ZONING ORDINANCE

TOWN OF TAYLORTOWN, NORTH CAROLINA

(Last amended June 29, 2021)

ARTICLE I LEGAL PROVISIONS

* 1. Zoning ordinance

This Ordinance shall be known, cited, and referred to as the Zoning Ordinance of Taylortown, North Carolina.

* 1. Zoning Map

The map herein referred to, which is identified by the title, The Zoning Map of Taylortown, North Carolina, shall be known as the "Zoning Map." The boundaries of each zoning district are shown on said map and shall bear the adoption date of this Ordinance and. the date of any subsequent map amendments. This map may consist of one or more map sheets and the boundaries indicated thereon shall be enforced as part of this Ordinance the same as if each area were fully described in and set forth in the text. All previous versions of the zoning map shall be maintained at Town Hall upon the adoption of zoning map amendments.

* 1. Authority

This Ordinance is adopted under the authority granted by the General Statutes of the State of North Carolina, particularly Chapter 160D, and G.S. 143-214.5.

* 1. Jurisdiction

The provisions of this Ordinance shall apply within the zoning limits of the Town of Taylortown, North Carolina as shown by the Zoning Map on file with the Town Clerk in the Town Hall.

* 1. Interpretation and Conflict

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

* 1. Severability

If any article, section, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by the courts, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it has passed this Ordinance and each article, section, clause, and phrase thereof, irrespective of fact that any one or more articles, sections, sentences, clauses or

Legal Provisions

phrases be declared invalid by the courts.

* 1. Effective Date

This Ordinance shall be in force from and after its .passage and approval.

Passed and adopted this 29th day of June 2021.

ARTICLE II DEFINITIONS

In the construction of this Ordinance the word interpretations and definitions contained in this Article shall be observed and applied, except when the context clearly indicates otherwise.

1. Words used in the present tense shall include the future tense.
2. Words used in the singular number shall include the plural number and the plural number shall include the singular.
3. The word "shall" be mandatory and not discretionary.
4. The word "may" be permissive.
5. The word "lot" shall include the words "parcel," "plot," and "tract."
6. The word "building" shall include all structures regardless of similarity to buildings.
7. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," and "occupied for."
8. Person. - An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

1. .1 Abutting. Having property or district lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street or alley.
   1. Access. A way of approaching or entering a property.

Access also

includes leave.

ingress, the right to enter, and egress,

the right to

* 1. Accessory Building or Use. which is:

A building or use, not including signs,

1. Conducted or located on the same building or use served, except as provided elsewhere in this Ordinance;

lot as may be

the principal specifically

1. Clearly incidental to, subordinate in area and purpose to, and serves the principal use; and
2. Either in the same ownership as the principal use or is clearly operated and maintained solely for the comfort, convenience, necessity, or benefit of the occupants, employees, customers, or visitors of or to the principal use.
3. Is not used for commercial, business, purposes, with the exception of storage.

or· residential

* 1. Advertising Device or Sign. Any advertising sign, billboard, statuary or poster which directs attention to a business, commodity, service, or entertainment not exclusively related to the premises where such sign is located or to which it is affixed; but does not include those advertising signs, billboards, or poster panels which direct attention to the business on the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises.
  2. Agricultural Uses. The commercial production of crops, fruits, vegetables, livestock, poultry, and other agricultural products. For the purpose of this ordinance these uses include the use of water for stock watering, irrigation, and other farm purposes.
  3. Alley. A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on a street and is not intended for

general traffic.

* 1. Apartment. A room or suite of rooms containing complete facilities intended for use as a residence by a single household or family (i.e., dwelling unit). Such dwelling unit may be located in an apartment house, duplex, or as an accessory use in a commercial building.
  2. Apartment House. A building containing complete and separate living quarters for three (3) or more families, i.e., a multi-family dwelling.
  3. Automobile Service Station (Gas Station). Any building or land used for the dispensing, sale or offering for sale at retail any automobile fuels along with accessories such· as. lubricants or tires, except that car washing, mechanical and electrical repairs, and tire repairs shall only be performed incidental to the conduct of the service station and are performed indoors and has no fuel pumps within fifteen (15) feet of any property line or street

right-of-way. Incidental activities shall not include tire re­ treading, major body work, major. mechanical work, or upholstery work.

* 1. Best Management Practice (BMP). A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
  2. Block. A tract of land or a lot or group of lots bounded by streets, public parks, golf courses, railroad rights-of-way , water courses, lakes, unsubdivided land, or a boundary line or lines of the county or its towns or any combination of the above.
  3. Block Frontage. That portion of a block which abuts a single street.
  4. Board of Adjustment /Watershed Review Board). A created by Ordinance, whose responsibility is to hear decisions of the Zoning Administrator and to consider variances from the terms of the Zoning Ordinance.

local body, appeals from requests for

* 1. Board of Commissioners. The governing body of the Town of Taylortown.
  2. Boarding House. A building other than a hotel or motel where, for compensation, meals are served, and lodging is provided.
  3. Buffer. A fence, wall, hedge, or other planted area or device used to enclose, screen, or separate one use or lot from another. Also, an area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the natural pool elevation of impounded structures and from the bank of each side of streams or rivers.
  4. Building. Any structure used or intended for supporting or sheltering any use or occupancy.
  5. Building, Height of. The vertical distance from the average sidewalk grade or street grade or finished grade at the building line, whichever is the highest, to the highest point of the building.
  6. Building, Principal (Main). A building in which is conducted the principal use of the plot on which it is situated.
  7. Building Setback Line. A line measured parallel to the front property line in front of which no structure shall be erected.
  8. Built Upon Area. That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g., tennis courts}, etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious.)
  9. Canopy, Marquee, or Awning. Any roof-like structure extended over a sidewalk or walkway.
  10. Certificate of Occupancy (Watershed Protection Occupancy Permit). Official certification that a premise conforms to provisions of the Zoning Ordinance (and building code) and may be used or occupied. Such a certificate is granted for new· construction or for alterations or additions to existing structures or a change in use. Unless such a certificate is issued, a structure cannot be occupied.
  11. Club or Lodge {Legal, Private Nonprofit, Civic or Fraternal). A non-profit association of persons, who are bona fide members paying dues, which owns, hires, or leases a building, or portion thereof; the use of such premises being restricted to members and their guests.
  12. Condominium. An individual dwelling unit, or apartment, in a

multi-family structure where separate dwelling units are individually owned and common property, including within the building, accessory structures, and the ·land itself, are jointly owned by all.

* 1. Convalescent Home (Nursing Home). An institution, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for persons unrelated to the licensee. A convalescent home is a home for chronic or nursing patients who, on admission, are not as a rule, acutely ill or who do not usually require special facilities, such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities.
  2. Country Club. A private recreational facility for use by members and their guests which has one or more forms of outdoor recreation, including golf courses, swimming pools, or tennis courts, and may also have indoor recreation, a pro shop, a lounge, a ballroom and may serve food and drink.
  3. Critical Area. The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool

- elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first).

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* 1. Day Care Facilities. Any childcare arrangement which provides day care on a regular basis for more than four (4) hours per day for more than five (5) children, wherever operated and whether or not operated for profit, except that the following are not included: public schools; non-public schools whether or not accredited by the North Carolina State Department of Public Instruction, which

regularly and exclusively provide a course of grade school instruction to children who are of public school age; summer camps having children in full-time residence; summer day camps; and Bible schools normally conducted during vacation periods.

* 1. Development. Any of the following:

a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

b. The excavation, grading, filling, clearing, or alteration of land.

c. The subdivision of land as defined in G.S. 160D-802.

d. The initiation or substantial change in the use of land or the intensity of use of land.

* 1. Development, Existing. Those projects that are built or that have an established a vested right under the North Carolina zoning law based on at least one of the following criteria:
     1. substantial expenditures of resources (time , labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
     2. having an outstanding valid building permit; or
     3. substantial expenditures of resources (time, labor, money) and having an approved site specific or phased development plan.
  2. Dwelling. Dwelling. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.
  3. Dwelling, Duplex. A separate building containing complete and separate living quarters for two (2) families.
  4. Dwelling, Multi-Family. Abuilding containing complete and separate living quarters for three (3) or more families.
  5. Dwelling, Single Family. Aseparate building containing complete living quarters for one family, including kitchen and bath facilities.
  6. Dwelling Unit. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
  7. Easement. A nonprofitable interest in land owned by another that entitles its holder to a specific limited use, usually in the shape of a strip, such as a drainage or utility easement. To allow access to land locked property for ingress and egress purposes such easement shall be a minimum of eighteen (18) feet in width.
  8. Family. An individual or two or more persons directly related by blood, marriage, or adoption, and may, in addition, include not more than two (2) unrelated persons, other than the householder, living together in a dwelling unit.· A family may also include no more than five (5) foster children in a licensed foster home.
  9. Floor Area (for determining off-street parking and loading requirements). The sum of the gross horizontal areas of the several floors of the building, or portion thereof, devoted to such use, including accessory storage areas located within selling or working space as counters, racks, or closets, and any basement floor area d voted to retailing activities, to the production or processing of goods, or to business or professional offices.

However, "floor area" for the purposes of measurement for off­ street parking spaces shall not include; floor area devoted to primarily storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space for vehicles; or basement floor other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

* 1. Frontage. The length of all the property fronting on one side of a street between the two nearest intersecting streets, measured along the line of the street, or if dead ended, then all of the property abutting on one side between an intersecting street and the dead end of the street.
  2. Garage, Private. A building used as an accessory to or a part of the main building permitted in any residential district and providing for the storage of motor vehicles and in which no business, occupation, or service for profit is in any way conducted.
  3. Home Occupation. Any occupation or profession carried on entirely within a dwelling by one or more occupants thereof, providing that such· use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, that no more than twenty-five percent (25%) of the total floor area or five hundred (500) square feet, no outside or window display, that no merchandise or commodity is sold on the premises, that no mechanical or electrical equipment is installed or used other than is normally used for domestic, professional, or hobby purposes, or for infrequent consultation or emergency treatment, and providing that no more than one (1) person not a resident of said dwelling is employed in connection with the home occupation.
  4. Homeowners Association. A legal entity that is responsible for the maintenance and control of common areas and shall be established in such a manner that:
     + Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;
     + The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;
     + The association or similar legal entity has the power to compel contributions from the residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities.
  5. Hotel or Motel. Abuilding or other structure kept, used, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants; where rooms are furnished for the accommodation of such guests; and may have one or more dining rooms, restaurants, or cafes where meals are served.
  6. Incompatible Use. A use or service which is .unsuitable for direct association and/or contiguity with certain other uses because it is contradictory, incongruous, or discordant.
  7. Industrial Park. A special or exclusive type of planned industrial area designed and equipped to accommodate **a** community of industries providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or government organizations.
  8. Inoperative Vehicle. Any vehicle, designed to be self-propelled, which by virtue of broken or missing component parts, is no longer capable of self-propulsion. For the purpose of this Ordinance, any vehicle which is registered with the North Carolina Department of Motor Vehicles and has a current North Carolina motor vehicle registration license affixed to it shall not be considered inoperative.
  9. Junk Yard. Any area, in whole or in part, where waste or scrap materials are bought, sold, exchanged; stored, baled, packaged, disassembled, or handled, including but not limited to, scrap iron and other metals, batteries, trash, debris, paper, rags, vehicles, rubber tires, furniture, household appliances, and bottles. A "junk yard" includes an auto wrecking yard but does not include uses established entirely within enclosed buildings or uses of a temporary nature where items for sale are exhibited outdoors no more than two (2) days per week (e.g., flea market).
  10. Loading Space, Off-Street. Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles. RE?­ quired off-street loading space is not to be included as off-street parking space in computation of required off-street parking space.
  11. Lot. A parcel of land occupied or intended for occupancy by a main building or group of main buildings and accessory buildings, together with such yards, open spaces, lot width and lot areas as required by this Ordinance and having not less than the minimum required frontage upon a street, either shown on a plat of record, or considered as a unit of property and described by metes and bounds. For the purpose of this Ordinance the word "lot" shall be taken to mean any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are erected or are to be erected.
  12. Lot, Corner. A lot abutting the intersection of two (2) or more streets or 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 at the apex meet at any angle of less than one hundred. thirty-five ( 135) degrees. In such a case the apex of the curve forming the corner lot shall be considered as the intersection of street lines for the purpose of this Ordinance, such as in corner visibility requirements.
  13. Lot, Interior. A lot other than a corner lot.
  14. Lot, Through. An interior lot having frontage on two streets.
  15. Lot, Depth. The depth of a lot is the average distance between the front and back lot lines measured at right angles to its frontage.
  16. Lot Line. The line bounding a lot.
  17. Lot Width. The straight line distance between the points where the building setback line intersects the two side lot lines.
  18. Lot of Record. A lot which is a· part of a subdivision, a plat of which has been recorded in the office of the County Register of Deeds, or **a** lot described by metes and bounds, the description of which has been recorded in the Office of the Register of Deeds by the owner or predecessor in title there.
  19. Manufactured Home. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.

2.58 Repealed 29 June 2021

2.59 Repealed 29 June 2021

* 1. Manufactured Office. A structure identical to a manufactured home except that it has been converted, or originally designed and constructed, for commercial or office use.
  2. Modular Structure. A factory manufactured structure designed for year-round residential or commercial use with major components or modules pre-assembled and transported to a site for final assembly and utility connection. such structure must meet all requirements of the North Carolina Uniform Residential Building Code, the same as site constructed homes, and must have attached a North Carolina validating stamp.
  3. Nonconforming Lot. A lot existing at the effective date of this Ordinance or any amendment to it (and not created for the purpose of evading the restrictions of this Ordinance) that cannot meet the minimum area or lot width or depth requirements of the district in which the lot is located.
  4. Nonconforming Use. The use of a building, manufactured home, or land which does not conform to the use regulations of this Ordinance for the district in which it is located, either at the effective date of this ordinance or as · a result of subsequent amendments which may be incorporated into this Ordinance.
  5. Nuisance. Anything that interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.
  6. Ordinance. This the Zoning Ordinance, ·including any amendments. Whenever the effective date of the Ordinance is referred to, the reference includes the effective date of any amendment to it.
  7. Parking Lot. An area or plot of land used for the storage or parking of vehicles.

2.67 Parking Space. A storage space of not less than seventy (170) square feet for one automobile, plus the necessary access space.

* 1. Planning Board. Any board or commission established pursuant to G.S. 160D-301.
  2. Plat. A map showing the location, boundaries, and ownership of individual properties .
  3. Quasi-judicial decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.
  4. Setback. The required distance between every structure and the lot lines of the lot on which it is located.
  5. Shopping Center. Two *or* more commercial establishments having

off-street parking and loading facilities provided on the property and related in location, size, and type. of shops to the trade area which the unit serves.

