

ARTICLE III

ADMINISTRATION

3.1 Zoning Enforcement Officer and Planning Board

(A) The Board of Commissioners shall appoint an individual to act as Zoning/Watershed Administrator. The Zoning/Watershed Administrator, known as the Zoning Administrator, or his authorized agent, is hereby authorized, and it shall be his duty, to enforce the provisions of this Ordinance. This official shall have the right to enter upon the premises at any reasonable time necessary to carry out his duties. It is the intention of this Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the Zoning Administrator. Appeal from his decision may be made to the Board of Adjustment. In administering the provisions of this Ordinance, the Zoning Administrator shall:

(1) Make and maintain records of all applications for permits and requests listed herein, and records of all permits issued or denied, with notations of all special conditions or modifications involved.

(2) File and safely keep copies of all plans submitted, and the same shall form a part of the records of his office and shall be available for inspection at reasonable times by any interested person.

(3) Transmit to the appropriate board or commission and the Board of Commissioners all applications and plans for which their review and approval is required.

(4) Conduct inspections of premises and, upon finding that any of the provisions of this Ordinance are being violated, notify in writing the person responsible for such violations, indicating the nature of the violation, and ordering the action necessary to correct it.

(5) Issue Certificates of Zoning and Watershed Protection Compliance (Zoning Permits), and Certificates of Occupancy as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.

(6) Serve as staff to the Watershed Review Board and the Planning Board. The Town Clerk shall serve as Clerk to the Boards.

(7) Keep records of all amendments to the local water supply watershed protection provisions and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management.

(8) Keep records of the town's utilization of the provision that a maximum of five percent (5%) of the noncritical area of the watershed in town may be developed with nonresidential development to a maximum of seventy percent (70%) built upon surface area. Records of each watershed shall include the total acres of noncritical watershed area eligible to be developed under this option, total areas approved for this development option and individual records for each project with the following information: location, acres, site plan, use, stormwater management plan, as applicable, and inventory of hazardous materials, as applicable.

(9) Keep a record of variances to the local water supply watershed protection provisions. This record shall be submitted to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management on an annual basis (on or before January 1st of each year) and shall provide a description of each project receiving a variance and the reasons for granting the variance.

(B) The Town Board shall also appoint a Planning Board consisting of three Members. to assist in the administration and enforcement of this ordinance and to develop plans or conduct studies as directed by the Board of Commissioners and as provided for in the General Statutes.

(C) Conflict of Interest.

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

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

3.2 Planning Board

(A) Duties of the planning board shall include:

(1) To prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.

(2) To facilitate and coordinate citizen engagement and participation in the planning process.

(3) To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.

(4) To advise the Town Board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.

(5) To exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.

(6) To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.

(7) To perform any other related duties that the Board of Commissioners

may direct.

(B) Conflict of Interest

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

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

(C) Minutes shall be kept of all board proceedings.

(D) All members appointed to boards under Article 3 of Chapter 160D shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and 160A-61.

3.3 Certificate of Zoning and Watershed Protection Compliance (Zoning Permit)

A. Certificate of Zoning and Watershed Protection Compliance

No land shall be used or occupied and no building hereafter erected, structurally altered, or moved or its use changed until a Certificate of Zoning and Watershed Protection Compliance, known herein as a Zoning Permit, has been issued by the Town of Taylortown.

Once the Zoning Permit has been issued, a building permit may be obtained from Mecklenburg County. No building permit shall be issued unless a zoning compliance is certified.

Application for a Zoning Permit shall be made in writing to the Zoning Administrator on forms provided for that purpose and shall be void after six (6) months from date of issue unless substantial progress on the project has been made by that time.

A record of all certificates shall be kept on file in the Town Hall and copies shall be furnished upon request.

B. Application

Each application for a Zoning Permit shall be accompanied by two (2) sets of plans drawn to scale, one (1) of which shall be returned to the applicant upon approval. The plan shall show the following:

- 1) The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
- 2) The location of said lot with respect to adjacent rights-of-way;
- 3) The shape, dimensions, and location of all buildings, existing and proposed, on said lot;

- 4) The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
- 5) The location and dimensions of off-street parking and loading space and means of ingress and egress to such space; and
- 6) The square feet and percentage of lot as built upon area, except-for single family residential uses (one dwelling unit per lot and per building).
- 7) Any other information which the Planning Board or Town Board may deem necessary for consideration in enforcing the provisions of this Ordinance.
- 8) Prior to issuance of the permit, the Zoning Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.

