
Adult establishment	c	c		

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<i>Use</i>	<i>Districts</i>			
	<i>CD</i>	<i>CH</i>	<i>LI</i>	<i>HI</i>
Solar farm		s	s Portions (ETJ and solar farm overla y distric t only	
Bingo games and beach bingo games	s	s		
Radio and tv stations and transmission towers	s			
Single-Family, Two-Family and Multi-Family Dwelling Units	c			
Food trucks	s	s	x	x

(C) Dimensional requirements.

<i>Use</i>	<i>Districts</i>			
	<i>CD</i>	<i>CH</i>	<i>LI</i>	<i>HI</i>
Minimum lot area (square feet)	none	15,000 per site; more than one use can be grouped on a site or in a building	15,000	20,000

<i>Use</i>	<i>Districts</i>			
	<i>CD</i>	<i>CH</i>	<i>LI</i>	<i>HI</i>
Minimum lot width (feet)	none	100	100	100
Minimum lot depth (feet)	none	150	150	200
Minimum yards/setback (feet)				
Front	none	30	50	50

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Side (each side)	none	10	20	20
Rear	none	40	40	40
Maximum lot coverage after required setbacks, landscape buffering, etc. (percent)	none	none	none	none
Maximum permitted height (feet)	50	50	50	50

(1993 Code, § 78-123) (Am. Ord. passed 8-8-2005; Am. Ord. passed 6-19-2006; Am. Ord. 09-04, passed 6-15-2009; Am. Ord. 2009-05, passed 8-17-2009; Am. Ord. 2010-03, passed 7-19-2010; Am. Ord. 2012-01, passed 4-16-2012; Am. Ord. 2013-08, passed 9-16-2013; Am. Ord. 14-12, passed 10-20-2014; Am. Ord. 2016-01, passed 9-19-16; Am. Ord. 2017-03, passed 5-15-17; Am. Ord. 11-19-18; Am. Ord. 12-17-18; Am. Ord. 11.18.19; Am. Ord. 12.16.19) Penalty, see § 153.999

§ 153.093 LANDSCAPE REQUIREMENTS.

(A) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

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

CANOPY TREE. A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.

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

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

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

- (1) Encouraging the preservation of existing trees and vegetation;
- (2) Separating adjacent land uses in order to minimize potential nuisances such as the transmission of noise, dust, odor, litter, and glare of lights;
- (3) Conserving energy and aiding stormwater runoff;
- (4) Enhancing property values and establishing a sense of privacy; and

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(5) Encourage Enfield as a bird sanctuary providing necessary habitat for bird life.

(C) *Procedure and applicability.*

(1) After the adoption date of the ordinance from which this section is derived, these requirements shall apply to:

(a) New principal nonresidential buildings of any size, or expansions and reconstructions which will result in a parking or building increase of more than 1,000 square feet; and

(b) New single-family and multifamily residential development.

(2) Prior to the development of any improvement subject to this section, a landscaping plan shall be submitted to the Zoning Administrator showing:

(a) The location, dimension and square footage of required buffer strips, streetyards and parking lot landscaping areas, including the individual species and number of trees and shrubs required and the quantity of each.

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

(c) A timeline for installation of required landscaping.

(3) Installation of required plant materials shall be as follows:

(a) A final certificate of occupancy or other town approval for any improvement subject to this section shall not be issued until all required landscaping is in place.

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

(c) Where weather conditions or construction activity would endanger the health and survivability of required plantings the installation may be delayed by the Zoning Administrator. The developer shall submit a copy of a signed contract for installation of the required planting areas and may be required to post a surety equal to the amount of the contract. The surety shall not be issued for more than 180 days. For commercial and multifamily projects, a temporary certificate of occupancy may be issued. For major single-family detached subdivisions, the final plat may be recorded.

(4) Alternate methods of compliance shall be as follows:

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

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or configurations or other physical conditions. Alternate compliance shall be acceptable in all commercial zoning districts where the above such situations may result making compliance with buffer, streetscape and landscape requirements impossible. This in no way can infer that the landscaping plan can be avoided.

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

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

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

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

(1) *Street planting yards.* A planting area parallel to the street designed to provide continuity of vegetation along the right-of-way and a pleasing view from the street. Provided, that no planting shall occur between any sidewalk and street as provided in § 95.11.

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

(3) *Buffer yards.* Planting areas located parallel to the side, and rear lot lines designed to separate adjacent uses and provide privacy and protection against potential adverse impacts of an adjoining use. The size of a buffer shall be determined both by the proposed use and by the type of adjacent use. Buffers shall not be located on any portion of an existing or proposed street right-of-way. Buffers shall be permitted to intersect utility easements or run parallel with them; however they shall not be permitted to run linear with and superimposed on them.

(E) *Planting area requirements.*

(1) *Street yard.*

(a) In a street planting yard, a minimum ten-foot in width shall be provided parallel to all public rights-of-way, provided that no planting occurs between a sidewalk and a street.

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

1. For commercial and industrial uses, one canopy tree per 50 linear feet of frontage and eight shrubs per 50 linear feet of frontage.

2. For residential uses, one canopy tree per 50 linear feet of frontage.

(2) *Buffers.*

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(a) *Buffer descriptions.*

1. *Type A.* A type A buffer is intended to provide a very dense sight barrier to significantly separate uses and land use districts. It is intended to reduce intrusive lighting and noise from adjacent properties.
2. *Type B.* The type B buffer is a medium density screen which is intended to create a visual separation between uses and land use districts.
3. *Type C.* A type C buffer means a planting strip intended to separate uses, provide vegetation in densely developed areas and enhance the appearance of individual properties.