* 1. Sign. Any words, lettering, figures, numerals, emblems, devices, trademarks, or trade names, or any combination thereof, by which anything is made known and which is designed to attract attention and/or convey a message.

**2.74**

**2.75**

Sign, Identification. A sign used to display only the name, address, crest, or trademark of the business, individual, family, organization or enterprise occupying the premises, the profession of the occupant or the name of the building on which the sign is displayed; or a permanent sign announcing the name of a subdivision, shopping center, tourist home, apartment complex, church, school, park, or public or quasi-public structure, facility or development and the name of the owners or developers.

Sign, Flashing. Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such is in use. For the purpose of this Ordinance, any moving, illuminated sign shall be considered a "flashing sign". Such signs shall not be deemed to include time and· temperature signs or public messages displays using electronic switching.

2,76 Sign, Freestanding. Any sign supported wholly or in part by some structure other than the building or buildings housing the business to which the sign pertains or any sign which projects more than five (5) feet from the side of the building to which it is attached.

* 1. Sign, Gross Area. The entire area within a single continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.
  2. Sign, Off-Premises (Billboard). A sign which directs attention to a business, commodity, service, or other message not exclusively related to the premises where such sign is located or to which it is affixed.
  3. Sign, Projecting. **A** sign attached to a wall and projecting away from that wall more than twelve (12) inches, but not more than five

(S) feet.

* 1. Sign, Public Information. **A** sign, usually erected and maintained by a public agency, which provides the public with information and in no way relates to a commercial activity including, but not limited to, speed limit signs, stop signs, city limit signs, street name signs, and directional signs. These signs are in no way regulated by this Ordinance.
  2. Sign, Roof. A sign which is displayed above the eaves of a building.
  3. Sign, Wall A sign attached to a wall and not projecting away from the wall more than twelve (12) inches.
  4. Site Plan. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.
  5. Site Specific Development Plan A plan of land development submitted to the town for purposes of obtaining approval of a subdivision plat, or a special use permit. In addition to requirements already established by the town (for subdivision plats and special use permits), the Plan shall describe the type of use and intensity of use planned for the specific parcel or parcels of property. Neither a sketch plan not any other document which fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property may constitute a site specific development plan.
  6. Special use permit. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.
  7. Street. A thoroughfare which affords the principal means of access to abutting property.

2.85.Street Line. The line between the street right-of-way and abutting property.

* 1. Street, Private. Any road or street which is not publicly owned and maintained and is used for access by the occupants of the development, their guests, and the general public.
  2. Structure. Anything constructed or erected, the use of which requires permanent location in or on the land or attachment to something having a permanent location in or on the •land.
  3. Structural Alterations. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders except for repair or replacement.
  4. Subdivision. The division of land for the purpose of sale or development as specified in G.S. 160D-802.
  5. Subdivision regulation. A subdivision regulation authorized by Article 8 of Chapter 160D, N.C.G.S.
  6. Tourist Home. Any dwelling occupied by the owner or operator in which rooms are rented to guests·, for lodging of transients and travelers for compensation, and where food may be served, such as a bed and breakfast.
  7. Townhouse. An individual dwelling unit in a multi-family structure where the individual units (townhouses) are arranged in a row, share common walls, each have separate entrances from the outside, and usually face the same direction, i.e. row houses.
  8. Trailer. Any vehicle or structure originally designed to transport something or intended for human occupancy for short periods of time. Trailers shall include the following:
     1. Travel Trailer. A vehicular, portable structure built on a wheeled chassis, designed to be towed by a self-propelled vehicle for use for travel, recreation, or vacation purposes, having a body width eight (8) feet or less or body length thirty-two (32) feet or less when equipped for road travel.
     2. Camping Trailer. A folding structure manufactured of metal, wood, canvas, plastic, or other materials, or any combination thereof, mounted on wheels and designed for travel, recreation, or vacation use.
     3. Tow Trailer. A structure designed to be hauled by another vehicle and to transport vehicles, boats, or freight.
  9. Use. Any continuing or repetitive occupation or activity taking place upon a parcel of land or within a building.
  10. Variance. When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. 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) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

(4) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection

* 1. Vested Right. The right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan or an approved phased development plan.
  2. Yard. An open space on the same lot with. a building, unoccupied and unobstructed from the ground upward, except by vegetation or as otherwise provided herein.
  3. Yard, Front. A yard across the full width of the lot, extending from the front line of the building to the front line of the lot, including the area of steps, eaves, and uncovered porches, but not including the area of covered porches.
  4. Yard, Side. An open, unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard or, where no rear yard is required, to the rear line of the lot.
  5. Yard, Rear. A yard extending across the full width of the lot and

measured between the rear line of the lot and the rear line of the main building.

* 1. Zero Lot Line. A concept commonly used in planned developments where individual commercial buildings or dwellings, such as town­ houses (row houses) and patio homes, are to be sold along with the ground underneath and, perhaps, a small yard or patio area. Such commercial or residential units are grouped in buildings with two

(2) or more units per building, usually including common walls. With zero lot line the minimum requirements for lot area and yards are not met and construction takes place right up to the lot line.

* 1. Zoning Map Amendment or Rezoning. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.
  2. Zoning Regulation. A zoning regulation authorized by GS 160D

2.104 Zoning Administrator. The official charged with the enforcement of this zoning ordinance.

ARTICLE III

**ADMINISTRATION**

* 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 avail­ able 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.

1. 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.

* 1. Certificate of Zoning and Watershed Protection Compliance *(*Zoning Permit)

1. 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 here in 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 Moore 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.

1. 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:

l) The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;

1. The location of said lot with respect to adjacent rights-of­ way;
2. The shape, dimensions, and location of all buildings, existing and proposed, on said lot;
3. The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
4. The location and dimensions of off-street parking and loading space and means of ingress and egress to such space; and
5. 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).
6. Any other information which the Planning Board or Town Board may deem necessary for consideration in enforcing the provisions of this Ordinance.
7. 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.
8. Issuance of Zoning Permits

If the proposed activity as set forth in the application is in conformity with the provisions ofthis 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.

* 1. 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.

* 1. Other Permits

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

* 1. 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 Com­ missioners.

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.

* 1. 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.

* 1. 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 grounds 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.

* 1. 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.

* 1. 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:

1. 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.

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ARTICLE IV

ENFORCEMENT AND PENALTIES

4.1 Complaints Regarding Violations

Whenever the zoning administrator or code enforcement officer receives a complaint alleging a violation of this ordinance, the zoning administrator or code enforcement officer shall investigate the complaint, take whatever

action is warranted and inform the complainant in writing (if requested) what actions have been or will be taken.

4.2 Persons Liable

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this ordinance may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

4.3 Procedures Upon Discovery of Violations

(a) Inspections. The Zoning Administrator or Code Officer may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials provided the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

(b) If the zoning administrator or code enforcement officer finds that any provision of this ordinance is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the

zoning administrator's or code enforcement officer’s discretion.

(c) The final written notice (and the initial written notice may be the final notice) shall state what action the zoning administrator or code enforcement officer intends to take if the violation is not corrected and shall advise that the zoning administrator's or code enforcement officer’s decision or order may be appealed to the board of adjustment.

(d) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the zoning administrator or code

enforcement officer may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized by this Article.

(e) The person providing the notice of violation shall certify to the Town file that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

4.4 Penalties and Remedies for Violations

(a) Violations of the provisions of any development regulation or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with any development approval, shall be enforced by the following remedies provided in G.S. 160A-175:

(1) Provide that violation shall subject the offender to an one hundred dollar ($100.00) civil penalty to be recovered by the Town in a civil action in the nature of debt if the offender does not pay the penalty within ten (10) days from the date of the notice of violation letter (date the offender was cited for violation of the ordinance).

(2) Provide that development regulation be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.

(3) That makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs, the Town may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular (when seeking an injunction).

(4) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Town may execute the order of abatement. The Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(5) The Town’s ordinance may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this Article.

(6) Each day's continuing violation shall be a separate and distinct offense.

(b) First Offense.

(1) Any act constituting a violation of the provisions of this ordinance or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use permits, within a twelve (12) month period, shall also subject the offender to a civil penalty.

(2) The notice of violation letter:

(a) shall be delivered to the holder of the development approval and to the landowner of the property involved (if the landowner is not the holder of the development approval);

(b) may be delivered to any person liable including the occupant of the property and/or the person undertaking the work or activity;

(c) shall be delivered by personal delivery, electronic delivery, or first-class mail;

(d) shall be posted in a conspicuous place on the property;

(e) shall indicate that the violation exists, and the violation must be remedied within ten (10) days of the date of the letter; and

(f) shall also state that upon expiration of the ten (10) day warning period, the offender shall be subject to a civil penalty of one hundred dollar ($100.00) for each day that the violation remains on the property.

(3) At any time beyond the expiration of the ten (10) day period, a civil penalty letter:

(a) shall be delivered to the holder of the development approval and to the landowner of the property involved (if the landowner is not the holder of the development approval);

(b) may be delivered to any person liable including the occupant of the property and/or the person undertaking the work or activity;

(c) shall be delivered by personal delivery, electronic delivery, or first-class mail;

(d) shall be posted in a conspicuous place on the property; and

(e) shall notify the offender that a one hundred dollar ($100) daily civil penalty is in effect beginning on the date of the letter and running up to and including the date of the violation has been remedied.

(4) Civil Action: Should a violation continue to exist by the thirtieth (30th) day after the original notification, the Town may seek to recover the penalty together with all costs (including but not limited to administrative, postage, contractors, and abatement) by filing a civil action in the general court of justice in the nature of a suit to collect a debt and seeking appropriate injunctive relief to remedy the violation.

(c) Repeat Offense.

(1) Any violation reoccurring on the same property by the same offender more than once within a twelve (12)-month period shall be considered a repeat offense provided the reoccurrence is a violation of the same section(s) of this Ordinance as previous offense(s)

(2) The notice of violation letter:

(a) shall be delivered to the holder of the development approval and to the landowner of the property involved (if the landowner is not the holder of the development approval;

(b) may be delivered to any person liable including the occupant of the property and/or the person undertaking the work or activity;

(c) shall be delivered by personal delivery, electronic delivery, or first-class mail;

(d) shall be posted in a conspicuous place on the property;

(e) shall indicate that the violation exists, and the violation must be remedied within five (5) days of the date of the letter; and

(f) shall also indicate that upon the expiration of the five (5) day warning period, the offender shall be subject to a civil penalty of one hundred dollar ($100.00) for each day that the violation remains on the property.

(3) At any time beyond the expiration of the five (5) day period, a civil penalty letter:

(a) shall be delivered to the holder of the development approval and to the landowner of the property involved (if the landowner is not the holder of the development approval);

(b) may be delivered to any person liable including the occupant of the property and/or the person undertaking the work or activity;

(c) shall be delivered by personal delivery, electronic delivery, or first-class mail;

(d) shall be posted in a conspicuous place on the property; and

(e) shall notify the offender that a one hundred dollar ($100) daily civil penalty is in effect

beginning on the date of the letter and running up to and including the date of the violation has been remedied.

(4) Civil Action: Should a violation continue to exist by the thirtieth (30th) day of the original notification, the Town shall seek to recover the penalty together with all costs (including but not limited to administrative, postage, contractors, and abatement) by filing a civil action in the general court of justice in the nature of a suit to collect a debt, and seeking appropriate injunctive

relief to remedy the violation.

(d) This ordinance may also be enforced by any appropriate equitable action.

(e) Each day that any violation continues after notification by the zoning administrator or code enforcement officer that such violation exists shall be considered a separate and distinct offense for purposes of the

penalties and remedies specified in this section.

(f) Any one, all, or any combination of the foregoing penalties and remedies may be used to enforce this Ordinance.

(g) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used or developed in violation of Chapter 160D or of any development regulation or other regulation made under authority of Chapter 160D, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure or land; or to prevent any illegal act, conduct, business or use in or about the premises.

4.5 Permit Revocation

(a) In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the Town issuing the development approval by notifying the holder in writing stating the reason for the revocation.

(b) 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.

(c) Development approvals shall be revoked for:

(1) any substantial departure from the approved application, plans, or specifications;

(2) refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State; or

(3) 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.

(d) Quasi-Judicial Approvals

(1) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth above shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

(2) A motion by a board to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or finding of fact that support the motion.

(e) Administrative Approvals

(1) Before a development approval may be revoked, the administrator shall give the permit recipient ten (10) days’ notice of intent to revoke the permit and of his right to obtain an informal hearing on the allegations.

(2) If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons, therefore.

(f) 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 the Town pursuant to Chapter 160D, the provisions of G.S. 160D-405(e) regarding stays apply.

(g) No person may continue to make use of land or buildings in the manner authorized by any development approval after such permit has been revoked in accordance with this section.

4.6 Limitations

(a) Enforcement Defense. Nothing in 160D-1405 or in G.S. 1-54(10) or G.S. 1-54.1 bars a party in an action involving the enforcement of a development regulation or in an action under G.S. 160D-1403.1 from raising as a claim or defense in the proceedings the enforceability or the invalidity of the ordinance. Nothing in 160D-1405 or in G.S. 1-54(10) or G.S. 1-54.1 bars a party who files a timely appeal from an order, requirement, decision, or determination made by an administrative official contending that the party is in violation of a development regulation from raising in the judicial appeal the invalidity of the ordinance as a defense to the order, requirement, decision, or determination. A party in an enforcement action or appeal may not assert the invalidity of the ordinance on the basis of an alleged defect in the adoption process unless the defense is formally raised within three (3) years of the adoption of the challenged ordinance.

(b) Seven years (per G.S. 1-49). Within seven years an action against the owner of an interest in real property by the Town for a violation of a land-use statute, ordinance, or permit or any other official action concerning land use carrying the effect of law. This subdivision does not limit the remedy of injunction for conditions that are actually injurious or dangerous to the public health or safety but does prescribe an outside limitation of seven years from the earlier of the occurrence of any of the following:

(1) The violation is apparent from a public right-of-way.

(2) The violation is in plain view from a place to which the public is invited.

(c) Five Years (per G.S. 1-51). Within five years against the owner of an interest in real property by the Town for a violation of a land-use statute, ordinance, or permit or any other official action concerning land use carrying the effect of law. This subdivision does not limit the remedy of injunction for conditions that are actually injurious or dangerous to the public health or safety. The claim for relief accrues upon the

occurrence of the earlier of any of the following:

(1) The facts constituting the violation are known to the Town Board, an agent, or an employee of the Town.