C. Issuance of Zoning Permits

If the proposed activity as set forth in the application is in conformity with the provisions of this Ordinance, the Zoning Administrator shall issue a permit. If any application for a Zoning Permit is not approved, the Zoning Administrator shall state in writing on the application the cause for such disapproval. Issuance of a permit shall, in no case, be construed as waiving any provision of this or any other ordinance or regulation.

D. Expiration of Certificates of Zoning Compliance

If the work described in any zoning certificate has not begun within twelve (12) months from the date of issuance thereof, said permit shall expire.

If after commencement, the work is discontinued for any period of twenty-four (24) months the permit shall immediately expire, and further work as described in the expired permit shall not proceed unless and until a new zoning and building permit has been obtained.

3.4 Certificate of Occupancy (Watershed Protection Occupancy Permit)

No new building or part thereof shall be occupied, and no addition or enlargement of any existing building shall be occupied, and no existing building after being altered or moved shall be occupied, and no change of occupancy shall be made in any existing building or part thereof, until the Building Inspector or Zoning Administrator has issued a Certificate of Occupancy. The change of occupancy provision shall not apply to rooms intended for transient rental or to re-rental of residential units, or to a change in occupant not representing a change in use.

A Temporary Certificate of Occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion and occupancy of the entire building or for other temporary uses.

Application for a Certificate of Occupancy may be made by the owner or his agent at the time of submitting an application for a Building Permit, if needed, or for a Zoning Permit. In cases requiring a Building Permit, the

Certificate of Occupancy shall be issued automatically by the Building Inspector after all final inspections have been made.

In the case of existing buildings or other uses not requiring a Building Permit, after supplying the information and data necessary to determine compliance with this Ordinance and appropriate regulatory codes of the Town for the occupancy intended, the Zoning Administrator shall issue a Certificate of Occupancy when, after examination and inspection, it is found that the building or use in all respects conforms to the provisions of this Ordinance and appropriate regulatory codes of the Town for the occupancy intended.

3.5 Other Permits

The Zoning Administrator shall be authorized to issue other permits as required by this Ordinance or the Board of Commissioners.

3.6 Public Hearings

Any case involving an appeal or variance requires a public hearing to be held by the Board of Adjustment and any case involving a special Use Permit, a change of zoning district classification, or other Ordinance changes requires a public hearing to be held by the Board of Commissioners.

Notice of the Public Hearing shall be published in a newspaper of general circulation in the Town of Taylortown at least once a week for two successive weeks prior to the hearing, the first publication being not less than ten (10) days nor more than twenty-five (25) days before the date of the hearing, and, in the case of changing zoning classifications, by mailing notices to all owners of property proposed for rezoning, other than the applicant, and to adjoining property owners as described in Section 5.2. Notice may also be made by posting the property concerned.

3.7 Revocation of Special Use Permits and Variances

After a public hearing has been held and approval granted for a special use or variance the Board of Adjustment or Board of Commissioners, whichever originally granted approval, may revoke approvals after giving written notice to the permit holder. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to Chapter 160D, the provisions of G.S. 160D-405(e) regarding stays apply.

3.8 Appeals

Appeals may be taken to the Board of Adjustment (also serving as the Watershed Review Board) by any person, firm, or corporation aggrieved, or by an officer, department, or board of the Town affected by any decision of an administrative official charged with the enforcement or interpretation of this Ordinance thought to be in error. Such appeals shall be filed with the Board of Adjustment by notice specifying the ground for appeal. Appeal shall be filed in writing within thirty (30) days from the date of the action being appealed. The officer from whom the appeal is taken shall forthwith transmit to the Board of Adjustment all papers constituting the record upon which the action appealed from was taken together with any additional written reports or documents as he deems pertinent (see Section 6.2 D.).

The Board of Adjustment may, after the public hearing, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or in part, or may modify any order, requirement, decision, or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken.