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(b) *Buffer yard determination.* To determine the required landscape buffer, first use Table 1. Find proposed use in the proposed use column. The size of each required buffer is determined by the buffer types along the adjoining use columns. Where a proposed use abuts multiple use types along the same side or rear yard, the largest buffer will apply. Next, determine the planting rate by using this table.

Table 1. Buffer Type Chart				
Proposed Use	Existing Adjoining Use			
	Single-Family Residential	Multifamily Residential	Commercial	Industrial
Single-family residential	None	C	B	A
Multifamily residential	C	None	B	A
Commercial	B	B	None	A
Industrial	A	A	A	None

Table 2. Buffer Planting Rate Chart						
Yard Type	Minimum Width	Minimum Average Width	Maximum Width	Planting Yard Rates		
				Canopy Tree Rate	Understory Tree Rates	Shrub Rate
A	20	30	60	4/100 lf	10/100 lf	33/100 lf
B	15	20	40	2/100 lf	3/100 lf	17/100 lf
C	10	10	20		2/100 lf	18/100 lf
lf = linear feet						

(c) *Additional buffer requirements.*

1. Type A buffers shall be composed of at least one row of evergreen shrubs or understory trees.
2. Walls at least six feet in height, constructed of masonry, stone or pressure treated lumber, or an opaque fence, a minimum of six feet in height may be used to reduce the widths of type A and type B buffers by ten feet.

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(3) *Parking lot planting rate.* Parking lots shall be landscaped at the rate of one canopy tree per 12 parking spaces. Understory trees may be substituted for canopy trees at the rate of two understory trees per each required canopy tree.

(4) *Parking lot canopy tree distribution.* Required canopy trees shall be distributed throughout parking lots and shall be located within or adjacent to the lot as tree islands, at the end of parking bays, or between rows of parking spaces.

(F) *Design and maintenance standards.*

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

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

(3) *Canopy tree size.* Canopy trees must be a minimum of eight feet high and four inches in caliper, measured six inches above grade, when planted. When mature, a canopy tree shall be at least 40 feet high and shall have a crown of 30 feet or greater.

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

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

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

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

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

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(H) *Plants not acceptable.* Unacceptable plants shall include any known non-native and invasive tree, shrub, vine, herbs, or grass, including the following:

(1) *Invasive trees.*

- (a) Tree of Heaven (*Ailanthus altissima*).
- (b) Silktree (*Albizia julibrissin*).
- (c) Callery Pear (*Pyrus calleryana*).
- (d) Chinese Tallowtree (*Triadica sebifera*).

(2) *Invasive shrubs.*

- (a) Autumn Olive (*Eleagnus umbellata*).
- (b) Bicolor Lespedeza (*Lespedeza bicolor*).
- (c) Multiflora Rose (*Rosa multiflora*).

(3) *Invasive vines.*

- (a) Porcelainberry (*Ampelopsis brevipedunculata*).
- (b) Oriental Bittersweet (*Celastrus orbiculatus*).
- (c) English Ivy (*Hedera helix*).
- (d) Cypressvine Morningglory (*Ipomoea quamoclit*).
- (e) Japanese Honeysuckle (*Lonicera japonica*).
- (f) Kudzu (*Pueraria Montana* var. *lobata*).
- (g) Chinese/Japanese Wisteria (*Wisteria sinensis*/*Wisteria floribunda*).

(4) *Invasive herbs and grasses.*

- (a) Garlic Mustard (*Alliaria petiolata*).
- (b) Sericea Lespedeza (*Lespedeza cuneata*).
- (c) Japanese Stiltgrass (*Microstegium vimineum*).
- (d) Chinese Silvergrass (*Miscanthus sinensis*).

(e) Japanese Knotweed (*Polygonum cuspidatum*).
(Ord. 2014-07, passed 6-16-2014)

PARKING AND LOADING REQUIREMENTS

§ 153.105 OFF-STREET PARKING REQUIREMENTS.

(A) There shall be provided at the time of the erection of any building or the establishment of any use or at the time any principal building or use is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, floor, storage or sales area, or before conversion from one type of use or occupancy to another, permanent off-street parking in the amount specified by this section. The parking space may be provided in a parking garage or properly graded open space.

(B) The following regulations concerning required parking shall apply.

(1) Each zoning permit application filed with the Zoning Administrator shall include information as to the location and dimensions of off-street parking space and the means of ingress and egress to the space. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether or not the requirements of this section are met. No certificate of occupancy shall be issued until the parking requirements and regulations are fully met.

(2) The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to one use may not be assigned to another use, except that 1/2 of the parking space required for churches, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

(3) If the off-street parking space required by this chapter cannot be reasonably provided on the same lot which the principal use is located, the space may be provided on any land within 400 feet of the main entrance to the principal use.

(4) Parking space sizes shall be governed by the following dimensions:

- (a) Parallel stall - 20 feet by 9 feet.
- (b) Angle stall - 19 feet by 8.5 feet.
- (c) 90-degree stall - 19 feet by 9 feet.

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(5) Minimum aisle widths shall be:

<i>Aisle Width in Feet</i>		
<i>Parking Angle</i>	<i>One-Way Traffic</i>	<i>Two-Way Traffic</i>
0 - 15 degrees	12	24 (0 degrees only)
16-37 degrees	11	-
38 - 57 degrees	13	-
58 - 74 degrees	18	-
75 - 90 degrees	24	24

(6) A safe means of ingress and egress shall be provided for all parking spaces and driveways for uses other than single-family and two-family residential and shall be at least 24 feet wide.

(7) When off-street parking for more than 20 vehicles is provided, the following regulations shall apply, excluding churches, in addition to all other regulations in this subchapter:

(a) *Surfacing.* All parking lots shall be graded and surfaced with six inches of crushed stone, blacktop or concrete to ensure a dustless surface condition.

(b) *Markings.* Each parking stall shall be marked off and maintained so as to be distinguishable.