(2) The violation can be determined from the public record of the Town.

(d) Termination of Grandfathered Status. When a use constituting a violation of a zoning or unified development ordinance is in existence prior to adoption of the zoning or unified development ordinance

creating the violation, and that use is grandfathered and subsequently terminated for any reason, the Town shall bring an enforcement action within ten (10) years of the date of the termination of the grandfathered status, unless the violation poses an imminent hazard to health or public safety.

4.7 Stop Work Orders

(a) Whenever any work or activity subject to regulation pursuant to this Chapter 160D or other applicable Town 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, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped.

(b) The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed.

(c) A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail.

(d) The person or persons delivering the stop work order shall certify to town that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud.

(e) Except as provided by G.S. 160D-1112 and 160D-1208, a stop work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

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ARTICLE V

CHANGES AND AMENDMENTS

Part I. General Use District Map Amendments (Rezoning) and Text Amendments

* 1. Changes and Amendments

The Board of Commissioners may, on its own motion, upon recommendation of the Planning Board, or upon petition by any interested person, amend, supplement, change, modify or repeal the regulations or district boundaries established by this Ordinance. A petition by an interested person shall be submitted to the Board of Commissioners through and reviewed by the Planning Board and the Board of Adjustment, in cases affecting watershed protection rules, which shall consider the merit of the proposed change and make a recommendation to the Board of Commissioners. In no case shall the final action by the Board of Commissioners be taken on amending, changing, supplementing, modifying or repealing the regulations or district boundaries hereby established until a public hearing has been held by the Board of Commissioners, at which parties in interest and citizens shall have an opportunity to be heard. ·

5.2 Action by the Applicant

1. Initiation of Amendments

(1) A request to amend this ordinance may be initiated by:

(a) The Taylortown Board of Commissioners, upon its own motion;

(b) The Taylortown Planning Board, or any other duly appointed Town body;

(c) Any property owner or agent thereof, upon submittal of application to the Town; or

(d) Any other person.

(2) Down-Zoning. No amendment to zoning regulations or a zoning map that down-zones property shall be initiated, nor is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the Town. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

(a) By decreasing the development density of the land to be less dense than was allowed under its previous usage.

(b) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

(3) Property may be placed in a conditional zoning district only in response to a petition by all owners of the property to be included.

(4) All requests and applications for amendments to the zoning ordinance shall be acted upon as provided by this article.

1. Application

An application for any change or amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary, and the names and addresses of the owner or owners of the property involved. Such application shall be filed not later than two weeks prior to the meeting of the Planning Board at which the application is to be considered.

1. Fees

A nonrefundable fee, according to the schedule available at the Town Hall, shall be paid to the Town of Taylortown for each application for an amendment, to cover costs of advertising and other administrative expenses involved.

5.3 Acceptance of Request

(a) Any request initiated as provided herein shall be referred to the Zoning Administrator and Town Attorney, the planning board and any other appropriate board for their consideration. Such request shall be heard in public hearings and acted upon in accordance with the procedures of this article.

(b) The Zoning Administrator shall prescribe the form(s) upon which applications will be made, as well as any other materials or information deemed necessary including, to but not limited to the items listed below.

(1) The alleged error in this ordinance, if any, which would be remedied by the proposed amendment.

(2) The changed or changing conditions, if any, of neighborhoods or areas in the town which make the proposed amendment reasonably necessary in order to promote the public health, safety and general welfare.

(3) The manner in which the proposed development will carry out the purposes of the adopted Land Use Plan.

(4) All other circumstances, factors and reasons which applicant offers in support of the proposed amendment.

(5) Any other information required on the form.

5.4 Recommendation Analysis

Upon receipt of an amendment request or completed application, the Zoning Administrator and Town Attorney shall cause an analysis to be made of the request or application to determine conformity with the intent of this article and based on their findings, shall prepare a written report. Such a report shall be made available no later than seven (7) days prior to the public hearing.

5.5 Review and Recommendations of the Planning Board

(a) At its next regular meeting and before the public hearing, the planning board will consider the recommendation, written public comment and information presented during the meeting. Public participation shall be in the Chair’s discretion.

(b) Initial zoning. In order to exercise zoning powers conferred by Article 7 of Chapter 160D for the first time, the Town shall create or designate a planning board under the provisions of Article 7 of Chapter 160D or of a special act of the General Assembly. The planning board shall prepare or shall review and comment upon a proposed zoning regulation, including the full text of such regulation and maps showing proposed district boundaries. The planning board may hold public meetings and legislative hearings in the course of preparing the regulation. Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the governing board. The governing board shall not hold It’s required hearing or take action until it has received a recommendation regarding the regulation from the planning board. Following its required hearing, the governing board may refer the regulation back to the planning board for any further recommendations that the board may wish to make prior to final action by the governing board in adopting, modifying and adopting, or rejecting the regulation

(c) Zoning amendments. Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

(d)Plan consistency. When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.

(e) If a zoning map amendment qualifies as a “large-scale rezoning” under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and polices in the relevant adopted plans were considered in the recommendation made.

(f) Separate board required. Notwithstanding the authority to assign duties of the planning board to the governing board as provided by Chapter 160D, the review and comment required by this section shall not be assigned to the governing board and must be performed by a separate board.

5.6 Public Hearings

(a) Public Hearing. The town board shall hold a public hearing on the requests and applications in order to receive comments, testimony, and exhibits pertaining to the amendment. A notice of the hearing shall be given once a week for two (2) successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten (10) days nor more than twenty-five (25) days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(b) Notice of Hearing on Proposed Zoning Map Amendments.

(1) Mailed Notice. The owner of affected parcels of land and the owners of all parcels of land abutting that parcel of land, shall be mailed a notice of the hearing on a proposed zoning map amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least ten (10) but not more than twenty-five (25) days prior to the date of the hearing.

(2) Option to mailed notice for large-scale zoning map amendments. The first class mail notice required under subsection (a) of this section is not required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to make the mailed notice provided for in subsection (a) of this section, or as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement is effective only for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (a) of this section.

(3) Posted notice. When a zoning map amendment is proposed, the Town shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons.

(4) Communication with Neighboring Property Owners or Residents. When a zoning map amendment is proposed, the person proposing the map amendment shall report on any communication with neighboring property owners and residents.

5.7 Town Board Action

(a) The Board of Commissioners will approve, deny, or table each request or application for amendment of this ordinance. The Board will consider the planning board’s recommendation, written public comment, testimony, and evidence presented during the public hearing, and the Zoning Administrator and Town Attorney’s recommendations, in its decision. Additional testimony, not presented at the public hearing, will be considered at the Mayor’s discretion.

(b) Plan Consistency. When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board’s recommendations and any relevant portions of an adopted comprehensive plan. If the amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land use map in the approved plan and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a “large-scale rezoning” under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and polices in the relevant adopted plans were considered in the action taken.

(c) Statement of Reasonableness. When adopting or rejecting any petition for a zoning text or map amendment, a brief statement explaining the reasonableness of the proposed rezoning shall be approved by the governing board. The statement of reasonableness may consider, among other factors:

(1) the size, physical conditions, and other attributes of any area proposed to be rezoned;

(2) the benefits and detriments to the landowners, the neighbors, and the surrounding community;

(3) the relationship between the current actual and permissible development and the development permissible under the proposed amendment;

(4) why the action taken is in the public interest; and

(5) any changed conditions warranting the amendment.

If a zoning map amendment qualifies as a “large-scale rezoning” under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

(d) Single Statement Permissible. The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

(e) Ordinance Required. A development regulation adopted pursuant to Chapter 160D shall be adopted by ordinance.

(f) Declaratory Judgments. Challenges of legislative decisions of the Town Board, including the validity or constitutionality of development regulations adopted pursuant to this Chapter, and actions authorized by G.S. 160D-108(h) or (i) and G.S. 160D-1403.1 may be brought pursuant to Article 26 of Chapter 1 of the General Statutes. The Town Board shall be named a party to the action.

(g) Statutes of Limitation

(1)Zoning Map Adoption or Amendments. A cause of action as to the validity of any regulation adopting or amending a zoning map adopted under Chapter 160D or other applicable law or a development agreement adopted under Article 10 of Chapter 160D accrues upon adoption of the ordinance and shall be brought within sixty (60) days as provided in G.S. 1-54.1.

(2)Text Adoption or Amendment. Except as otherwise provided in subsection (1) of this section, an action challenging the validity of a development regulation adopted under Chapter 160D or other applicable law shall be brought within one (1) year of the accrual of such action. Such an action accrues when the party bringing such action first has standing to challenge the ordinance. A challenge to an ordinance on the basis of an alleged defect in the adoption process shall be brought within three (3) years after the adoption of the ordinance.

5.7A Effect of Denial or Withdrawal on Subsequent Applications.

When the town board shall have denied an application for an amendment or the application shall have been withdrawn by the applicant by written notice after the publication of the first public hearing required, the Town Planner shall not accept another application for the same or similar amendment affecting the same property or portion thereof, until the expiration of a twelve (12) month period extending from the date of denial or withdrawal as appropriate. Nothing in this section, however, shall prohibit the Town Board or Planning Board from initiating an amendment for any property at any time.

5.8 Citizen Comments

(a) Subject to the limitations of Chapter 160D, zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment that has been properly initiated as provided in G.S. 160D-601, to the clerk to the board at least two (2) business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the Town Board.

(b) If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705, or any other statute, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

5.9 Comprehensive Plan

(a) Requirements for Zoning.

(1) As a condition of adopting and applying zoning regulations under Chapter 160D, the Town shall adopt and reasonably maintain a comprehensive plan or land-use plan by July 1, 2022.

(2) A comprehensive plan sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. A land-use plan uses text and maps to designate the future use or reuse of land.

(3) A comprehensive or land-use plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction based on an analysis of present and future needs.

(4) Planning analysis may address inventories of existing conditions and assess future trends regarding demographics, economic, environmental, and cultural factors.

(5) The planning process shall include opportunities for citizen engagement in plan preparation and adoption.

(6) The Town may prepare and adopt other plans as deemed appropriate. This may include, but is not limited to, small area plans, neighborhood plans, hazard mitigation plans, transportation plans, housing plans, and recreation and open space plans.

(b) Comprehensive Plan Contents. A comprehensive plan may, among other topics, address any of the following as determined by the Town:

(1) Issues and opportunities facing the Town, including consideration of trends, the values expressed by citizens, community vision, and guiding principles for growth, and development;

(2) The pattern of desired growth and development and civic design, including the location, distribution, and characteristics of future land uses, urban form, utilities, and transportation networks;

(3) Employment opportunities, economic development, and community development;

(4) Acceptable levels of public services and infrastructure to support development, including water, waste disposal, utilities, emergency services, transportation, education, recreation, community facilities, and other public services, including plans and policies for provision of and financing for public infrastructure;

(5) Housing with a range of types and affordability to accommodate persons and households of all types and income levels;

(6) Recreation and open spaces;

(7) Mitigation of natural hazards such as flooding, winds, wildfires, and unstable lands;

(8) Protection of the environment and natural resources, including agricultural resources, mineral resources, and water and air quality;

(9) Protection of significant architectural, scenic, cultural, historical, or archaeological resources; and

(10) Analysis and evaluation of implementation measures, including regulations, public investments, and educational programs.

(c) Adoption and effect of plans.

(1) Plans shall be adopted by the governing board with the advice and consultation of the planning board.

(2) Adoption and amendment of a comprehensive or land-use plan is a legislative decision and shall follow the process mandated for zoning text amendments set by G.S. 160D-601.

(3) Plans adopted under Chapter 160D may be undertaken and adopted as part of or in conjunction with plans required under other statutes, including but not limited to the plans required by G.S. 113A-110.

(4) Plans adopted under Chapter 160D shall be advisory in nature without independent regulatory effect.

(5) Plans adopted under Chapter 160D do not expand, diminish, or alter the scope of authority for development regulations adopted under Chapter 160D.

(6) Plans adopted under this section shall be considered by the planning board and governing board when considering proposed amendments to zoning regulations as required by G.S. 160D604 and 160D-605.

(7) If a plan is deemed amended by G.S. 160D-605 by virtue of adoption of a zoning amendment that is inconsistent with the plan, that amendment shall be noted in the plan. However, if the plan is one that requires review and approval subject to G.S. 113A-110, the plan amendment shall not be effective until that review and approval is completed.

(d) The Town may undertake any of the planning activities authorized by Article 5 of Chapter 160D in coordination with other local governments, state agencies, or regional agencies created under Article 19 of Chapter 153A or Article 20 of Chapter 160A.

5.10 Development Agreements. (See Appendix)

5.11 Moratoria

a) Authority. The Town may adopt temporary moratoria on any development approval required by law, except for the purpose of developing and adopting new or amended plans or development regulations governing residential uses. The duration of any moratorium shall be reasonable in light of the specific conditions that warrant imposition of the moratorium and may not exceed the period of time necessary

to correct, modify, or resolve such conditions.

(b) Hearing required. Except in cases of imminent and substantial threat to public health or safety, before adopting a development regulation imposing a development moratorium with a duration of 60 days or any shorter period, the governing board shall hold a legislative hearing and shall publish a notice of the hearing in a newspaper having general circulation in the area not less than seven days before the date set for the hearing. A development moratorium with a duration of 61 days or longer, and any extension of a moratorium so that the total duration is 61 days or longer, is subject to the notice and hearing requirements of G.S. 160D-601.

(c) Exempt projects. Absent an imminent threat to public health or safety, a development moratorium adopted pursuant to this section does not apply to any project for which a valid building permit issued pursuant to G.S. 160D-1108 is outstanding, to any project for which a special use permit application has been accepted as complete, to development set forth in a site-specific vesting plan approved pursuant to G.S. 160D-108.1, to development for which substantial expenditures have already been made in good faith reliance on a prior valid development approval, or to preliminary or final subdivision plats that have been accepted for review by the Town prior to the call for a hearing to adopt the moratorium. Any preliminary subdivision plat accepted for review by the Town prior to the call for a hearing, if subsequently approved, shall be allowed to proceed to final plat approval without being subject to the moratorium. Notwithstanding the foregoing, if a complete application for a development approval has been submitted prior to the effective date of a moratorium, G.S. 160D-108(b) applies when permit processing resumes.

(d) Required statements. Any development regulation establishing a development moratorium must include at the time of adoption each of the following:

(1) A statement of the problems or conditions necessitating the moratorium and what courses of action, alternative to a moratorium, were considered by the Town and why those alternative courses of action were not deemed adequate.

(2) A statement of the development approvals subject to the moratorium and how a moratorium on those approvals will address the problems or conditions leading to imposition of the moratorium.