Further appeals from the Board of Adjustment shall be taken directly to the courts or otherwise as provided by law.

An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the pendency of any civil proceeding authorized by law or appeals therefrom, unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after the request is filed. Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or local government may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

3.9 Fees

Each applicant for an appeal from an administrative decision, for a Certificate of Zoning and Watershed Protection Compliance, for a variance or special Use Permit, or with a request for rezoning or other change in this Ordinance shall pay a nonrefundable fee, according to the schedule of fees adopted by the Board of Commissioners, to the Town of Taylortown to cover the costs of advertising and administration and for no other purpose. A receipt for this fee shall be issued by the Town. This fee, however, shall not apply to requests originating with any department, board, or agency of the Town of Taylortown.

3.10 Vested Rights

(a) The purpose of this section is to implement provisions of G.S. 160D-108 and 160D-108.1

(b) Permit Choice. - If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(c) Vested Rights. - Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.

(2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.

(3) A site-specific vesting plan pursuant to G.S. 160D-108.1.

(4) A multi-phased development pursuant to subsection (f) of this section.

(5) A vested right established by the terms of a development agreement authorized by Article 10 of Chapter 160D.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by the Town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

(d) Duration of Vesting. Upon issuance of a development permit, the statutory vesting granted by subsection (c) of this section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive. Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is

automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

(e) Multiple Permits for Development Project.

Subject to subsection (d) of this section, where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

(f) Multi-Phased Development. - A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(g) Continuing Review. - Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.

(h) Process to Claim Vested Right. - A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

(i) Miscellaneous Provisions. - The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and G.S. 136-131.2 in which case the rights granted by this section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(j) Definitions. As used in this section, the following definitions apply:

- (1) Development. As defined in G.S. 143-755(e)(1).
- (2) Development permit. As defined in G.S. 143-755(e)(2).
- (3) Land development regulation. As defined in G.S. 143-755(e)(3).
- (4) Multi-phased development. A development containing 25 acres or more that is both of the following:

- a. Submitted for development permit approval to occur in more than one phase.
- b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase.

3.10.1 Vested rights - site-specific vesting plans

- (a) Site-Specific Vesting Plan. - A site-specific vesting plan consists of a plan submitted to a local government in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by a local government. Unless otherwise expressly provided by the local government, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the local government pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.
- (b) Establishment of Vested Right. - A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific vesting plan, including any amendments thereto.
- (c) Approval and Amendment of Plans. - If a site-specific vesting plan is based on an approval required by a local development regulation, the local government shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-602 shall be held.

A local government may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. A local government shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site-specific vesting plan is deemed approved upon the effective date of the local government's decision approving the plan or another date determined by the governing board upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

(d) Continuing Review. - Following approval or conditional approval of a site-specific vesting plan, a local government may make subsequent reviews and require subsequent approvals by the local government to ensure compliance with the terms and conditions of the original approval, provided that these reviews and approvals are not inconsistent with the original approval. The local government may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

(e) Duration and Termination of Vested Right. -

(1) A vested right for a site-specific vesting plan remains vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the local government.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a local government may provide for rights to 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 and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the local government and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with subsection (a) of this section.

(3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.

(4) A right vested as provided in this section terminates at the end

of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

(f) Subsequent Changes Prohibited; Exceptions. -

(1) A vested right, once established as provided for in this section, precludes any zoning action by a local government which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:

a. With the written consent of the affected landowner.

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

c. To the extent that the affected landowner receives 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 consulting fees incurred after approval by the local government, together with interest as provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.

d. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the site-specific vesting plan or the phased development plan.

e. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case the local government 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 an evidentiary hearing.

(2) The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which

are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

(3) Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of a local government to adopt and enforce development regulations governing nonconforming situations or uses.

(g) Miscellaneous Provisions.

(1) A vested right obtained under this section is not a personal right but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.

(2) Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(3) In the event a local government fails to adopt a development regulation setting forth what constitutes a site-specific vesting plan triggering a vested right, a landowner may establish a vested right with respect to property upon the approval of a zoning permit, or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice.

3.10 Conflicts of Interest

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

and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

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

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

- (d) Quasi-Judicial Decisions. A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- (e) Resolution of Objection. If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.
- (f) Familial Relationship. For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.