(c) *Lighting.* Any lighting shall be so arranged as to direct the light and glare away from streets and adjacent property.

(d) *Yards.* All parking lots shall observe a minimum front yard of not less than five feet and a side yard or a corner lot of not less than five feet. Parking lots in residential-agricultural and residential districts shall have front yards of not less than 15 feet and side and rear yards of not less than five feet. Yards surrounding parking lots shall be planted and maintained in lawn or other appropriate planting or shall be improved otherwise keeping with the character of adjacent property. When a parking lot is adjacent to residential-agricultural or residential zoned or used property, and buffer as defined in § 153.012 is not required, natural planting, hedge or a decorative fence to a height of at least six feet shall screen the residential property.

(e) *Curbs or bumpers.* The required yards shall be set off from parking areas by either continuous curb or one noncontinuous stationary bumper for each parking space abutting on a yard, which curb or bumper shall not be less than five inches or more than two feet high.

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(f) *Drainage.* Parking lots shall not drain onto or across public sidewalk, or into adjacent property except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the Zoning Administrator may exempt the developer from this requirement provided that adequate provision is made for drainage.

(g) *Separation of bumper and walkways.* If any parking stall abuts upon a walkway, there shall be a space of 3-1/2 feet between the wheel bumper or curb and the edge of the walkway.

(h) *Entrances and exits.* On all corner lots, all vehicular openings shall be located at least 20 feet from the point of intersection of the established street right-of-way lines. No entrance or exit, whether on a corner lot or not, shall exceed 30 feet in width at the property line or 40 feet at the curblin. There shall be a minimum distance between driveways of 25 feet measured along the curblin unless the driveways are less than five feet apart.

(i) *Internal circulation.* Sufficient area shall be provided within the property lines of the parking lot, exclusive of required yards, so that all vehicles may enter and leave the lot in forward motion.

(8) Exceptions.

(a) The Zoning Administrator may withhold a permit or certificate of occupancy if a parking layout not specifically prohibited by this section would be likely to cause safety or traffic congestion problems until modification is made. The applicant may appeal the Zoning Administrator's decision to the Board of Adjustment under the normal procedure for an appeal.

(b) If a peculiar characteristic of an establishment makes the requirements in this section clearly unrealistic, the Board of Adjustment may grant the applicant a parking modification.

(c) In the central business district, the Zoning Administrator may allow a new use to be established in an existing building even if all parking requirements of this article cannot be met for the new use, provided that as much off-street parking as can reasonably be provided is provided by the use, and no foreseeable traffic congestion problems will be created.

(9) (a) The minimum number of required off-street parking spaces shall be calculated as provided in division (10) below of this section. In the case of a building or use not expressly provided for, the number of off-street spaces shall be the same as for a similar use or inclusive category which is provided for.

(b) Where there is more than one use in a single structure, or on a single tract, or two or more instances of the same use, the minimum number of required off-street parking spaces shall be equal to the sum of the requirements of the various uses, except for shopping centers which are expressly provided for.

(10) The following shall be the minimum number of off-street parking spaces which shall be provided:

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<i>Use</i>	<i>Number of Required Off-Street Parking Spaces</i>
<i>Residential uses:</i>	
Dwellings, single-family and two-family	2 per dwelling unit
Dwellings, multi-family	2 spaces for each dwelling unit plus 1 visitor space for each 4 dwelling units
Townhouses	2 spaces for each dwelling unit plus 1 visitor space for each 4 dwelling units
Group housing, such as boarding	1.2 for each bedroom houses, dormitories and similar establishments
Mobile homes on individual lots	2 per mobile home
Mobile home parks	2 spaces for each mobile home plus 1 visitor parking space for each mobile home
<i>Office and institutional uses:</i>	
Financial institutions	1 for each 150 square feet of gross floor area or fraction thereof, plus safe facilities to accommodate passengers waiting in line for drive-in windows and banking machines, if any
Hospitals	1 space for each 150 square feet of gross floor area or fraction thereof
Libraries	1 space for each 200 square feet for use by the public or fraction thereof
Museums and art galleries	1 space for each 800 square feet of gross floor area or fraction thereof
Nursing homes, family care homes and similar institutions	4 times the maximum lawful number of occupants
Doctor or dentist office	6 for each doctor or dentist plus 1 for each other employee
Other office	1 for each 300 square feet of gross floor area or fraction thereof
Places of assembly, including clubs, lodges, churches, funeral parlors, auditoriums, gymnasiums, amusement parks and similar places	1 for each 3 seats, plus 1 for each 100 square feet of floor area used for assembly, but not containing fixed seats, or fraction thereof
<i>Schools and colleges:</i>	

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<i>Use</i>	<i>Number of Required Off-Street Parking Spaces</i>
Day nurseries, kindergartens, elementary and junior highs	2 for each 750 square feet of classroom floor area or floor area or fraction thereof, plus 1 for each administrative office, plus auditorium/gymnasium parking, if applicable
Senior highs, and colleges, trade, with dormitories	5 for each 750 square feet of classroom vocational with floor area or fraction thereof, plus 1 for each administrative office, plus auditorium/gymnasium/dormitory parking requirement, if applicable
Colleges, trade, vocational without dormitories	10 for each 750 square feet of classroom area or fraction thereof, plus auditorium/gymnasium parking requirement, if applicable
Commercial uses:	
Bowling alley	5 per lane
Campground:	
Tent	1 for each campsite plus office parking requirement
Recreational vehicle	1 for each campsite plus office parking requirement
Car wash	5 per wash lane
Golf course (not including putting greens accessory to multi-family dwelling or hotels or motels)	4 per hole
Restaurants:	
Drive-in or take-out	Minimum of 15 spaces plus 1 additional for each 50 square feet of gross floor area or fraction thereof
Other	1.2 for each 100 square feet of gross floor area or fraction thereof
Service stations	2 for each gas pump, plus 3 for each grease rack or similar facility
Shopping centers (in lieu of individual store parking requirements)	5.5 per 1,000 square feet of gross leasable area or fraction thereof