(3) A date for termination of the moratorium and a statement setting forth why that duration is reasonably necessary to address the problems or conditions leading to imposition of the moratorium.

(4) A statement of the actions, and the schedule for those actions, proposed to be taken by the Town during the duration of the moratorium to address the problems or conditions leading to imposition of the moratorium.

(e) Limit on renewal or extension. No moratorium may be subsequently renewed or extended for any additional period unless the Town has taken all reasonable and feasible steps proposed to be taken in its ordinance establishing the moratorium to address the problems or conditions leading to imposition of

the moratorium and unless new facts and conditions warrant an extension. Any ordinance renewing or extending a development moratorium must include, at the time of adoption, the findings set forth in 160D-107(d), including what new facts or conditions warrant the extension.

(f) Expedited judicial review. Any person aggrieved by the imposition of a moratorium on development approvals required by law may apply to the General Court of Justice for an order enjoining the enforcement of the moratorium. Actions brought pursuant to this section shall be scheduled for expedited hearing, and subsequent proceedings in those actions shall be accorded priority by the trial and appellate courts. In such actions, the Town has the burden of showing compliance with the procedural requirements of 160D-107.

ARTICLE VI BOARD OF ADJUSTMENT

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* 1. Establishment of the Board of Adjustment (Watershed Review Board)

The Board of Adjustment, also known as the Watershed Review Board, is hereby created, which shall consist of five (5) members, all residents of the Town of Taylortown. Members of the Board shall take the oath of office as required by G.S. 153A-26 and 160A-61 prior to the commencement of their terms of office and shall strictly adhere to the Town’s Code of Ethics.

The Town Board of Commissioners may, in its discretion, appoint one (l) alternate member to serve on the Board in the absence of any regular member. Alternate members shall be appointed for the same terms, at the same time, and in the same manner as regular members. Alternate members, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

The Board of Commissioners may appoint its own members to serve as the five (5) members of the Board of Adjustment. If this procedure is used, when a member officially goes off of the Board of Commissioners, he is automatically resigned from the Board of Adjustment and a new member of the Board of Commissioners shall be appointed to the vacant seat on the Board of Adjustment for the balance of the resigned member's term. If the Board of Commissioners is to serve as the entire Board of Adjustment the terms of office shall be exactly the same and membership in one shall mean automatic membership in the other and resigning from one shall include automatic resignation from the other. In this case, meetings of the Board of Adjustment shall not be held on the same evenings as the Board of Commissioners.

If the Board of Commissioners determines to appoint members, initial appointment of the members shall be as follows: Three (3) for a term of two years, and two (2) members for a term of three (3) years. Thereafter, all members shall be appointed for a full three (3·) year term. Vacancies shall be filled for the unexpired term only. Members may be removed for cause by the Board of Town Commissioners upon written charges and a after public hearing.

* 1. Procedures of the Board of Adjustment

1. Purpose

It is the intent of this Ordinance that all questions of interpretation and enforcement shall first be presented to the Zoning Administrator or his authorized representative, and that such questions shall be presented-to the Board of Adjustment only on an appeal from the decision of the Zoning Administrator or his authorized representative, and that recourse from the decision of the Board of Adjustment shall be to the courts as provided by law. The Board has the authority to grant zoning variances and minor watershed protection variances.

1. Officers

The Board of Adjustment shall elect a chairman and a vice chairman from its membership and such other officers as the Board deems best.

c. Meetings

Meetings of the Board of Adjustment shall be held at the call of the chairman and at such other times as the majority of the Board may determine. All meetings of the Board of Adjustment shall be open to the public and subject to the open meetings law. The Board shall keep detailed minutes of its procedures, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact; and final disposition of appeals and other quasi-judicial matters shall be taken, all of which shall be of public record.

D. Voting.

The concurring vote of four-fifths (4/5) of the regular board membership (excluding vacant seats) shall be necessary to grant a variance. A simple majority of the regular board membership (excluding vacant seats) shall be necessary to decide any other quasi-judicial matter (appeals). All other actions of the board shall be taken by majority vote, a quorum being present. For purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives available to take the place of such members. (b) Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused.

1. Conflicts of Interest.

(1) A member of any board exercising quasi-judicial functions pursuant to this Ordinance and Chapter 160D 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.

(2) 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.

(3) 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.

A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any other good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

A roll call vote shall be taken upon the request of any member.

1. Appeals to the Board of Adjustment

An appeal from the decision of the Zoning Administrator may be taken to the Board of Adjustment by any person, firm, or corporation aggrieved, or by any officer, department, board, or bureau of the Town. Such appeal shall be taken within thirty (30) days after the decision by the Zoning Administrator, by filing with the Zoning Administrator and with the Clerk to the Board a notice of appeal, specifying the grounds thereof. The Zoning Administrator shall forthwith· transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board of Adjustment shall fix a reasonable time \_for hearing of the appeal, giving notice to all participants by registered mail. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after notices of appeal has been filed with him, that by reason of the facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with the enforcement of the Ordinance, in which case, proceedings shall not be stayed other than by a restraining order, which may be granted by the Board or by a court of record to whom an appeal has been made.

1. Notice to Appellant

The decision of the Board, in writing, shall be delivered to the appellant either by personal service, by registered mail, or by certified mail, return receipt requested.

1. Expenses

Members of the Board of Adjustment shall serve without pay but may be reimbursed by the town for any expenses incurred while representing the Board.

* 1. Powers and Duties of the Board of Adjustment

1. Administrative Review (Appeal)

The Board shall hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance. The Board may, so long as such action is in conformity with the terms of this Ordinance, reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination and to that end shall have powers of the Zoning Administrator from whom appeal is taken.

1. Zoning Variances

(1)The Board may authorize upon application in specific cases variances from the terms of this Ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in undue hardship, so that the spirit of this Ordinance shall be observed, and substantial justice done.

(2)A charge shall be made to the appellant according to town policy in order to cover administrative and advertising costs (Section 3.8). A public hearing shall be held at which the following conditions must be found to exist:

(3) When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

(a) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

(b) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. 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.

(c) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

(d) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

(4) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

(5) A variance may be issued for an indefinite duration or for a specified duration only.

(6) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this ordinance.

(7) No change in permitted uses may be authorized by variance.

(8) Any other development regulation that regulates land use or development (e.g., Minor Watershed Variances) may provide for variances from the provisions of those ordinances consistent with the provisions of 160D-705(d).

(9) Burden of Proof on Appeals and Variances

(a)Appeals. When an appeal is taken to the board of adjustment in accordance with §81, the administrator shall have the initial burden of presenting to the board of adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(b) Variances. The burden of presenting evidence sufficient to allow the board of adjustment to reach the conclusions set forth in §82(b) as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

(10) Board Action on Appeals and Variances

(a) Appeals.

(1) With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the majority vote necessary for adoption, then a motion to uphold the decision appealed from shall be in order.

(2) Record of decision. The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(b) Variances.

(1) Before granting a variance, the board must take a separate vote and vote affirmatively (by a four-fifths majority) on each of the four (4) required findings stated in §82(b). Insofar as practicable, a motion to make an affirmative finding on each of the requirements set forth in §82(b) shall include a statement of the specific reasons or findings of fact supporting such motion.

(2) A motion to deny a variance may be made on the basis that any one or more of the four (4) criteria set forth in §82(b) is not satisfied or that the application is incomplete. Insofar as practicable, such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the board's decision if supported by more than one-fifth of the board's membership (excluding vacant seats).

1. Watershed Protection Variances

For all proposed watershed variances· the Town shall notify and allow a reasonable comment period for all other local governments having jurisdiction within the watershed as well as the Town of Carthage, as user of the water supply.

The Board may authorize minor variances in those areas relating to the state water supply watershed protection rules if the request meets the conditions for zoning variances set forth above. A minor watershed protection variance is defined as the reduction of the required vegetative buffer of up to ten percent {10%). Residential density and built upon area requirements cannot be granted minor variances. ,

Any variance requested which meets the conditions for a zoning variance and *is* greater than ten percent (10%) reduction in the vegetative buffer or requests an increase in the residential density or built upon area shall be heard by the Board of Adjustment. A decision by the Board to deny the major variance shall be final. Appeal shall be to a court of competent jurisdiction as provided in section 6.4. If it decides in favor of the major variance the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

* 1. The variance application;
  2. The hearing notices;
  3. The evidence presented;
  4. Motions, offers of proof, objections to evidence, and rulings of them;
  5. Proposed findings and exceptions: and
  6. The proposed decision, including all conditions proposed to be added to the permit.

The preliminary record shall be sent within thirty (30) days to the

Environmental Management Commission for its review as follows:

* + 1. If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (b) the variance, if g anted, will not result in a serious threat to the water supply, then the commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The Commission shall prepare a commission decision and send it to the Watershed Review Board. If the commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance'. If the Commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
    2. If the commission concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (b) the variance, if granted, will result in a serious threat to the water supply, then the commission shall deny approval of the variance as proposed. The commission shall prepare a Commission decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.

1. 5/70 Rule

The Board may, after a public hearing, approve a project under the 5 /7 0 Rule (Section 7.17) up to a total of five percent of total town area as of July 1, 1993. Up to ten percent may be submitted to the Environmental Management commission for approval if first approved by the Board after a hearing. A fee shall be paid by the applicant according to town policy to cover administrative and advertising costs (Section 3.8).

1. Administration of Oaths

The chairman or any member temporarily acting as chairman is authorized to administer oaths to witnesses in any matter coming before the Board. All testimony before the Board must be under oath and recorded.

* 1. Appeals from the Board of Adjustment

Anyone with standing to do so pursuant to G.S. 160D may appeal to Superior Court within thirty (30) days of a decision of the Board of Adjustment being filed with the Town Clerk or receipt of a copy of said decision, whichever is later.

* 1. Rules of Conduct for Members

Members of the Board may be removed by the Town Board for cause, including violation of the rules stated below:

A. Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.

B. No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a "financial interest" in a case when a decision in the case will: 1) cause him or his spouse to experience a direct financial benefit or loss, or 2) will cause a business in which he or his spouse owns a 10 percent or greater interest, or is involved in a decision-making role, to experience a direct financial benefit or loss. A Board member shall have a "personal interest" in a case when it involves a member of his immediate family (i.e., parent, spouse, or child).

1. No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information pertaining to the case from the Zoning Administrator, any other member of the Board, its secretary, or clerk prior to the hearing.
2. Members of the Board shall not express individual opinions on the proper judgement of any case prior to its determination on that case.

E . Members of the Board shall give notice to the chairman at least forty-eight (48) hours prior to the hearing of any potential conflict of interest which he has in a particular case before the Board.

F. No Board member shall vote on any matter that decides an

application or appeal unless he had attended the public hearing on that application or appeal.

ARTICLE VII

GENERAL PROVISIONS

* 1. Zoning Affects All Land, Buildings, and Uses

Upon and after the adoption of this Ordinance no be used and no building or part thereof shall

building or land shall be erected, moved or

structurally altered except in conformity with the herein for the district in which it is located.

regulations specified

* 1. Required Yards Not to be Used by Another Building

The minimum yards or other open spaces required by this Ordinance for every building shall not be encroached upon or considered as meeting the yard and open space requirements of any other building.

* 1. Relationship of Building to Lot

In no case shall there be more than one principal building and its customary accessory buildings on a lot except in the case of a designed complex of professional, residential, or commercial buildings in an appropriate zoning district, i.e., school campus, shopping center·, and industrial park. Detached garages and carports must meet the same

setback requirements as the principal building, just as if they were attached.

* 1. Street Access

No building shall be erected on a lot which does not abut a street or have access to a street, provided that in a business district or in a

planned project in a residential district, a building may be erected

adjoining a parking area or dedicated open space which has access to a street used in common with other lots.

* 1. Reduction of Lot and Yard Areas Prohibited

No yard or lot existing at the time

of passage of this Ordinance shall

be reduced in size or area below herein. Yards or lots created

the minimum requirements set forth after the effective date of this

Ordinance shall meet at least these minimum requirements.

* 1. Business Uses of Manufactured Homes and Trailers

No manufactured home or trailer shall be used in any manner for business or commercial purposes except when used for a sales office on a manufactured home sales lot or except with a temporary occupancy permit in special cases as described in Section 9.1.

7.7 Manufactured Home Requirements

All manufactured homes, wherever located within the Town, shall meet the requirements contained in Section 8.6 of the Zoning Ordinance, as well as all applicable Federal, State, and local laws and codes.

7.8 Corner Visibility

No planting, fence, or other obstruction to visibility of vehicles shall be planted, erected, maintained, or allowed to exist in any district within the range of three (3) feet to ten (10) feet above the centerline grades of the intersecting streets in the triangular area bounded by the street right-of-way lines of such corner lots and a line joining points along these street lines twenty-five (25) feet from the point of intersection.

7.9 Driveways

No portion of any residential driveway intersection with a public street shall be closer than twenty (20) feet to the corner of any intersection, measured along the right-of-way line. In commercial and industrial zones, this distance shall be thirty (30) feet. The width of any driveway intersection with the public street shall not exceed thirty (30) feet at its intersection with the curb of street line.

7.10 Curb Cuts

Construction of curb cuts for purposes of ingress or egress to property abutting a public right-of-way shall be approved by the public authority in the Town which has jurisdiction over the maintenance of public streets and the North Carolina Department of Transportation, Highway Commission where said curbs affect access to State Highways. Provision for all access work done on highway right-of-way is subject to approval by the Highway Commission.

* 1. Issued Building Permits

The provisions contained herein shall not affect buildings, structures, and **uses** for which building permits were issued prior to the passage of this Ordinance, providing that the activities for which the outstanding permits were issued are begun within twelve (12) months of the date this Ordinance is adopted. Outstanding zoning permits not used within twelve months shall be null and void.

* 1. Standards for Effluent and Emissions

All effluents and emissions into the air or surface or ground waters from new development permitted by this Ordinance must be in conformity with applicable state, county, or town Health and Environmental Quality regulations.

7.13 Newly Incorporated Areas

All territory which may hereafter be included within the zoning jurisdiction of the Town of Taylortown shall he zoned by the Town Board at the time of such incorporation.

7.14 Steep Land Regulations

In all districts and in addition to any other applicable use, site or sanitary regulations, the following restrictions and regulations shall apply to all land having slopes of twelve (12) percent or greater as shown on the operational soils survey maps prepared by the USDA Soil conservation service when filed with the Administrative Officer: All construction of public and private roads shall be of sound engineering design with footings and roadbeds designed by a registered professional engineer and shall be so treated as to prevent erosion.

