

TITLE XV: LAND USAGE

Chapter

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CHAPTER 150: GENERAL PROVISIONS

Section

150.01 Swimming pool barriers; county regulations

§ 150.01 SWIMMING POOL BARRIERS; COUNTY REGULATIONS.

The Village Council does hereby support the enforcement of the Swimming Pool Barrier Ordinance by the county's Inspections Department within the municipal limits of the village.
(Res. 2006-19, passed 11-21-2006)

CHAPTER 151: MINIMUM HOUSING STANDARDS

Section

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§ 151.01 FINDINGS; PURPOSE; AUTHORITY.

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

(B) In order to protect the health, safety and welfare of the residents of the village, as authorized by G.S. Ch. 160A, Art. 19, Part 6, it is the purpose of this chapter to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by G.S. § 160A-444.

(C) In addition, it is hereby found and declared, under the authority of G.S. § 160A-174, that there exist in the village dwellings which, although not meeting the classification as unfit for human habitation, fail to fully comply with all the minimum standards for housing fitness as established herein and, therefore, have present one or more conditions which are inimical to the public health, safety and general

welfare. Such conditions, if not corrected, can lead to deterioration and dilapidation of dwellings which render them unfit for human habitation.

(Ord. 2015-02, passed 3-9-2015)

§ 151.02 SCOPE.

(A) This chapter is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof which are public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, rooming houses or buildings, structures or premises used or intended for use as such.

(B) The provisions of this chapter shall apply to all existing housing and to all housing hereafter constructed within the village's incorporated jurisdiction. Portable, mobile or demountable buildings or structures, including trailers, manufactured homes and mobile homes when used or intended for use for housing within the jurisdiction, shall be subject to the applicable provisions of this chapter. This chapter establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this chapter.

(C) The provisions of this chapter shall also apply to abandoned structures which are found by the Village Council to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary conditions.

(Ord. 2015-02, passed 3-9-2015)

§ 151.03 DEFINITIONS.

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

ABANDONED STRUCTURE. Any structure, whether designed and intended for residential or other uses, which has been vacant or not in active use, regardless of purpose or reason, for the past two-year period and which is determined by the Housing Inspector to be unfit for human habitation or occupancy based upon the standards as set forth in this chapter.

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

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

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

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

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 accessory buildings and structures and appurtenances belonging thereto or usually enjoyed therewith; except that, it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose.

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

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

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

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

HOUSING INSPECTOR. The person appointed by the Village Council to carry out the administration and enforcement of this chapter.

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

MANUFACTURED HOME (MOBILE HOME). A structure as defined in G.S. § 143-145(7).

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

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

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

OWNER. The holder of the title in fee simple and every mortgagee of record.

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

PUBLIC AUTHORITY. Any housing authority or any officer who is in charge of any department or branch of the government of the village, county, or state relating to health, fire, building regulations or other activities concerning dwellings in the village.

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

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

RUBBISH. Combustible and non-combustible waste materials, except garbage and ashes, and the term shall include, but not be limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

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

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

(Ord. 2015-02, passed 3-9-2015)

§ 151.04 HOUSING INSPECTOR; POWERS AND DUTIES.

(A) For the purposes of administering and enforcing the provisions of this chapter, the office of Housing Inspector is hereby created.

(B) The Housing Inspector shall be appointed by the Village Council and shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

(1) *Investigations.* To investigate the dwelling and building conditions in the village in order to determine which dwellings therein are unfit for human habitation and dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in this chapter;

(2) *Oaths, witnesses and the like.* To administer oaths and affirmations and to examine witnesses and receive evidence;

(3) *Right of entry.* To enter upon and within premises and dwellings for the purpose of making examinations and investigations; provided that, such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. § 15-27.2 or with permission of the owner, the owner's agent, a tenant or other person legally in possession of the premises;

(4) *Warrants, citations and the like.* To swear criminal warrants, issue civil citations and to take such other actions as may be necessary to carry out the enforcement procedures of this chapter; and

(5) *Delegation of functions and the like.* To delegate any of his or her functions and powers under this chapter to such officers and agents as he or she may designate.
(Ord. 2015-02, passed 3-9-2015)

§ 151.05 INSPECTIONS.

For the purpose of carrying out the intent of this chapter, the Housing Inspector, upon proper identification, is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and premises, including abandoned structures. The owners or occupants or every dwelling, dwelling unit, rooming unit or rooming house, or the person in charge thereof, shall give the Housing Inspector free access to such dwelling, dwelling unit, rooming house or rooming unit, and its premises, at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his or her agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

(Ord. 2015-02, passed 3-9-2015)

§ 151.06 PRELIMINARY INVESTIGATIONS; NOTICES; HEARINGS.

(A) Whenever a petition is filed with the Housing Inspector by a public authority or by at least five residents of the village charging that any dwelling is unfit for human habitation or whenever it appears to the Housing Inspector (on his or her own motion) that any dwelling is unfit for human habitation, the Housing Inspector shall, if his or her preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Housing Inspector (or his or her designated agent) at a place within the village therein fixed not less than ten days, nor more

than 30 days, after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Housing Inspector.