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<i>Use</i>	<i>Number of Required Off-Street Parking Spaces</i>
Low generator retail and service establishments such as furniture, appliance, household equipment, carpet and hardware stores, repair shops including shoe repair, contractors' showrooms, drapery, paint and wallpaper, upholstery, interior decorator, motor vehicle sales, plant nurseries	1 for each 500 square feet of gross floor area or fraction thereof, including any outdoor sales area
All other commercial uses such as retail stores, wholesale outlet stores, department stores, discount stores, drug stores, coin-operated laundries, variety stores, convenience stores	1 for each 200 square feet of gross floor area or fraction thereof, including outdoor sales area

<i>Use</i>	<i>Number of Required Off-Street Parking Spaces</i>
<i>Industrial uses:</i>	
Industrial and research uses, warehousing and very low customer volume wholesaling operations	1 for each employee on premises at any one time

(1993 Code, § 78-156) Penalty, see § 153.999

§ 153.106 OFF-STREET LOADING REQUIREMENTS.

(A) Every building or structure used for business, trade, industry, or office and institutional purposes, shall provide loading space as indicated in this section. Each loading space shall be no less than 15 feet in width, and 30 feet in depth. Each space shall also be no less than 15 feet in height if the space is covered. It shall have access driveways to public streets or alleys which driveways shall be at least 24 feet wide and with adequate turning radii for the delivery vehicles customarily associated with the particular use. If there is not more than one delivery and pickup during the hours when a retail trade, office, or institutional establishment is open to patrons, the space may be combined with the existing parking space on the premises. Loading space shall be provided in accordance with the following schedule:

- (1) Retail business - One space for each 20,000 square feet of gross floor area or fraction thereof.
- (2) Wholesale trade and industry - One space for each 10,000 square feet of gross floor space or fraction thereof.

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(3) Office and institutional uses including hotels and motels - One space for each 50,000 square feet of gross floor area or fraction thereof.

(4) As well as meeting the requirements of division (A)(3) of this section, elementary, junior high, high schools, kindergartens, nurseries, and day care centers shall also provide a safe place off the street for the loading and unloading of children from automobiles and buses.

(B) Exceptions.

(1) If a peculiar characteristic of an establishment makes the requirements in this section clearly unrealistic, the Board of Adjustment may grant the modification of the loading requirements in regard to that particular establishment.

(2) In the central business district, the Zoning Administrator may allow a new use to be established in an existing building even if all loading requirements of this section cannot be met for the new use provided that as much loading space as can reasonably be provided is provided by the use and traffic or safety hazards will not be created.

(1993 Code, § 78-157) Penalty, see § 153.999

§ 153.107 REGULATION OF PARKING IN RESIDENTIAL DISTRICTS.

In all residential districts, no motor vehicle or trailer shall be parked in the front yard of any principal structure, or on any side yard that faces a public street unless it is placed on a graded surface that contains at least six inches of crushed stone, asphalt, concrete or other impervious surface material. (Ord. 14-01, passed 2-17-2014)

§ 153.108 STREET IMPROVEMENTS REQUIRED FOR DEVELOPMENT.

(A) All streets developed in accordance with this Code of Ordinances shall equal or exceed those applicable standards approved by the North Carolina Department of Transportation. The Town shall withhold issuance of any final plat, permit or other approval until streets are developed in accordance with this section, or such other arrangement is agreed to in writing by the developer and the Town Administrator.

(B) If any public street or other public space or right of way is damaged by any development provided by this Chapter, the Town shall withhold issuance of any final plat, permit or other approval until the damaged property has been repaired and returned to its original condition, or such other arrangement is agreed to in writing by the developer and the Town Administrator.

(Ord.11-19-18)

SIGNS

§ 153.120 SCOPE.

No sign or sign structure may be erected, posted, hung, painted, rehung, repainted, repaired, replaced, changed or maintained in any district except in compliance with this subchapter. (1993 Code, § 78-176) Penalty, see § 153.999

§ 153.121 GENERAL REGULATIONS.

General sign regulations are as follows:

(A) No sign or sign structure shall be erected or constructed to interfere with vision clearance as defined in § 153.009.

(B) No ground sign structure may be placed in the right-of-way.

(C) Individual stores in a shopping center may not have separate ground sign structures. The shopping center as a whole may display signs in accordance with this division.

(D) Signs and sign structures shall meet all requirements of the North Carolina State Building Code. Signs do not require separate zoning permits unless a building permit is required for the sign or unless otherwise noted in §§ 153.123 or 153.125.

(E) Signs and sign structures shall be maintained at all times in a state of proper repair, with all braces, bolts, clips, guys, anchors, supporting frames, and fastening free from deterioration, insect infestation, rot, rust, or loosening. All signs shall be kept neatly finished, with lettering intact, and if of a type which requires painting, free from visible peeling or chipping. If, in the opinion of the Zoning Administrator, a sign's general overall condition is not satisfactory, it shall be found to be in violation of this subchapter.

(F) Any sign which becomes a safety hazard or which is not kept in good general condition and a reasonably good state of repair and is not, after 60 days' written notice to the owner of the premises or the permittee, put in a safe and good state of repair, is hereby declared a public and private nuisance and may be removed, obliterated, or abated by the Zoning Administrator of the town. Any sign which, in the opinion of the Zoning Administrator, constitutes an immediate or imminent danger to life or property, may be caused to be removed or put in a safe condition by him or her immediately. In either case, the costs of the removal/repair may be charged to the owner of the premises where he or she has been afforded reasonable notice. Any charge so levied shall be collected as a tax, and any charge having been assessed and which remains unpaid shall constitute a lien against the property as provided in G.S. 160A-193.