ARTICLE VIII

ZONING DISTRICTS AND REGULATIONS

* 1. Zoning Districts Established

In order to implement the intent of this ordinance, there are hereby created zoning districts with the following designations and general purposes: R-20 (Residential District); C (Commercial District) and FP (Floodplain Protection District).

* 1. District Boundaries

In the creation, by this Ordinance, of the respective districts, careful consideration is given to the peculiar s1uitability of each and every district for the particular regulations applied thereto, and the necessary, proper, and comprehensive groupings and arrangements of various uses and densities of population in accordance with a well-considered comprehensive plan of the physical development of the area.

- 8.3 Interpretation of District Boundaries

Where uncertainty exists with respect to the boundaries of any district

shown on the Zoning Hap, the following rules shall apply:

1. Use of Property Lines. Where district boundaries are indicated as approximately following street lines, alley lines, and lot lines, such lines shall be construed to be such boundaries. Where streets, highways, railroads, water courses, and similar areas **with** width are indicated as the district boundary, the **actual** district boundary line shall be center line of such area.
2. Use of the Scale. In unsubdivided property or where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions, shall be determined by use of the scale appearing on the map.

c. Street Vacation. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley abandonment.

D. Board of Adjustment. In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.

**Zoning Districts and Regulations**

* 1. Interpretation of District Regulations

Regulations for each district shall be enforced and interpreted according to the following rules:

**A.** Uses by Right

All listed permitted uses are permitted by right according to the terms of this Ordinance. Special uses are permitted subject to compliance with the additional regulations specified and approval of the Board of Commissioners.

1. Minimum Regulations

Regulations set forth in this Ordinance shall be minimum regulations. If the requirements set forth in this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, or Ordinances, the more restrictive or higher standard

shall govern.

c. Restrictive Covenants and Deed Restrictions

Unless restrictions established by covenants and deed restrictions running with the land are prohibited by the provisions of this Ordinance, nothing herein contained shall be construed to render such covenants or restrictions inoperative.

* 1. R-20 Residential District A. Intent and Purpose

------ The R-20 Residential District is established as a district in which

the principal use of the land is for single family dwellings. In promoting the general purposes of this Ordinance, the specific

intent of this district is:

To encourage the construction of and continued use of the land for low density residential purposes;

To prohibit commercial and industrial use of the land and to prohibit any other use which would substantially interfere with the development or continuation of dwellings in the district;

To discourage the continuance of existing uses that would not be permitted as new uses under the provisions of this district;

To discourage any use which because of its character or size would create requirements and costs for public services, such as police and fire protection substantially in excess of such requirements and costs of the district were developed solely for single family

dwellings;

To discourage any use which would generate traffic on minor streets other than normal traffic to serve the residences on those streets; and

To ensure that residential development relying upon private means of sewage disposal will occur at sufficiently low densities to ensure a healthful environment.

* 1. Permitted Uses

Accessory Uses clearly incidental to the permitted or special use and which will not create a nuisance or hazard.

Utility Lines and Easements, Public (exempted from dimensional requirements) Dwellings. Single family (one per 20.000 square feet lot)

# 24% Built Upon

Town-owned community centers public

Town-owned Buildings and Services

### Town-owned Recreational Facilities, Public; including parks, playgrounds, bail fields,

recreation centers, and swimming pools

* 1. Special Uses *(24%* Built Upon)

Public Utility and Municipal Facilities such as substations, Pumping Stations, and Water Storage Facilities when housed in buildings or landscaped to harmonize with the character of the neighborhood and with adequate yards, fences, and other safety devices to protect the public safety and welfare. All structures except fences shall be set back from all property lines at least one (1) foot for each foot of structure height and such structures shall be architecturally compatible with surrounding development to the maximum extent possible.

# Retirement Homes

D . Dimensional Requirements

Minimum lot size: 20,000 square feet plus 5',000 square feet for each dwelling unit over one (1)

Minimum lot width:

{at setback line} 100 feet

A circle of ink on a white background

Description automatically generatedDimensional Requirements Minimum lot depth:

Minimum yard dimensions: Front yard setback:

From US or NC numbered highway:

From local streets: Side yard:

On corner lots by street:

Rear yard: Maximum building height:

150 feet

50 feet

30 feet

15 feet 25·feet

25 feet

40 feet

Built upon area: 24%

(All uses except single family residential)

E. Accessory Buildings and Structures

Accessory buildings and structures, not including fences and walls, shall be located in the rear yard and not closer to any property line than fifteen (15) feet, not closer to another building than fifteen (15) feet and not closer than twenty-five (25) feet to any street right-of-way. Well or pump houses may be exempt from this requirement.



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* 1. Manufactured Home (MH) Overlay District

1. Intent and Purpose

### - The R-20-MH Overlay District is established as an overly zoning district to assure the comfort, health, safety, and general welfare of the people, to protect property values and the environment, and to provide for overly development of a sound and stable community for the residents and property owners of the Town of Taylortown. This ordinance applies to all new and used manufactured homes that will enter the Town of Taylortown and is designed for the safety and health of manufactured homeowners and residents. This ordinance has been prepared in accordance with the provisions of NCGS § 160A-383.

1. Applicability.

### Manufactured homes may be placed on lots in areas zoned and designated "MH Overlay" and must comply with the provisions set forth in this section, as well *as* the applicable requirements of the underlying zoning district and the zoning ordinance. Zoning approval for individual manufactured homes shall be by issuance of a certificate of zoning compliance, upon application therefor, if all of the applicable requirements are met. Mobile home parks are not allowed in Taylortown.

1. Construction and Placement.

### The home shall be constructed in accordance with the Manufactured Home Construction and Safety Standards effective July 13, 1994, and it shall be certified by the appropriate authority as meeting or exceeding the standards of the US Department of Housing and Urban Development in effect at the time of its construction.

1. The manufactured home must be affixed to a permanent foundation and must be professionally installed in accordance with the standards established by the North Carolina Department of Insurance and shall be properly anchored in accordance with the North Carolina State Building Code. The set up and anchoring must be done by persons licensed by the State of North Carolina to perform such work. The wheels tongue, axles, running light, and removable towing apparatus must be removed prior to the issuance of a certificate of occupancy.

### The maximum length of the home shall be not more than four (4) times its width, with the length measured along the longest axis and the width measured at the narrowest part of the other axis, excluding additions.

1. The minimum roof pitch of the home shall have a nominal 4:12 roof pitch and shall have a roof finished with a type of shingle that is commonly used in standard residential construction.
2. The eaves of the roof structure shall project no less than six (6) inches, which may include a gutter.
3. The exterior siding of the manufactured home shall consist of wood, hardboard, or vinyl and shall be comparable in composition, appearance, and durability to exterior siding commonly used in standard residential construction.

(7)The manufactured home must be attached to a continuous permanent foundation of brick or block which is unpierced except for required ventilation and access as required by the North Carolina State Building Code. Flammable liquids and materials shall not be stored under manufactured homes. The manufactured home may be attached to a basement structure, but the basement structure must meet the requirements of the North Carolina State Building Code.

(8) Where public water or public sewer is not available, a written statement from the Moore County Health Department shall be submitted with the application for a certificate of zoning compliance indicating that the manufactured home has adequate land area and suitable soils and topography to accommodate the proposed methods of water supply and sewage disposal.

### (9) Each manufactured home lot shall be graded to provide adequate storm drainage away from the manufactured home and such that there will exist no more than three feet difference between the chassis of the manufacture-cl home and the finished grade along the entire perimeter of the manufactured home.

(10) Consistent with NCGS 160D, no mobile home shall be excluded solely based on the year of manufacture.

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* 1. Commercial District

1. Intent and Purpose

The C commercial district is established as a district in which the principal use of land is for offices, clinics, professional ser­ vices, and retailing and wholesaling of both perishable and durable

goods. In promoting the general purposes of this Ordinance, the specific intent of this district is:

To encourage the construction of and the continued use of the land for professional and commercial purposes;

To provide for planned shopping areas providing a variety of professional services and/or commercial enterprises;

To prohibit residential and intense industrial use of the land and to prohibit any other use which would substantially interfere with the development or continuation of the professional or commercial structures in the district; and

To ensure that development relying upon private means of sewage disposal will occur at sufficiently low density to ensure a healthy environment.

1. Permitted Uses (24% Built Upon)

Accessory Uses clearly incidental to the permitted or special principal which will not create a nuisance or hazard. However, storage, sales, service, or display in front of buildings within the public right-of-way shall not be permitted without a Temporary Certificate of Zoning Compliance. Dwelling units shall be considered accessory uses when located in a building principally being used for a permitted or special use but require a special use permit.

Business, financial , governmental, medical, political, professional, and public utility offices and agencies.

Cultural and Recreational Facilities such as art galleries, bowling allies, skating rinks, libraries, museums, parks and playgrounds, churches, community centers, theaters ( indoor),exercise centers, gyms, and schools teaching art, dance, drama, and music.

Governmental Buildings and Services.

Retail establishments selling goods such as: alcoholic beverages (packaged retail sales), antiques, art supplies, auto parts (not including junk yards), bakeries, bicycles, books, building supplies (with no outside storage of supplies or merchandise), cameras, candy, clothing, computers and software, drugs, small electric appliances, fabric, floor coverings, flowers, furniture, furriers, garden supplies, gifts, groceries, hardware, hobby supplies, housewares, jewelry, leather goods, magazines, musical instruments, newspapers, notions, office equipment and supplies, paints, pets, radios, shoes, sporting goods, telephones, televisions, tires, toys, variety stores, and similar retail establishments.

Services such as: animal hospitals (with no outdoor pens or runs within 20 feet of any property line), automobile service stations (not within 100 feet of a street intersection), banks and credit unions (except drive-thru within 100 feet of a street intersection), beauty and barber shops and schools, bus stations, business colleges, cafeterias, car washes, churches and other places of worship, convenience stores (except drive-thru or gasoline pumps within 100 feet of a street intersection), dry cleaning pick-up stations, funeral homes, gunsmiths, laundromats (self-service),

Zoning Districts and Regulations

shoes, smal1 appliances, thru within 100 feet of similar services.

And watches, restaurants ( except drive­ street intersection), taxi stands, and

Utility Lines and Easements, Public (exempted from dimensional requirements)

Vehicle Sales , New and Used , including automobiles, motorcycles, recreational vehicles, farm equipment, inluding junk yards )

1. Special Uses (24% Built Upon)

light trucks, and boats ( not

Developments applying to build under the 5/70 Rule (Section 7.17 ) Ambulance Services

Armories

Automobile intersection

Se=vice Stations, within 100 feet of a street

Banks, with drive-thru within 100 feet of a street intersection Broadcasting Studios

Cabinet Makers

Cartage and Express Facilities

Convenience Stores, with drive-thru or gas pumps within 100 feet of a street intersection

Dwellings, as an accessory use inside the principal building Mail Order Houses

Hotels

Moving and Storage Companies

Parking Lots, other than an Accessory Use

Public Utility Facilities (other than offices, lines , and easements)

Restaurants, with a drive-thru within 100 feet of a street intersection

Upholstery Shops Vehicle Repair Services Warehouses

Water Treatment Plants and Storage Tanks

Zero Lot Line Developments

# Schools, Elementary and Secondary

1. Dimensional Requirements

Minimum lot size: Minimum lot width:

(at setback line) Minimum lot depth: Minimum yard dimensions:

Without Water and Sewer

20,000 square feet

100 feet

150 feet

With Water and Sewer

10,000

square feet

80 feet

100 feet

Front yard setback: (Within the first fifteen (15) feet

next to the street shall be no signs, parking, or any use other than landscaping.)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| From us or | NC numbered | 50 | feet | 50 | feet |
| From local | streets: | 30 | feet | 30 | feet |
| Side yard: |  | 15 | feet | 15 | feet |
| Abutting residential district: | | 25 | feet | 25 | feet |
| On corner lots by street: | | 25 | feet | 25 | feet |
| Rear yard: | | 25 | feet | 25 | feet |
| Maximum building height: | | **45** | feet | 45 | feet |

Built Upon Area: **24% 24%**

1. Accessory Buildings and Structures

Accessory buildings and structures, not including fences and walls, shall be located in the rear yard and not closer to any property line than fifteen (15) feet, and not closer to a street right-of­ way than twenty-five (25) feet, and not closer to another building than fifteen (15) feet.

* 1. FP Floodplain Protection District

1. Intent and Purpose

The WP watershed protection district is established as a district in which the primary use of the land is reserved for the protection of waterways, flood control, future thoroughfare rights of way, public recreation, and similar open space uses. In promoting the general purposes of this Ordinance, the specific intent of this

district is:

To restrict private development of land;

To comply with federal and state flood controls and watershed laws, regulations, and policies;

.....\_......,\_

To encourage the preservation of and continued use of land for conservation purposes;

To discourage the continuance of existing uses that would not be permitted uses in the district;

To facilitate long-range public facilities and thoroughfare planning.

1. Permitted Use *(24%* Built Upon)

Accessory Uses clearly incidental to the permitted or special principal use and which will not create a nuisance or hazard.

Agriculture, including orchards, pasturage, and field crops, but not including the commercial production of swine, poultry, or poultry products.

Campgrounds Golf Courses

Governmental Buildings and Services.

Greenhouses and Nurseries, but no commercial sales on premises Nature Preserves

Parks and Playgrounds

Parking Facilities, with porous surfaces Public Utility Facilities Transportation Networks

Water Bodies, such as streams and lakes

c. Dimensional Requirements Minimum lot size: Minimum lot width: Minimum lot depth: Minimum yard dimensions:

20,000 square feet

100 feet 150 feet

Front yard setback: 50 feet

Side yard: 25 feet

On corner lots by street: 50 feet Rear yard: 25 feet

Maximum building height: 40 feet

Built upon area: 24%

E. Accessory Buildings and Structures

Accessory buildings and structures, not including fences and walls , shall be located in the rear yard not closer to any property line than fifteen (15) feet, closer to another building than fifteen

(15) feet, and not closer than twenty-five (25) feet to any street right-of-way.

ARTICLE IX

TEMPORARY AND ACCESSORY USES

9.1 Temporary Uses

A. Manufactured Offices

Manufactured offices may be used on a temporary basis for such purposes as construction offices, blood mobiles, book mobiles, and traveling museums. However, such uses must obtain a temporary occupancy permit from the Zoning Administrator if the use is to last more than forty-eight (48) hours at one site.

Manufactured offices may also be used for other office or business purposes in cases where the permanent structure has been destroyed through no fault of the owner or tenant. A temporary occupancy permit must be obtained before the use of the manufactured office is initiated. This occupancy permit shall be valid for a specified period of time while reconstruction takes place not to exceed six (6) months and may be renewed no more than once.