(B) Upon the issuance of a complaint and notice of hearing pursuant to this section, the Inspector may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing attached thereto, in the office of the Clerk of Superior Court of the county in which the subject property exists, to be indexed and cross-indexed in accordance with the indexing procedures of the state's General Statutes. The Inspector shall cause a copy of the notice of lis pendens to be served upon the owners and parties in interest in the dwelling at the time of filing in accordance with G.S. § 160A-445, as applicable. Upon compliance with the requirements of any order issued based upon such complaint and hearing, the Inspector shall direct the Clerk of Superior Court to cancel the notice of lis pendens.
(Ord. 2015-02, passed 3-9-2015)

§ 151.07 DWELLING UNFIT FOR HUMAN HABITATION; STANDARDS.

(A) General.

(1) The Housing Inspector shall determine that a dwelling is unfit for human habitation if he or she finds that any one of the following conditions exist in such dwelling:

(a) Interior walls or vertical studs which seriously list, lean or buckle to such an extent as to render the dwelling unsafe;

(b) Supporting member or members which show 33% or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which shows 50% or more of damage or deterioration;

(c) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

(d) Such damage by fire, wind or other causes as to render the dwelling unsafe;

(e) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people in the village;

(f) Inadequate facilities for egress in case of fire or panic;

(g) Defects significantly increasing the hazards of fire, accident or other calamities;

(h) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the village;

(i) Lack of proper electrical, heating or plumbing facilities required by this chapter which constitutes a definite health or safety hazard; and

(j) Lack of connection to a potable water supply and/or to the public sewer or other approved sewage disposal system, the lack of either one of which renders a dwelling unfit for human habitation. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been “cut off” because of non-payment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

(2) In addition to the ten conditions stated above, any one of which renders a dwelling unfit for human habitation, the Housing Inspector shall determine that a dwelling is unfit for human habitation if he or she finds that a dwelling fails to fully comply with seven or more of the following enumerated standards of dwelling fitness.

(B) *Structural standards.*

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

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

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

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

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

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

(7) *Weatherization.* The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather- and water-tight.

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

(9) *Floors.* There shall be no use of the ground for floors, or wood floors on the ground.

(C) *Plumbing standards.*

(1) *Facilities.* Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet and an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been “cut off” because of non-payment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

(2) *Maintenance.* All plumbing fixtures shall meet the standards of the Plumbing Code and shall be maintained in a state of good repair and in good working order.

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

(D) *Heating standards.* Every dwelling shall have facilities for providing heat in accordance with either divisions (D)(1) or (D)(2) below. Such facilities shall be maintained in a state of good repair and good working order.

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

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

(E) *Electrical standards.*

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

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

(3) *Maintenance.* All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed in accordance with the Electrical Code.

(F) *Ventilation standards.*

(1) *Generally.* Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be 10% of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light obstructions are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight type window in the top of such a room, the total window area of such skylight shall equal at least 15% of the total floor area of such room.

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

(3) *Bathroom and water closet room.* Every bathroom equipped with more than one water closet compartment shall comply with the light and ventilation requirements for habitable rooms.

(G) *Space, use and location standards.*

(1) *Room sizes.* Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the Residential Building Code. (Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling may count for not more than 10% of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as a part of the floor area in computing the total area of the room to determine maximum permissible occupancy.) Every dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant, at least 100 square feet of additional habitable area for each of the next three occupants, and at least 75 square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least 70 square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least 50 square feet of floor area for each occupant 12 years of age and over, and at least 35 square feet of floor area for each occupant under 12 years of age.

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

(3) *Cellar.* No cellar shall be used for living purposes unless:

(a) The floor and walls are substantially water-tight;

(b) The total window area, total openable window area and ceiling height are equal to those required for a habitable room; and

(c) The required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the windows face a stairwell, window well or access way.

(H) *Safe and sanitary maintenance standards.*

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

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

(3) *Windows and doors.* Every window, exterior door, basement or cellar door and hatchway shall be substantially weather-tight, water-tight and rodent-proof; and shall be kept in sound working condition and good repair.

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

(5) *Bathroom and kitchen floors.* Every bathroom and kitchen floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in sound condition and good repair.

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

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

(I) *Insect, rodent and infestation control standards.*

(1) *Screens.* For protection against mosquitoes, flies and other insects, every dwelling shall have:

(a) Supplied and installed screens on every door opening leading directly from the dwelling to outdoor space; except that, sliding doors, doors with self closing devices, doors on mobile homes with self closing devices and doors that open into rooms of living spaces that are artificially ventilated or air conditioned are exempt from this provision; and

(b) Supplied and installed screens on every window or other device with an opening to outdoor space; except that, this requirement shall not apply for any room or rooms of a dwelling that are ventilated year round with an operable and installed heating and air conditioning system.