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(G) Obsolete signs and their supporting structures shall be removed within 90 days after they have been made obsolete by reason of the activity, business, product or usage which the sign identifies or advertises being abandoned at the location to which the sign refers. This provision does not refer to billboards, until the commercial use of the billboard for rent has ceased. An extension of the 90-day time limit for removal may be granted by the Zoning Administrator for reasonable cause.

(H) Illuminated signs shall be limited to those lighted from behind to silhouette letters and internally illuminated and spotlighted signs. All illuminated and spotlighted signs shall be placed so as to prevent the light ray, illumination or glare from being cast directly on any building or on traffic.

(I) Temporary strings of light bulbs (i.e., not permanently installed in accordance with the North Carolina Electrical Code) used in connection with commercial premises for commercial purposes shall not cause glare on traffic or adjoining premises. These lights may be erected for no longer than 60 days.

(J) One sandwich board sign may be approved in writing by the Zoning Administrator for each building on a lot zoned Downtown commercial (CD) or Highway commercial (CH) and for which a freestanding sign is not permitted. This approval shall assure that the regulations set forth below are met and the color, design, and content of the sign are consistent with the statement of intent of the zoning district within which it is located. In addition, the following regulations shall apply to all sandwich board signs:

(1) The area of each face of the sign shall not exceed 12 square feet. The total area of each face of the sign shall be the same in size and not exceed three feet in width and four feet in height. No extensions or projections shall be approved.

(2) A sandwich board sign shall not be located closer than five feet from a side lot line. The sign may be located in a public right-of-way that is adjacent to the building that the business is located in, provided at least six feet of clear sidewalk width is maintained. No sign shall be located within a parking area, interfere with any sight distance area, or obstruct the loading or unloading of any passenger or commercial vehicle.

(3) Sign information shall be permanently affixed to both faces of the sign. Message content may be changed without additional approvals. Each face shall contain the same information.

(4) A sandwich board sign shall be made of wood and shall be constructed in a sturdy manner.

(5) A sandwich board sign shall not be illuminated in any manner.

(6) A sandwich board sign may be displayed only when the business is open. The sign shall be stored indoors at all other times.

(7) A sandwich board sign may be removed by the Zoning Administrator or his or her designee if he or she finds that the sign violates any of the regulations contained within this division.

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(8) The sign located within a public right-of-way may be removed without notice if the Town Manager or his or her designee finds that the sign is a public nuisance or if it is in the way of town operations.

(1993 Code, § 78-177) Penalty, see § 153.999

§ 153.122 PROHIBITED SIGNS.

The following types of signs are expressly prohibited.

(A) Signs with moving, revolving or rotating parts, or any sign which moves or gives an illusion of movement, except for time and temperature units and traditional barber poles, shall be prohibited in all districts.

(B) Signs with lights or illumination which flash, move, rotate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsations, except for time and temperature units.

(C) Signs which obstruct the view of or could be confused with any authorized traffic sign, signal, or device or make usage of the words “stop,” “look,” “danger” or any other word, phrase, symbol or character in a manner as to interfere with, mislead or confuse traffic.

(D) Signs which obstruct openings required to be left uncovered or unobstructed by building codes, the housing code, or other laws relating to buildings.

(1993 Code, § 78-178) Penalty, see § 153.999

§ 153.123 OFF-SITE ADVERTISING SIGNS.

Off-site advertising signs (billboards) shall be permitted only as a special use in the CH and LI districts. The conditions in § 153.057 are not applicable to off-site advertising signs. A special use permit shall be granted provided the following conditions are met.

(A) The property on which the sign is to be located must be adjacent to an interstate or federal aid primary highway.

(B) The sign must be located within 660 feet of the edge of the right-of-way of the highway.

(C) The sign shall comply with all regulations of the State Department of Transportation and the General Statutes.

(D) No two structures shall be placed less than 500 feet apart. Distance shall be measured as specified in the North Carolina Administrative Code T19A:02E.0200.

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(E) The sign will be compatible with the general neighborhood in which it is located and will not have a detrimental effect on adjoining properties.
 (1993 Code, § 78-179) Penalty, see § 153.999

§ 153.124 NONCONFORMING SIGNS.

Nonconforming signs, when removed for other than normal maintenance, may not be erected again, or may any sign be replaced with another nonconforming sign.
 (1993 Code, § 78-180) Penalty, see § 153.999

§ 153.125 PERMITTED SIGNS.

<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
Advertising, off-site (billboards)	50	12	Special use in RA, CH and LI	Maximum height of structure is 35 feet; see § 153.123
Agricultural, advertising products produced on premises	32	8	Permitted uses in RA	
Awning, silk screened or sewn on front of awning	NA	NA	Permitted use in CD, CH and LI	
Bulletin board, church or public	32	8	Permitted use in all districts	
Canopy signs (may also be placed on non-raising marques)	16	NA	Permitted use in CD, CH and RA	Identification only; 1 per entranceway; bottom of sign must be 7 feet above sidewalk level, moreover public right-of-way if required by town regulations
Construction site placards	64	12	Permitted use in all districts	Must be removed when construction has been completed
<i>Directional signs containing no advertising matter:</i>				

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<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
Traffic, safety, utility warning, public	NA	NA	Permitted use in all districts	
Pedestrian, public	NA	NA	Permitted use in all districts	
Traffic and pedestrian, private	NA	NA	Permitted use in all districts	
No trespassing	NA	NA	Permitted use in all districts	
Off-site directional to churches, meeting halls, civic clubs	12	NA	Permitted use in all districts	
Temporary directional to garage sales and similar events in residential area, excluding portable commercial signs	4	NA	Permitted use in all districts	Must be posted no more than 24 hours before sale and removed within 24 hours after sale