B. Manufactured Homes

Temporary use of a manufactured home as a residence shall be permitted in any residential district in cases where the permanent home has been destroyed through no fault of the owner or tenant. A temporary occupancy permit must be obtained from the Zoning Administrator before use of the manufactured home is initiated. This occupancy permit shall be valid for a specified period of time not to exceed six (6) months while reconstruction takes place, and many be renewed no more than once.

C. Temporary Buildings

Temporary buildings may be used for nonresidential purposes, such as construction offices and storage structures, if a temporary occupancy permit is obtained from the Zoning Administrator. This permit shall be valid for a specified period of time not to exceed six (6) months and may be renewed no more than once.

9.2 Accessory Uses

A. Home Occupations (Applies only to uses established prior to 2013)

Home Occupations are permitted only as an accessory use. Home occupation shall be permitted subject to the following limitations:

1. No display of products shall be visible from the street;
2. No mechanical equipment shall be installed or used except such that is normally used for domestic, professional, or hobby purposes and which does not cause noise or interference in radio and television reception;
3. No accessory buildings or outside storage shall be used in connection with the home occupation;
4. Not over 25 percent of the total actual floor area or five hundred square feet, whichever is less, shall be used for a home occupation;
5. No more than one person not a resident of the dwelling may be engaged in the home occupation; and,
6. Traffic generation shall not exceed the traffic volumes generated by nearby residents.

B. Swimming Pools

All public, commercial, or private outdoor swimming pools of three (3) feet or more in depth, either above ground or below ground, and of either permanent or temporary construction shall meet the following requirements in addition to other requirements specified elsewhere:

1. That the setback for an above ground swimming pool from any lot line equals the required setback for accessory structures in the district in which it is located plus one (1) foot for each over three (3) feet of pool height.
2. That a fence be erected to a minimum height of four (4) feet to completely enclose all sides of the pool not bounded by a building. A gate of equal height shall be installed and securely fastened when the pool is not in use.
3. That all mechanical equipment be located a minimum of ten (10) feet from any property line.

C. Fences and Walls

Ornamental fences and walls not over three (3) feet six (6) inches high may project into or may enclose any front yard, and fences or walls enclosing rear or side yards may be six (6) feet in height. An open fence or wall, through which clear vision is possible from one side to the other on a horizontal plane and such openings occupy fifty (50) percent of more of the area of the fence or wall, may be erected to a maximum height of ten (10) feet in nonresidential districts.

D. Construction, Storage and Vegetation

No construction of any type (unless otherwise specifically allowed by this ordinance) or storage (whether outside or inside a storage building)may encroach closer than fifteen (15’) feet from a side adjoining property line, fence, or wall, nor closer than twenty-five (25) feet from the rear property line, fence, or wall. No vegetation may contact or extend over an adjoining property line, fence, or wall.

ARTICLE X EXCEPTIONS AND MODIFICATIONS

The dimensional requirements of this Ordinance shall be complied with in all respects except that under the specific conditions as outlined in this Ordinance the requirements may be waived or modified as stated; and in addition, the dimensional requirements may be changed or modified by the Board of Adjustment as provided for in Article VI.

* 1. Front Yard Modifications In Residential Districts

Where fifty (50) percent or more of the lots in any block or within 600 feet on both sides of the proposed structure, whichever is less, is composed of lots which have been developed with buildings whose front yards are less than the minimum required front yard as specified in the Dimensional Requirements, the required front yard shall be the average depth of front yards of the developed lots, or the minimum front yard as specified in Article **VIII,** whichever is less. Provided further that if any lot lies between two buildings which are less than 100 feet apart, the required front yard for such lot shall be no greater than the average front yard of the two adjoining lots or twenty-five (25) feet, whichever is more.

Where fifty (50) percent or more of the lots in any block or within 600

. feet on both sides of the proposed structure, whichever is less, is composed of lots with buildings whose front yards are greater than the minimum required front yard as specified in Article VIII; the required front yard shall be the average depth of front yards of the developed lots. Provided further that if any lot lies between two buildings which are less than 100 feet apart, the required front yard for such lot shall be no less than the average front yard of the two adjoining lots.

* 1. Other Yard Modifications

Where through lots occur, the required front yard shall be provided on both streets. Architectural features such as open or enclosed fire escapes, steps, outside stairways, balconies and similar features, and uncovered porches may not project more than four (4) feet into any required yard. Sills, cornices, eaves, gutters, buttresses, ornamental features, and similar items may not project into any required yard more than thirty (30) inches.

* 1. Height Limit Exceptions

Church steeples, chimneys, belfries, water tanks or towers, fire towers, flag poles, spires, wireless and broadcasting towers, monuments, cupolas, domes, antennas, and similar structures and necessary mechanical appurtenances may be erected to any height in according with any other Ordinances of the Town of Taylortown.

**Exceptions and Modifications**

* 1. Retaining Walls

The setback and yard requirements of this Ordinance shall not apply to a retaining wall not more than three (3) feet high, as measured from the lowest ground elevation to the top of the wall. The Board of Adjustment may permit a retaining wall greater than three (3) feet in height where it finds that due to the topography of the lot such a wall is necessary.

* 1. Zero Lot Lines

Where individual dwelling or commercial units are to be sold in a duplex or multi-family building and it is desired to deed the land under the dwelling unit to the purchaser, such as in the case of town houses or patio homes, zero lot line lots may be used; that is, no minimum lot size or yard requirements, provided that the total area of the development meets the minimum lot size in its district, that the developed area (not including streets) does not exceed the required maximum density (one (1) dwelling unit per minimum lot size given in Article VIII), that the development remains under single control through a property owner's association or similar means, and that minimum yards and buffers as required in its district are preserved around each building, and around the entire perimeter of the, development. Such a planned development is a subdivision and must be approved as such through the requirements of any subdivision regulations in effect as well as meeting the requirements of the zoning ordinance.

ARTICLE XI NONCONFORMING USES

Upon the effective date of this Ordinance, and any amendment thereto, pre-existing structures or lots of record and existing and lawful uses of any building or land which do not meet the minimum requirements of this Ordinance for the district in which they are located, or which would be prohibited as new development in the district in which they are located shall be considered as nonconforming. It is the intent of this Ordinance to permit these nonconforming uses to continue until they are removed, discontinued, or destroyed, but not to encourage such continued use, and to prohibit the expansion of any nonconformance.

* 1. Substandard Lots of Record and Structures

Any lot of record or structure existing at the time of the adoption of this Ordinance, which has dimensions which do not meet the requirements of this Ordinance, shall be subject to the following exceptions and modifications:

1. Adjoining Lots

When two or more adjoining lots with continuous frontage, where no more than one is developed, are in one ownership at any time after the adoption of this ordinance and such lots are individually less than the minimum square footage and/or have less than the minimum width required in the district in which they are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted area and width for the district in which located.

1. Lot Not Meeting Minimum Lot Size Requirements

Except as set forth in the above, in any district in which single family dwellings are permitted, any lot of record existing at the time of the adoption of these regulations which has dimensions which are less than required by these regulations may be used as a building site for a single family dwelling providing the lot area and width are not less than eighty (80) percent of the requirements in the district. If the lot is smaller or narrower a variance may be requested of the Board of Adjustment, but in no case shall the Board reduce the requirements by more than forty (40) percent.

1. Enlargement of Nonconforming Structures

Any building which is nonconforming solely because of its encroachment in a required yard area may ·be extended in any lawful manner that does not further encroach in that yard.

* 1. Nonconforming Uses of Buildings

1. Loss of Nonconforming Status

The nonconforming use of a building may be extended throughout the

**Nonconforming Uses**

building provided no structural alterations (except those required by law or Ordinance or ordered by an authorized officer to secure the safety of the building) are made therein but no such use shall be extended to occupy any land outside the building. If the nonconforming use of such building is discontinued for a continuous period exceeding one hundred twenty (120) days, every future use of such premises shall be in conformity with the provisions of this Ordinance; provided, that this provision shall not apply to any nonconforming commercial or industrial use which normally operates less than ninety (90) calendar days in any given calendar year. The nonconforming use which normally operates less than ninety (90) calendar days in any given year (i.e., seasonal operation) shall not be continued after one season has passed without operation.

1. Restoration After Destruction

This provision shall not prevent the restoration of a nonconforming building, or a building used for a nonconforming use, which has been destroyed to the extent of not more than fifty (50) percent of its replacement value, but only if the owner has applied for a building permit for reconstruction within six (6) months of the date of its destruction.

If a dwelling, which is nonconforming, is destroyed through no willful act of the owner, it may be rebuilt, meeting all required setbacks, but only if the owner has applied for a Building Permit for reconstruction within one hundred twenty (120) days from the date of its destruction.

* 1. Nonconforming Uses of Land

The nonconforming use of land shall not be enlarged or increased, nor shall any nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of this Ordinance. If any nonconforming use of land, other than for location of a manufactured home or manufactured office, is discontinued for a continuous period exceeding one hundred twenty ( 120) days, any future use of said land shall be in conformity with the provisions of this

Ordinance.

If the nonconforming use of land for location of a manufactured home or manufactured office is discontinued, either by destruction of the manufactured home or office, or by removal thereof, any further use of said land shall be in conformity with the provisions of this Ordinance. However, if the manufactured home is used as a residence and is destroyed through no willful act of the owner, it may be replaced, meeting all required setbacks, but only if the owner has applied for a Certificate of Occupancy within one hundred twenty (120) days from the date of its destruction.

If the nonconforming use of land is for location of a manufactured home, such home may be replaced by a newer model (upgrade) at any time so long as the new home is placed on the lot no more than seven (7) days after the removal of the old home.

ARTICLE XII SPECIAL USES

* 1. Purpose

The development and execution of this Ordinance is based on the division of the Town of Taylortown into districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are some land uses which are basically in keeping with the intent and purposes of the district, but which may have an impact on the area around them which can only be determined by review of the specific proposal. These uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development and in keeping with the purposes of the district in which they are located, their establishment shall not be as a matter of right, but only after review and approval of a Special Use Permit as hereinafter provided.

* 1. Application and Fees

Applications for Special Use Permits, signed by the applicant, shall be addressed to the Zoning Administrator. Afee for such application shall be paid at the time of application.

Each application shall contain or be accompanied by such legal descriptions, maps, plans, and other information so as to completely describe the proposed use and existing conditions; and

1. Structures

Location of all structures within fifty (50) feet of the property; location and depth, if known, of any existing utility lines in the property or along any adjacent street.

1. Other Requirements
   1. Location of property boundaries, location of any easements for utility lines or passage which cross or occupy any portion of the property for proposed lines;
   2. Detailed construction plans shall be submitted prior to issuance of a building permit;
   3. Where public water or sewer is not available, written approval of proposed water supply and/or sewage disposal facilities by County Health Officer; and
   4. The applicant shall provide to the Zoning Administrator a list of names and addresses of all adjacent property owners. The Zoning Administrator shall then mail a copy of the legal notice to each adjacent property owner.

i2.3 Procedures for Reviewing Applications

The Special uses, as specified in the various districts, may be established only after review and approval of the Board of Commissioners, after a public hearing.

The Board of Commissioners shall call a public hearing for the next available regular meeting date, allowing time for advertising according to law. Notice may also be made by posting the property involved for a period of one (l) week prior to the hearing. The public hearing shall be quasi-judicial in nature.

The Board of Commissioners shall approve, modify, or deny the application for a Special Use Permit. In approving a Special Use Permit the Board, with due regard to the nature and state of all adjacent structures and uses in the district within which same is located, shall make written findings that the following are fulfilled:

1. The use requested is listed among the Special uses in the district for which application is made; or is similar in character to those listed in that district;
2. The requested use will be in harmony with the character of surrounding or adjoining properties;
3. The requested use will not adversely affect the safety, health, or welfare of the community or of immediate neighbors of the property;
4. The requested use will be in conformity with a land use plan and any other officially adopted plans or, in the alternative, a finding that applicable officially adopted plans are amended;
5. Adequate utilities, access roads, drainage, sanitation, or other necessary facilities have been or are being provided;
6. That adequate measures have been- or will be taken to provide ingress and egress so designed as to minimize the traffic congestion in the public streets; and
7. That the Special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
8. Conditions.

The Board may impose reasonable conditions on the approval of a Special Use Permit (see Section 12.4(e).

12.4 General Provisions Concerning Special Use Permits

1. Compliance with Other Codes

Granting of a Special Use Permit does not exempt the applicant from complying with all of the requirements of building codes and other Ordinances.

1. Revocation

In any case where the conditions of a Special Use Permit have not been or are not being complied with, the permit may be revoked as described in Section 3.7.

c. Expiration

In a case where a Special Use Permit has not been exercised within the time limit set by the Board of Commissioners or within six (6) months if no specific time limit has been set, then without further action, the permit shall be null and void. "Exercised" as set forth in this section shall mean that binding contracts for the construction of the main building have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

1. Duration of Special Use

·Any conditions imposed on a Special Use Permit shall be perpetually binding upon the property unless expressly limited by the Special Use Permit or subsequently changed or amended by the Board of Commissioners after a public hearing.

1. Conditions and Guarantees

Prior to the granting of any Special Use Permit, the Board of Commissioners may stipulate such conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the Special use as it deems necessary for the protection of the public and to secure compliance with the intent, standards, and requirements specified in this Ordinance. In all cases in which Special Use Permits are granted, the Board of Commissioners shall require such evidence and guarantees as it may deem necessary to assure that the conditions stipulated in connection therewith are being and will be complied with.

* 1. Such conditions may include a time limitation or expiration date.
  2. Prerequisite conditions may be imposed which must be met before the requested use can be initiated, such as buffers, easements, landscaping, driveways, fencing, and the like.
  3. Conditions of a continuing nature may be imposed, such as hours of operation or noise levels.

ARTICLE XIII VEHICLE PARKING AND STORAGE

At the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one type of use or occupancy to another, permanent off-street parking space shall be provided in the amount specified by this Article. Such parking space may be provided in a parking garage or properly graded open space.

* 1. Certification of Minimum Parking Requirements

Each application for a Certificate of Zoning Compliance or a Certificate of Occupancy shall include information as to the location and dimensions of off-street parking and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether the requirements of this Section are met.

* 1. Combination of Required Parking Space

The required parking spaces for any number of separate uses may be combined in one (1) lot but the required space assigned to one use may not be assigned to another use except (1)one-half of the parking spaces required for churches 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 and (2) the minimum requirements may reduce to 75% of the sum of the requirements for the various uses computed separately when the individual requirements total 50 or more spaces.