<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
Entrance or monument-type signs to subdivisions, neighborhoods, public, commercial, institutional establishments	32	Signs and pillars may not exceed 8 feet in height	Permitted use in all districts	No more than 2 per entrance allowed

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<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
The flag, pennant or insignia of any nation or organization of nations, state, county, city, religious, civic or fraternal organization or educational institution when not used in connection with a commercial promotion, or as an advertising device or as an integral part of another sign	NA	NA	Permitted use in all districts	In R-1, R-2, RMH and CR districts, wall and projecting insignia may not exceed 10 square feet in area nor may the project be more than 9 feet from wall at farthest point; in business and industrial districts, insignia may be placed on signs permitted in those districts
Gasoline price signs	9	NA		Two permanent gasoline price/self-service signs; height not to exceed 6 feet above the top of the pump
Ground signs	150	35	Permitted use in CH and LI	No more than 1 per street frontage containing entrance to use; may be used only for identification or on-site advertising
Ground signs	40	20	Permitted use in CH and LI	Must be at least 30 feet from any other ground sign; must meet vision clearance of § 153.005
House numbers	4	NA	Permitted use in all districts	May contain no advertising matter
Memorial signs, tablets, name of building and date of construction	NA	NA	Permitted use in all districts	Must be cut into a masonry surface or cast of metal and affixed flat against a surface

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<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
Name of occupant of residential premises	2	NA	Permitted use in all districts	
Newspaper names on newspaper tubes	NA	NA	Permitted use in all districts	
NC State Inspection sign	4	NA		One NC State Inspection sign affixed to pump island or business sign permitted on business site
No vacancy/vacancy signs	NA	NA	Permitted use in all districts	
Political signs	4	NA		Must be removed within 15 days after last election to which they pertain
Portable signs, including signs mounted on a vehicle or a trailer or trailer-type device	32	10	Permitted use in CD, CH and LI	Nonrenewable permit from Zoning Administrator required; 10-day time limit; no more than 1 sign per establishment per street frontage; same establishment may not have temporary sign(s) again for 30 days after removal of sign(s); signs shall not have colored or flashing lights or lights which cause glare on traffic or adjacent properties; signs shall not be located on the public right-of-way nor obstruct vision clearance as indicated in § 153.065(A)

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<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
Professional or announcement signs	4	NA	Permitted use in all districts	One per establishment

<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
Projecting signs	20	NA	Permitted use in CD, CH and LI	Signs may be no more than 9 feet from wall at farthest point; one sign per face on street, or 2 per establishment, whichever is less; the sign may be hung on corner of building but shall count against the maximum allowed above; establishments may not have a wall or roof sign on same face as projecting sign
Real estate signs	6	NA	Permitted use in residential districts	
Real estate signs	32		Permitted use in CD and CH	
Religious symbols at formal places of worship	NA	NA	Permitted use in all districts	
Roof signs-see Wall signs				

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<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
Service station signs, automobile or truck	NA	NA	Permitted use in all districts when accessory to a service station	
Signs or racks for the orderly display of engine oil, provided signs are no longer than the rack	NA	NA		
Signs on pumps and/or pump islands concerning the type and price of fuel	NA	NA		Sign may display brand name/logo and information concerning the dispensing of fuel, provided the information does not exceed size of pump face

<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
Signs on open portable tire racks provided the signs are no longer than the rack	NA	NA		
A sign may be painted on the inside and outside front door face of the closed tire rack, but shall not be painted on the sides or rear	NA	NA		

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<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
One double-faced on-site advertising sign per street frontage showing the current price of fuel sold on the premises; sign shall be located off the right-of-way	32	8		
Temporary banners, pennants, streamers, excluding portable commercial signs	30	NA	Permitted use in CD and CH	See § 153.003; may remain for no more than 4 weeks
Temporary paper window sign	NA	NA	Permitted in all districts	Can cover no more than 50% of window area; the same signs are not displayed for longer than 30 days; used for special sales and other merchandising events
Temporary signs relating to farm auctions, agricultural production sales, annual charitable, civic or fraternal events, excluding portable commercial signs	20 (off-site) 32 (on-site)	NA	Permitted use in all districts	Off-site: no more than 1 per lot On-site: no more than 3 per lot; may remain for no more than 45 days in all

<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
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<i>Type of Sign</i>	<i>Maximum Area (Square Feet)</i>	<i>Maximum Height (Feet)</i>	<i>District</i>	<i>Other Requirements</i>
Vending machine signs painted or mounted on the machine related to the products in the machine; bank machine or book depository signs which instruct customers or patrons	NA	NA	Permitted use in all districts	
Wall or roof signs	1.25 square feet of sign area per running foot of building frontage	Signs shall not project over the roof line of the building to which they are attached	Permitted use in CD, CH and LI	Wall signs must be mounted on area of wall free of window, doors or other architectural detail; may not interrupt or cover major architectural features; only 1 wall, roof or projecting sign per establishment per street frontage is permitted other than those specifically mentioned elsewhere in this table; signs may be used only for identification or on-site advertising, and at least 80% of sign face shall be for identification
Window signs	NA	NA	Permitted use in CD, CH and LI	Shall be constructed of non-temporary material (§ 153.005); shall not exceed 20% of window area

(1993 Code, § 78-181) Penalty, see § 153.999

§ 153.999 PENALTY.

(A) Any person violating any provisions of this chapter shall be subject to § 10.99. Each day a violation continues shall be deemed a separate offense.

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(B) In case any building or structure is erected, constructed, reconstructed, repaired, converted or any building, structure or land is used in violation of this chapter, the Zoning Administrator or any other appropriate town authority, or any person who would be damaged by the violation, in addition to other remedies, may institute injunction, mandamus or other appropriate action in proceeding to prevent the violation.

(C) Any notice of violation shall be in writing and shall be issued pursuant to G.S. 160D-404(a). (1993 Code, § 78-75)

CHAPTER 154: FLOOD DAMAGE PREVENTION

Section

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PURPOSE, OBJECTIVES AND DEFINITIONS

§ 154.01 STATUTORY AUTHORIZATION.

(A) The Legislature of the State of North Carolina has in G.S. Chapter 143, Article 21, part 6; G.S. Chapter 160D, Article 11; and G.S. § 160D-923, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

(B) Therefore, the Town of Enfield, North Carolina, does ordain as follows.
(Ord. 2007-2, passed 6-21-2007)

§ 154.02 FINDINGS OF FACT.

(A) The flood prone areas within the jurisdiction of Enfield 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. 2007-2, passed 6-21-2007)

§ 154.03 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;

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(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 flood waters or which may increase flood hazards to other lands.

(Ord. 2007-2, passed 6-21-2007)

§ 154.04 OBJECTIVES.

The objectives of this chapter are to:

(A) Protect human life, safety, and health;

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

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

(D) Minimize prolonged business losses and interruptions;

(E) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

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

(G) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

(Ord. 2007-2, passed 6-21-2007)

§ 154.05 DEFINITIONS.

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

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,

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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 Zone AO 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)**.

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

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

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

BUILDING. See **STRUCTURE**.

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

ENCROACHMENT. The advance or infringement of uses, fill, excavation, buildings, 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 initial 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***.

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.

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

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

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

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.

FLOOD ZONE. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

FREEBOARD. The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of 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, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

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

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

HISTORIC STRUCTURE. Any structure that is:

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

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(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.

(5) 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 initial floodplain management regulations and includes any subsequent improvements to such structures.

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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.

PRE-FIRM. Construction or other development for which the start of construction occurred before the effective date of the initial Flood Insurance Rate Map.

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

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) Four hundred 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 A1-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 the chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

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RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook, and the like.

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

SHEAR WALL. Walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

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

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

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1% or greater chance of being flooded in any given year, as determined in § 154.16 of this chapter.

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 damage also means flood-related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

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

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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. Is a grant of relief from the requirements of this chapter.

VIOLATION. The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §§ 154.30 through 154.34 and §§ 154.45 through 154.51 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. 2007-2, passed 6-21-2007)

GENERAL PROVISIONS

§ 154.14 AMENDMENTS.

An amendment to this chapter may be adopted by the Board of Commissioners only by ordinance and only after the notice and public hearing requirements contained in G.S. § 160D-601 have been satisfied. A simple majority of voting Board members present at the meeting upon which the amendment is presented is required to adopt any amendment to this chapter as provided by G.S. § 160A-75. The Mayor or Town Administrator may refer any amendment to the Planning Board for review and comment.

§ 154.15 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of Enfield and within the jurisdiction of any other

community whose governing body agrees, by resolution, to such applicability.
(Ord. 2007-2, passed 6-21-2007)

§ 154.16 BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREAS.

(A) The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Halifax County dated July 3, 2007, which are adopted by reference and declared to be a part of this chapter.

(B) The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date: Halifax County Unincorporated Area, dated May 18, 1988.

(C) A copy of the currently effective version of any map incorporated by reference in this Chapter shall be maintained for public inspection in either paper or digital form, as provided in G.S. 160D-105.
(Ord. 2007-2, passed 6-21-2007)

§ 154.17 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 the provisions of § 154.16 of this chapter.
(Ord. 2007-2, passed 6-21-2007)

§ 154.18 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. 2007-2, passed 6-21-2007)

§ 154.19 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. 2007-2, passed 6-21-2007)

§ 154.20 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. 2007-2, passed 6-21-2007)

§ 154.21 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part Enfield 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. 2007-2, passed 6-21-2007)

§ 154.30 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The Town Administrator, hereinafter referred to as the Floodplain Administrator, is hereby appointed to administer and implement the provisions of this chapter.

(Ord. 2007-2, passed 6-21-2007)

§ 154.31 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.

(A) Development approvals and determinations, as defined by G.S. § 160D-102, subject to this Chapter are governed by G.S. § 160D-403. Development approvals attach to and run with the land as provided by G.S. § 160D-104.

(B) *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:

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

(b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in § 154.16, or a statement that the entire lot is within the Special Flood Hazard Area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 154.16;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 154.16;

(e) The Base Flood Elevation (BFE) where provided as set forth in § 154.16, § 154.32, or § 154.48;

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

(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 non-residential 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 floodproofed;

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

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

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

(b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with § 154.46(D)(4) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;

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(5) Usage details of any enclosed areas below the lowest floor;

(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 that the provisions of § 154.46(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.

(C) *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 in accordance with available data specified in § 154.16.

(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.

(D) *Certification requirements.*

(1) *Elevation certificates.*

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(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 (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(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.

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

(2) *Floodproofing certificate.*

(a) If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction.

(b) It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

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(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 in accordance with the provisions of § 154.46(C)(2).

(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/floodproofing certification requirements specified in divisions (C)(1) and (2) of this section:

(a) Recreational vehicles meeting requirements of § 154.46(F)(1);

(b) Temporary structures meeting requirements of § 154.46(G); and

(c) Accessory structures less than 150 square feet meeting requirements of § 154.46(H).
(Ord. 2007-2, passed 6-21-2007; Am. Ord. 2017-01, passed 3-20-2017)

§ 154.32 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 if additional federal or state permits (wetlands, endangered species, erosion and sedimentation control, riparian buffers, mining, and the like) are required and assure that copies of such permits are 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 the watercourse so that the flood-carrying capacity is maintained.