* 1. Requirements for Parking Lots

Where parking lots for more than five (5) cars are permitted or re­ quired, the following provisions shall be complied with:

1. The lot may be used only for parking and not for any type of loading, sales, dead storage, repair work, dismantling or servicing, but shall not preclude temporary exhibits or parking of rental vehicles.
2. All entrances, exits, barricades at sidewalks, and drainage plans shall be approved and constructed before occupancy.
3. A strip of land five (5) feet wide adjoining any street line, or any lot zoned for residential uses shall be preserved as open space, guarded with wheel bumpers, and planted in grass or groundcover and/or shrubs or trees.
4. Only one (1) entrance and one (l) exit sign no larger than two (2) square feet prescribing parking regulations may be erected at each entrance or exit.
5. Required off-street parking areas including drives and access ways shall be surfaced with an all-weather surface material.
6. Where parking or loading areas are provided adjacent to a public street, ingress and egress thereto shall be made only through driveways not exceeding twenty­ five (25) feet in width at the curb line of said street, except where the Zoning Administrator finds that a greater width is necessary to accommodate the vehicles customarily using the driveway.
7. Where two or more driveways are located on the same lot, other than a mobile home park, the minimum distance between such drives shall be thirty (30) feet or one third (1/3) of the lot frontage, whichever is greater.
8. No driveway shall be located closer than twenty-five (25) feet to any street intersection.
9. Any lighting of parking areas shall be shielded so as to cast no light directly upon adjacent properties and streets.
   1. Manufactured Home and Trailer Parking and Storage

It shall be unlawful to park or otherwise store for any purpose whatsoever any manufactured home or trailer within any zoning district except as follows:

1. At a safe, lawful, and unobstructed location on a street, alley, highway, or other public place, provided that the trailer or manufactured home shall not be parked overnight.
2. Within a manufactured home park
3. On any other lot or plot provided that:
   1. A Temporary Certificate of Zoning Compliance for any manufactured home to be parked or stored for longer than seven (7) days shall be obtained from the Zoning Administrator.
   2. A manufactured home shall not be parked and used other than in an approved manufactured home park or in an area zoned as a manufactured home overlay district, or unless obtaining a Temporary Occupancy Permit.
   3. Trailers. as defined in Article 2 shall be stored in a garage or carport or in the rear or side yard.
   4. Vehicle Storage

A. Residential Districts

Commercial trucks or vans driven home by employees must be parked in a garage or carport, and never on the street.

B. Commercial Districts

Customer and employee parking is permitted along with the parking and storing of governmental or commercial vehicles, in any commercial, business, or industrial district. Inoperative vehicles shall only be permitted to be parked or stored while undergoing repairs at a commercial garage or automobile service station.

* 1. Minimum Parking Requirements

The number of off-street parking spaces required by this Article shall be provided on the same lot with the principal use and the required

number of off-street parking spaces specified for each use shall be considered as the absolute minimum. For purposes of this Ordinance an off-street parking space shall be no less than one hundred seventy (170) square feet in area plus adequate ingress and egress provided for each off-street parking space.

Land Uses

Air, motor and rail freight terminals

Assembly, Places of, including auditoriums, churches, funeral homes, and stadiums

Automobile Service Stations

Beauty and Barber Shops

Bowling Alleys

Dwellings, including manufactured homes

Home Occupations

Industrial Uses

Kindergartens and Day Care Facilities

Required Parking

One (1) parking space for each employee, plus one (1)

space for each vehicle used in the operation.

One (1) parking space for each four

* 1. seats in the largest assembly room.

Five (5) parking spaces for each service bay.

Three (3) parking spaces for each service chair.

Two (2) parking spaces for each alley plus one (1) space for each

300 square feet of gross floor area for affiliated uses such as restaurants, bars, and the like.

Two (2) parking spaces per dwelling unit.

Two (2) parking spaces per home occupation in addition to residence requirements.

One (l) parking space for each employee on the largest shift plus spaces for vehicles used in the operation. Additional reserved parking spaces shall be provided for visitors equal to five ( 5 ) percent of the employee parking spaces when there are forty ( 40) or more employees.

One (l) parking space for each five

* 1. children that attend plus one

(l) space for each employee.

Vehicle Parking and Storage

Libraries

Land Uses

Required Parking

One (1) parking space for each four

(4) seats provided for patron use.

Lodging Facilities, including hotels, motels, rooming houses, tourist homes, and boarding · houses

Medical Facilities and Special care Homes, including retirement homes, hospitals, sanitariums, and nursing and convalescent homes

Medical Offices and Clinics

Offices

Public Buildings

.,...--..\_ Recreational Facilities not otherwise listed (without facilities for spectators)

Recreational Facilities not otherwise listed (with facilities for spectators)

Restaurants, Cafeterias, Private Clubs and Lounges

Retail Uses, Financial Institutions, Civic and Fraternal Clubs, and Community Centers

Schools, Elementary and Junior High or Middle Schools

Schools, Senior High

One (l) parking space for each room to be rented, plus one (1)

additional parking space for each employee, plus additional

parking spaces as may be required for any commercial or business uses.

One (1) parking space for each two patients or residents at full capacity plus one (1) parking space for each employee.

Four (4) parking spaces for each doctor plus one (1) parking space for each employee.

One (1) parking space for each one hundred fifty (150) square feet of gross floor space.

One (l) parking space for each employee plus one (1) parking space for each **five** (5) seats **in** the largest assembly room.

One (1) parking space for each employee plus one (1) parking space for every two participants at full capacity.

Same as for recreational facilities without spectators plus one (1) parking space for every four **(4)** spectator seats.

One (1) parking space for each four

**(4)** seats at tables and one (1) parking space for each two (2) seats at counters or bars plus one (1) parking space for each employee.

One (l) parking space for each one hundred fifty {150) square feet of gross floor area.

One (l) parking space for each classroom and administrative office, plus one {l) parking space for each employee and one (l) large space for each bus.

One (1) parking space for each twenty (20) students for which the building was designed, plus one (1) parking space for each employee, plus one {l) large space for each

Vehicle Parking and Storage

Land Uses

bus.

Required Parking

Schools, Colleges, Technical

\ and Trade

Services not otherwise listed

Shopping Centers

Theaters, Indoor

Vehicle, Manufactured Home, and Farm Equipment Sales and Service·

Warehouses and other Storage Services

One (1) parking space for every two

(2) students, based upon the maximum number of students attending classes at any one time, plus one (l) space for \_ each administrative office, plus one (1) space for each classroom.

One (1) parking space for each employee plus one (1) parking space for each client at full capacity.

Six (6) parking spaces for each 1,000 square feet of gross leasable floor space in the center.

One (l) parking space for each four

(4) seats up to 400 seats, plus one (l) space for each six (6) seats above 400.

Two (2) parking spaces for each employee in sales, plus one (1) space for each additional employee, plus five (5) spaces for each service bay, plus spaces for inventory.

One (1) parking space for each employee plus one (l) space for each vehicle used in the operation.

· NOTE: When a parking requirement is stated in terms of employees, it means the maximum number of employees who will be at the site at one time either on a single shift or an overlap of shifts.

* 1. Off-Street Loading Purpose and General Requirements

Off-street loading requirements are established in order to ensure the proper and uniform development of loading areas throughout the Town, to relieve traffic congestion in the streets, and to minimize any detrimental effects of off-street loading areas on adjacent properties.

Each application for a Certificate of Zoning Compliance or Certificate of Occupancy shall include plans and other information of sufficient detail to enable the Zoning Administrator to determine whether or not the requirements of this Article have been met. Plans for off-street loading areas shall include information as to the location and dimensions of driveway entrances, access aisles and loading spaces.

1. The provision for vehicular and pedestrian circulation.
2. The location of sidewalks and curbs.

Vehicle Parking and Storage

The Certificate of Zoning Compliance or Certificate of Occupancy for the

construction or use of any building, structure, or land where off-street

loading space is required shall be withheld by the Zoning Administrator until the provisions of this Article have been met. If at any time such compliance ceases, any Certificate of Occupancy which shall have been issued for the use of the property shall immediately become void and of no effect.

* 1. Minimum Loading Requirements

Off-street loading shall be provided and maintained as specified in the following schedule.

1. For uses containing a gross floor area of less than 20,000 square feet, each off-street loading space shall have minimum dimensions of fifteen (15) feet in width and thirty (30) feet in length.
2. For uses containing a gross floor area . of 20,000 square feet or more, each off-street loading space shall be fifteen (15) feet in width and fifty-five (55) feet in length as a minimum.

c. Uses which normally handle large quantities of goods, including but not limited to industrial plants, wholesale establishments, storage warehouses, freight terminals, hospitals or sanitariums, restaurants, and retail sales establishments shall provide off­ street loading facilities in the following amounts:

Gross Floor Area

{Square Feet)

Minimum Number of Spaces Required

5,000 -

20,001 -

50,001 -

For each

20,000

50,000

80,000

additional 45,000

1

2

3

l additional

1. Uses which do not handle large quantities of goods, including but not limited to office buildings, funeral homes, hotels, motels, apartment buildings, and places of public assembly, shall provide off-street loading facilities in the following amounts:

Gross Floor Area (Square Feet)

. 5,000 - 80,000

80,001 - 200,000

200,001 - 320,000

For each additional 180,000

Minimum Number of Spaces Required

1

2

3

1 additional

1. A loading space requirement may be modified or waived by the Board of Adjustment due to a limited need for loading space based on the nature of the building.

ARTICLE XIV BUFFERS

* 1. Purpose of Buffers

Buffers are required to protect one class of use from adverse impacts caused by a use in another class. This regulation benefits both the developer and the adjoining landowner(s) because it allows the developer several options from which to choose in developing the property, while insuring each neighbor adequate protection regardless of the developer's choice, thereby protecting the property values of all properties involved. Buffers are also used to protect streams from excess pollution due to unfiltered runoff.

* 1. Buffers Required for Permits

Each application for a Certificate of Zoning and Watershed Protection Compliance or a Certificate of Occupancy shall include information on the location and types of buffers to be constructed or already existing. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether the requirements of this Article are being met.

The installation of all required buffers shall be completed prior to the issuance of a Certificate of Occupancy.

* 1. Location, Installation, and Maintenance of Buffers

All property abutting perennial streams or other waters and all business or industrial uses which abut property zoned R-20, along the side or rear property lines, other than streets, shall install and maintain a buffer.

Buffers shall be located around the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line, and shall not be located on any portion of an existing or dedicated public or private street right­ of-way. The exact location of planted trees and shrubs is at the discretion of the property owner. Buffers shall not be used for accessory buildings, parking, storage, trash bins or dumpsters, or any other similar use.

The property owner shall be responsible for the maintenance of all buffers. Litter and debris shall be kept cleared and dead plants shall be replaced with plants meeting the specifications in Section **14.4.** All structures shall be kept in good repair. If proper maintenance is not provided, the Zoning Administrator shall notify the property owner of such fact and, if the proper action is not taken within thirty (30) days of such notice, the Town shall be authorized to enter the property and perform the work. The cost of this work shall be charged to the property owner and a lien on the property in that amount shall exist until the Town is reimbursed.

* 1. Buffer Specifications

In all districts all lots abutting perennial streams or other waters shall maintain a vegetative buffer of a minimum thirty (30) feet from the normal elevation of the pool or from the bank beside the stream. Where permission to develop under the 5/70 rule is granted, a minimum one hundred (100) feet wide vegetative buffer may be required. Where possible, the buffer shall be natural vegetation, not a grassed lawn or other cultivated or fertilized plantings.

In the Commercial and Industrial Districts, the buffer shall be a minimum six (6) feet high solid evergreen hedge of a species expected to reach eight (8) feet in height within three (3) years of normal growth, and a fifty (50) foot wide strip of natural wooded area or a fifty (50) foot wide area landscaped with grass or other ground cover and at least three (3) trees and five (5) shrubs for each one hundred (100) feet, or portion thereof, of boundary abutting property zoned with a residential designation, if a natural wooded area does not exist.

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Existing trees and shrubs in the buffer area may be used toward the required landscaping. Planted trees, which are of an evergreen variety, must be at least three (3) feet in height. Other trees must be at least four (4) feet in height. Planted shrubs must be at least twelve (12) inches in height.

A six (6) foot high chain link fence shall be located between the business use and the buffer. If development, including buildings, parking lots, accessory buildings and streets encroach closer than one hundred (100) feet toward property lines zoned R- 20, a masonry wall eight (8) inches wide and eight feet high must be installed instead of the chain link fence. Any fence or wall shall be located between the commercial or industrial use and the buffer, rather than along the property line.

* 1. Enclosure Requirements

In the Commercial and Industrial districts all business activities, servicing, processing, or storage, except off-street parking and loading, shall be within completely enclosed buildings, or enclosed by a wall or fence (including entrance and exit gates) not less than eight (8) feet in height. Such fences or walls shall not be less than forty (40) feet from the front lot line, not less than fifteen (15) feet from the side lot lines, and not less than fifty (50) feet from the rear lot line. In automobile wrecking yards and similar types of used material industries, such fence or wall shall not be less than one hundred (100) feet from any street line and not less than fifty (50) feet from any property line.

* 1. Development in Buffers

No new development is allowed in the buffer areas established in this Ordinance except for water-dependent structures and public projects, such as road crossings, boat ramps and docks, and greenways where no practical alternative exists. These activities should minimize built upon surface area, direct runoff away from the surface waters, and maximize the utilization of stormwater Best Management Practices.

ARTICLE XV



* 1. Statement of Purpose

Sign regulations are established to restrict private signs and lights which overload the public's capacity to receive information, which violate privacy, or which increase the probability of accidents by distracting attention or obstructing vision. Such regulations are also designed to encourage signing and lighting and other private communications which aid orientation and identify activities, and to reduce conflict among private signs and lighting and between the private and public information systems.

* 1. General Requirements

No sign of any type or any part thereof shall be erected, painted, re­ painted, posted, reposted, placed, replaced, or hung in any zoning district except in compliance with these regulations.

All electrified signs and all signs over six (6) square feet in size, including molding, shall require a Certificate of Zoning Compliance.

No permit is required to erect other signs; however, the Zoning Administrator shall have the authority to order the removal or modification of any new sign which does not meet these requirements according to the following procedures:

1. The owner of the sign, the occupant of the premises on which the sign or structure is located, or the person or firm maintaining the same shall, upon written notice by registered or certified mail from the Zoning Administrator or his designated agent, within thirty (30) days, remove or modify the sign or structure in a manner approved by the Zoning Administrator or his designated agent.
2. If such order is not complied with within thirty (30) days, the Zoning Administrator or his designated agent shall issue a second written notice in person or by registered or certified mail indicating that if the appropriate action has not taken place within fifteen (15) days the Town will remove the sign at the cost of the owner or leaser of the sign.
3. If the sign is not removed or modified within the fifteen (15) days granted by the second notice, the Zoning Administrator shall order the removal of the sign by the Town.

Therefore, it is always in the interest of the sign owner to consult with the Zoning Administrator prior to the purchase and installation of a sign. The sign user should bring- to the Town Hall a drawing approximately to scale showing the design of the sign, including dimensions, method of attachment or support, source of illumination and showing the relationship to any building or structure to which it is or is proposed to be installed or affixed and a plot plan approximately to scale indicating the location of the sign relative to property lines, easements, streets, sidewalks, and other signs.

* 1. Exemptions

The following types of signs are exempted from the application of the regulations herein:

1. signs, un1ighted, not exceeding one (1) square foot in area and bearing only property numbers, mail box numbers, and the name of the owner or occupant of the premises. Such signs in commercial buildings shall not exceed one (1) square foot in area per business occupant. If more than one (1) sign or nameplate is required, the total allowable sign area shall not exceed four (4) square feet.
2. Flags and insignia of any government except when displayed in connection with a commercial promotion.

c. Holiday decorations in season.

1. Legal notices and warnings, regulatory, informational, or directional signs erected by any public agency or utility.
2. Integral decorative or architectural features of buildings, including signs which denote only the building name, date of erection or street number. Such signs shall be permitted as exemptions when cut into any masonry surface or implanted with a metal plate.
3. Signs directing and guiding property.

traffic and parking on private

1. Signs which cannot be seen from a public street or right-of-way.
2. The act of changing advertising copy of messages on any sign designated or the use of replaceable copy such as a ready board or product price sign or on a sign having its own changing copy capacity, such as a time-and-temperature sign.
3. Price signs at automobile service stations or other establishments engaged in the retail sales of gasoline. One ( 1) such sign is permitted for each frontage on a public street, provided it does not exceed eight (8) square feet in area. Any such sign shall be affixed to a permitted freestanding identification sign, to a canopy support in the vicinity of the gasoline pumps, or flat-mounted against the wall of a building.
4. Signs announcing the location of self-service or full gasoline pumps at any establishment engaged in the retail sale of gasoline. Such signs shall be located in the vicinity of the gasoline pumps and shall not exceed eight (8) square feet in area.

* 1. Signs Permitted in the R-20, RM-20, RD, and FP Districts

Within the R-20 District, and FP Floodplain Protection District as shown on the Zoning Map, only the following types of signs shall be permitted:

1. Permanent identification signs for subdivisions and residential developments not exceeding twenty (20) square feet in area. One (1) sign may be erected at each major entrance to the subdivision but shall be located on private property no closer than ten (10) feet to any property line. No sign shall exceed four (4) feet in height above ground level, and illumination shall be restricted to indirect white lighting.
2. Permanent identification signs for manufactured home parks not exceeding six (6) square feet in area. One (1) sign may be erected at each major entrance to the manufactured home park but shall be located on private property no closer than ten (10) feet to any property line. No sign shall exceed four (4) feet in height above ground level. Illumination shall be limited to indirect white lighting.
3. One (1) permanent, identification sign for multi-family residential developments may be erected at each major entrance to the property. Such signs shall not exceed twenty (20) square feet in area and may be flat-mounted against the wall of ·an apartment building or free­ standing. If freestanding, such signs shall be setback a minimum of ten (10) feet from any property line and shall not exceed four (4) feet in height above ground level. Illumination shall be limited to indirect white lighting.
4. One (l) permanent, identification sign for non-residential uses per­ mitted as a matter of right may be erected on the premises, provided such signs do not exceed twenty (20) square feet in area. If free­ standing, no sign shall be located closer than ten (10) feet to any property line nor exceed four (4) feet in height above ground level. If the sign is a wall sign, it shall not project higher than twenty (20) feet above ground level. Illuminations shall be limited to indirect white lighting.
5. One (l) identification sign for each home occupation is permitted but shall not be closer than ten ( 10} .feet to any property line, shall not project higher than two (2) feet above ground level, and shall not exceed one (1) square foot in area.
6. Temporary signs as permitted by Section 15.7.
   1. Signs Permitted in the Commercial and Industrial Districts

Within the C Commercial and I Industrial Districts as shown on the Zoning Map, only the following types of signs shall be permitted:

1. Permanent wall signs shall be permitted for each separate business establishment, provided the total allowable sign area is not exceeded. The location and number of wall signs is at the option of the owner or tenant, however, where more than four (4) signs are located on any lot, the fifth such sign and each succeeding sign, respectively, shall reduce the total allowable sign area by twenty

(20) percent. Street number numerals shall not count in this requirement. Wall signs shall not project higher than the building eave or thirty (30) feet, whichever is lower.

1. One (1) identification sign per business establishment may be suspended from or attached to the underside of a canopy or marquee, provided such sign does not exceed six (6) square feet in area and maintains a clear distance of at least seven and one half ( 7 1/2) feet between the sidewalk and the bottom of the sign.
2. Businesses shall be permitted one (1) permanent freestanding sign if the business is located on a corner lot or has at least one hundred

(100) feet of street frontage. Any freestanding sign mounted on one or two poles and located along a US or NC numbered highway shall not exceed thirty (30) feet in height or thirty (30) square feet in sign

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area per side and all other such signs shall not exceed twenty (20) feet in height or twenty (20) square feet in sign area per side. These signs shall be located on private property such that no part of the sign shall project over any public right-of-way and shall be setback at least ten (10) feet from any other property line. Other freestanding signs shall not exceed twenty (20) square feet in area, shal1 not exceed four (4) feet in height and shall be no closer to any property line or- public right-of-way than ten (10) feet.

1. The total allowable sign area for all signs, including all wall and freestanding signs, shall not **exceed** one (l) square foot for each lineal foot of building wall facing a public street.
2. Temporary signs as permitted in Section 15.7.
   1. Shopping Center Signs

For shopping centers in single ownership or under unified control one

1. additional sign on each street frontage, other than those regulated above, shall be permitted, subject to the following.
2. Content

Such sign shall advertise only the name and location of such center and/or name and type of business of each occupant of the center.

1. Area

The gross area in square feet permitted for the additional sign on a zoning lot shall not exceed one-half ( 1/2) square foot per lineal foot of building facing a public street.

1. Location

The additional sign shall not be closer than twenty (20) feet to any property line or street right-of-way and shall not project higher than thirty (30) feet above ground level.

* 1. Temporary Signs

The following signs of a temporary nature including portable or mobile signs on wheels are permitted in all zoning districts:

1. One unilluminated sign per street frontage pertaining only to the lease, rent or sale of the property upon which it is displayed. The maximum size of such signs shall be as follows:
   1. In all residential districts, four (4) square feet.
   2. In all other districts, such signs shall be limited to one (l) square foot of area for each five (5) lineal feet of advertised property which abuts a public street; provided, however, no such sign shall exceed one hundred (100) square feet in area.
2. One (1) construction sign \_may be erected on a site during the period of construction, remodeling, or landscaping of a building or other similar project. The sign may identify the owner and/or developer, architect, engineer, contractor and other individuals or firms, and the character or purpose for which the structure or item is intended. The sign shall be unilluminated and removed within two
3. days after the work has been completed. The maximum size of a construction sign shall be as follows:
4. In residential zones, six (6) square feet.
5. In all other zones, twenty (20) square feet or one (1) square foot of sign area for each five (5) lineal feet of property abutting a public street, whichever is greater. In no instance, however, shall any such sign exceed one hundred (100) square feet in area.

c. Signs for promotional purposes by an individual business may be displayed onthe premise for a period not to exceed twenty-eight

(28) days during each calendar year.

1. Banners, pennants, ribbons, posters, streamers, strings of light bulbs, spinners or other similar devices may be displayed for a period of not more than fourteen (14) days in any one calendar year on the occasion of the opening of a new business.
2. Temporary signs displayed on the interior or exterior of commercial building windows, provided that such signs shall not exceed twenty­ five (25) percent of the total window area.
3. Directional signs advertising a public event and located off premises may be displayed on private property not more than one (1) week in advance of the event and not more than two (2) days after the completion of the event. No such sign shall exceed six (6) square feet in area.
4. Directional signs advertising a private or open house and located off premises property on the day of the event only. two (2) square feet in area.

event, such as a yard sale may be displayed on private No such sign shall exceed

1. Political campaign signs may be posted on private property only after the official campaign period has begun and must be removed within one (l) week ··after elections. Such signs shall not exceed six (6) square feet in area.
2. No more than one (1) portable or mobile sign, with or without wheels, shall be permitted each lot provided that they are located not less than ten (10) feet from any street right-of-way **or** other property line, not less than fifty (SO) feet from a street intersect ion, are included in the total allowable sign area along with wall signs and other freestanding signs, do not include any flashing o colored lights, and otherwise meet all requirements set forth in this Article.
   1. Signs Permitted in Conjunction With Nonconforming Uses

Any nonconforming use in any district may maintain such business signs as would be allowed for such use in the C Commercial District or such signs as are existing at the time the use becomes nonconforming, whichever is the more restrictive with regards to sign size and number of signs. These existing signs may be maintained and repaired as needed but shall not be replaced or rebuilt except in conformity with this Article.

* 1. Nonconforming Signs

Any nonconforming signs, except those discussed in 15.8 above, existing on the effective date of this Ordinance may remain in place and be maintained, subject to the following requirements:

1. No nonconforming sign shall have any changes made in the words or symbols used or the message displayed on the sign, including repainting, unless the sign is specifically designed for periodic change of message.
2. No nonconforming sign shall be structurally altered as to change the shape, size, type, or design of the sign, nor shall any nonconforming sign be relocated.
3. No nonconforming sign shall be allowed to remain after the activity, business or use to which it relates has been discontinued.
4. If a nonconforming sign is damaged in such a manner that the estimated expense of repairs exceeds fifty percent (50%) of its replacement value, the sign shall not be allowed to remain or be repaired and must be removed.

Upon failure to comply with any of the above requirements, the Zoning Administrator shall pursue additional remedies as hereafter provided:

1. The Zoning Administrator or his designated agent shall give the owner of the nonconforming sign notice of the violation by registered or certified mail. Notice to the owner or the occupant of the premise on which the sign is located shall be sufficient. These notices shall contain a brief statement of the particulars in which this section is violated and the manner in which such violation is to be remedied.
2. Failure to correct such violation constitutes a violation of this Ordinance.
3. If, after notification, the sign is not removed, the Zoning Administrator may cause civil penalties to issue, pursue injunctive relief in the courts to include the seeking of an Order of Abatement and other appropriate relief as set forth in NCGS 160A-175 and ordinance provisions contained in this Zoning Ordinance.
   1. Prohibited Signs

Unless otherwise permitted, the following signs are prohibited:

1. Banners, posters, pennants, ribbons, streamers, strings of light

bulbs, spinners, or other similar devices, except as allowed consistent with Section 15.7 or approved as a special use.

1. Signs advertising an activity, business, product, or service no longer conducted on the premise upon which the sign is located.

c. Mobile signs, except as permitted in Section 15.7.

1. Off-premises advertising structures or billboards.
2. Roof signs.
3. Projecting signs and freestanding signs located within a public right-of-way except when erected by a governmental agency.
4. No flag of the United States of the State of North Carolina shall be displayed as part of a commercial promotion. When displayed, the flags shall be allowed to hang free and never draped or tied back.
5. Any sign that obscures a sign displayed by a public authority for the purposes of giving traffic instruction or direction or other public information.
6. Any sign which implies the need or requirement of stopping or caution or the existence of danger or which may be confused with a sign displayed by a public agency.
7. Any sign that obstructs any ladder or opening intended egress for any building.

window, door, fire to provide light,

escape, stairway, air, ingress, or

* 1. Illumination

Where illuminated signs are permitted, they shall conform to the following requirements:

1. All signs illuminated under the provisions of this Article shall be constructed to meet the requirements of the National Electric Code.
2. Signs which contain, include, or are lighted by any flashing, intermittent or moving lights **are** prohibited, except those giving public information such as time, temperature, and date.
3. Illuminated signs shall be limited to those lighted internally with glass or plastic faces bearing the content; provided, however, that exposed neon tubing and exposed incandescent or other bulbs not exceeding fifteen (15) watts each shall be permitted.
4. Flood and display lighting shall be shielded so as to prevent direct rays of light from being cast into a residential area or district and/or vehicles approaching on a public right-of-way from any direction. Such lighting shall also be shielded so as to prevent view of the light source from a residence or residential district and/or vehicles approaching on a public right-of-way from any direction.
5. Flame as a source of light is prohibited.
   1. Maintenance and Removal of Unsafe Signs

All signs of any nature shall be maintained in a state of good repair. No sign shall be allowed to remain which becomes structurally unsafe, hazardous or endangers the safety of the public or property. No sign shall be erected or maintained in such a manner that any portion of its surface of its support swill interfere in any way with the free use of access to any fire escape, exit or standpipe, or so as to obstruct any window so that light or ventilation is reduced below minimum standards required by any applicable law or building code. Upon determining that a sign is structurally unsafe, hazardous or endangers the safety of the

public or property, the Zoning Administrator or his designated agent shall order the sign to be made safe or removed subject to the following provisions:

1. The owner of the sign, the occupant of the premise on which the sign or structure is located, or the persons or firm maintaining the same shall, upon written notice by registered or certified mail from the Zoning Administrator or his designated agent, forthwith in the case of immediate danger and in any case within ten (10) days, secure or repair the sign or structure in a manner approved by the Zoning Administrator or his designated agent or remove it.
2. If such order is not complied with within ten (10) days, the Zoning

Administrator or his designated agent shall remove the sign at the

expense of the owner or lessee thereof.

c. Whenever a sign has been abandoned, advertises an activity, business, product or service no longer conducted on the premise or is erected in violation of the provisions of this Article, the Zoning Administrator or his designated agent shall cause such sign to be removed or brought into compliance in accordance with the methods prescribed for nonconforming signs in Section 15.9.

* 1. Display of Property Numbers

Every residence, office, retail establishment, industry, or any other structure with a street number assigned to it shall display such number in such a way as to be easily visible from the street providing access. The numerals shall be of such size and color as to be easily recognizable and shall be attached to the wall of the building facing the street or, if the distance to the street or visibility due to other means makes this impractical, shall be displayed on a nameplate or number sign placed at the main entrance to the property, or displayed on a rural mailbox. Property owners may choose one of the latter methods of display in addition to attaching numerals to the building.

ARTICLE XVI

(RESERVED)

Note: Article XVI was formerly used as the location of “Manufactured Home Parks” and was repealed in June 2021.