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 154.49 are met.

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(F) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with § 154.31(C).

(G) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of § 154.31(C).

(H) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of § 154.31(C).

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of § 154.31(C) and § 154.46(B).

(J) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter.

(K) When Base Flood Elevation (BFE) data has not been provided in accordance with § 154.16, 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 § 154.48(B)(2), in order to administer the provisions of this chapter.

(L) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with § 154.16, 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 floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, 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, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(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 chapter 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

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community at any reasonable hour for the purposes of inspection or other enforcement action. Inspections shall be conducted pursuant to G.S. § 160D-403(e).

(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 or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor. Stop-work orders are subject to G.S. § 160D-404(b).

(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 in accordance with G.S. § 160D-403(f). Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable state or local law may also be revoked.

(R) *Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community.* The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action. Inspections shall be conducted pursuant to G.S. § 160D-403(e).

(S) Follow through with corrective procedures of § 154.33.

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

(U) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with § 154.16 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. 2007-2, passed 6-21-2007)

§ 154.33 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.

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(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 the floodplain management regulations;

(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 applicable.

(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 the Flood Damage Prevention Ordinance, 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 120 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 Board of Adjustment 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 Board of Adjustment shall hear all administrative appeals under this chapter in accordance with G.S. §§ 160D-302, -405, -406, -705 and other applicable laws, as may be amended. Appeals from the Board of Adjustment shall be made to Superior Court as provided by applicable law.

(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 Board of Adjustment following an appeal, the owner shall be subject to the provisions of § 10.99. (Ord. 2007-2, passed 6-21-2007)

§ 154.34 VARIANCE PROCEDURES.

(A) The Board of Adjustment shall hear and decide requests for variances from the requirements of this chapter.

(B) Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to Superior Court.

(C) Variances may be issued for:

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(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 dependent facilities if determined to meet the definition as stated in § 154.05 of this chapter, provided provisions of § 154.34(I)(2), (3) and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

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

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

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

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

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

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

(5) The necessity to the facility of a waterfront location as defined under § 154.05 of this chapter as a functionally dependent facility, where applicable;

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

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

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

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

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

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

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

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

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

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

(I) Conditions for variances:

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

(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 chapters.

(J) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

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

(2) No feasible location exists for the use outside the Special Flood Hazard Area.

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

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

(5) The Town of Enfield 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. 2007-2, passed 6-21-2007)

§ 154.35 RESERVATION OF ADDITIONAL REMEDIES.

The Town reserves the right to implement any general enforcement remedy as provided by G.S. § 160D-404(c).

PROVISIONS FOR FLOOD HAZARD REDUCTION

§ 154.45 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 to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

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

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

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(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 § 154.34(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 floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of § 154.31(C).

(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 § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(O) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(P) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

(Ord. 2007-2, passed 6-21-2007)

§ 154.46 SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in § 154.16, or § 154.48, the following provisions, in addition to the provisions of § 154.45, are required:

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 154.05 of this chapter.

(B) *Non-Residential construction.* New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 154.05 of this chapter. Structures located in A, AE, AO, and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with §§ 154.45 through 154.51. 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 § 154.31(C), along with the operational and maintenance plans.

(C) *Manufactured homes.*

(1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 154.05 of this chapter.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to 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 § 154.46(D).

(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.

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(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 at least to the regulatory flood protection elevation;

(3) Shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

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

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

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

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

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

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

(E) *Additions/improvements.*

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

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

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(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.

(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 non-residential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified 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 (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

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

(5) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

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(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 the provisions of § 154.45(A);

(6) All service facilities such as electrical shall be installed in accordance with the provisions of § 154.45(D); and

(7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of § 154.46(D)(3).

(I) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with § 154.31(C). (Ord. 2007-2, passed 6-21-2007)

§ 154.47 RESERVED.

§ 154.48 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in § 154.16, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of §§ 154.45 and 154.46, 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.

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

(1) When 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 floodproofed in accordance with standards in §§ 154.45 and 154.46.

(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 in accordance with § 154.16 and 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 § 154.05.

(Ord. 2007-2, passed 6-21-2007)

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

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(A) Standards of §§ 154.45 and 154.46; 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. 2007-2, passed 6-21-2007)

§ 154.50 FLOODWAYS AND NON-ENCROACHMENT AREAS.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in § 154.16. 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 §§ 154.45 and 154.46, shall apply to all development within such areas:

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(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

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

(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.

(B) If § 154.50(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

(C) 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 § 154.46(C); and

(2) The no encroachment standard of § 154.50(A).
(Ord. 2007-2, passed 6-21-2007)

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

Located within the Special Flood Hazard Areas established in § 154.16, 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 §§ 154.45 and 154.46, 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 four feet, above the highest adjacent grade; or at least four feet above the highest adjacent grade if no depth number is specified.

(B) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in §§ 154.45 through 154.51 so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with § 154.31(C) and 154.46(B).

(C) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.
(Ord. 2007-2, passed 6-21-2007)

LEGAL STATUS PROVISIONS

§ 154.60 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

This chapter in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted May 18, 1988 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Town of Enfield enacted on May 18, 1988, as amended, which are not reenacted herein are repealed.

(Ord. 2007-2, passed 6-21-2007)

§ 154.61 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. 2007-2, passed 6-21-2007)

§ 154.99 PENALTY.

Any person who violates this chapter or fails to comply with any of its requirements shall be subject to section 10.99. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent Enfield from taking such other lawful action as is necessary to prevent or remedy any violation. Any notice of violation shall be in writing and shall be issued pursuant to G.S. 160D-404(a).

(Ord. 2007-2, passed 6-21-2007)