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

(3) *Infestation.* Every dwelling shall be maintained in a manner to be free of any infestations of insects, rodents or other pests. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his or her dwelling unit is the only one infested. Whenever infestation exists in two or more of the dwelling units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

(4) *Rubbish storage and disposal.* Every dwelling shall be supplied with approved containers and covers for storage of rubbish as may be required by village ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

(5) *Garbage storage and disposal.* Every dwelling shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the Inspector, in the structure for the use of the occupants of each dwelling unit or an approved outside garbage container as may be required by village ordinances.

(6) *Smoke detector systems.* Every dwelling unit shall be provided with an approved listed smoke detector installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm. The detector shall be tested in accordance with and meet the requirements of UL 217, Single and Multiple Station Smoke Detectors.

(J) *Rooming house standards.* All of the provisions of this chapter, and all of the minimum standards and requirements of this chapter, shall be applicable to rooming houses, and to every person

who operates a rooming house or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following divisions.

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

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

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

(4) *Sanitary facilities.*

(a) Every water closet, flush urinal, lavatory basin and bathtub or shower required by division (F)(3) above shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

(b) Note: full compliance with a standard means that if any part of the stated standard is not complied with by a particular dwelling then that dwelling has failed to fully comply with the enumerated standard. For example, in regard hereto, if all standards are met in a dwelling; except that, if a supply of hot water is not provided, then the dwelling fails to fully comply herewith.

(Ord. 2015-02, passed 3-9-2015) Penalty, see § 10.99

§ 151.08 DWELLING NOT IN COMPLIANCE BUT NOT UNFIT FOR HUMAN HABITATION.

(A) In any case where the Housing Inspector determines that a dwelling fails to fully comply with one or more, but less than seven, of the above enumerated standards of dwelling fitness, such dwelling shall not be found to be unfit for human habitation and shall not be subject to the procedures and remedies as provided for in this chapter for dwellings unfit for human habitation.

(B) Each such failure or non-compliance, however, shall constitute a violation of the terms of this chapter and shall subject the violator to the penalties and enforcement procedures of § 10.99 of this code of ordinances.

(C) In making the determination as described in this section, the Housing Inspector shall not be required to make notice and hold the hearing as called for in § 151.06 of this chapter, but the Housing Inspector may do so if the determination of the severity and classification of dwelling fitness is not clear to the Housing Inspector upon preliminary investigation.
(Ord. 2015-02, passed 3-9-2015)

§ 151.09 PROCEDURE AFTER HEARING; ORDER.

(A) If, after notice and hearing, the Housing Inspector determines that the dwelling under consideration is unfit for human habitation in accordance with the standards set forth above, he or she shall state in writing his or her findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:

(1) If the repair, alteration or improvement of the dwelling can be made at a cost of less than 50% of the value of the dwelling, requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation, based upon the Housing Inspector's standards for closing dwellings; or

(2) If the repair, alteration or improvement of the dwelling cannot be made at a cost of less than 50% of the value of the dwelling, requiring the owner, within the time specified in the order, to repair, alter or improve the dwelling in order to render it fit for human habitation or to remove or demolish such dwelling.

(B) If, after notice and hearing the Housing Inspector determines that the dwelling under consideration is not unfit for human habitation, but is not in full compliance with one or more standards of dwelling fitness as set forth above, he or she may proceed with the enforcement procedures of § 10.99 of this code of ordinances.

(C) Whenever a determination is made pursuant to divisions (A) or (B) above that a dwelling must be vacated and closed, or removed or demolished, under the provisions of this chapter, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the Inspector, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease or purchase the property for the purpose of providing affordable housing. The Inspector shall certify the mailing of the notices, and the certifications shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such

notices, and the sole remedy shall be an order requiring the Inspector to wait 45 days before causing removal or demolition.

(Ord. 2015-02, passed 3-9-2015)

§ 151.10 FAILURE TO COMPLY WITH ORDER.

(A) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Housing Inspector may:

(1) Cause the dwelling to be repaired, altered or improved or to be vacated and closed; or

(2) Cause to be posted on the main entrance of any such dwelling, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a violation of this chapter.

(B) If the owner fails to comply with an order to repair, alter or improve or to remove or demolish the dwelling, the Housing Inspector may:

(1) Cause such dwelling to be vacated and removed or demolished; or

(2) Cause to be posted on the main entrance of any such dwelling, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a violation of this chapter.

(C) The duties of the Housing Inspector set forth in divisions (A) and (B) above shall not be exercised until the Village Council shall have, by ordinance, ordered the Housing Inspector to proceed to effectuate the purpose of this chapter with respect to the particular property or properties which the Housing Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance. No such ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the housing standards. For the purposes of this division (C), a period of 90 days following the date of the Housing Inspector's order shall constitute a reasonable opportunity. The ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

(D) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Housing Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. Ch. 160A, Art. 10. If the dwelling is removed or demolished by the Housing Inspector, he or she shall sell the materials of the dwelling, and any personal property, fixture or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale

against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Housing Inspector, shall be secured in a manner directed by the Court and shall be disbursed by the Court to the persons found to be entitled thereto by final order of the decree of the Court.

(E) If any occupant fails to comply with an order to vacate a dwelling, the Housing Inspector may file a civil action in the name of the village to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any persons occupying such dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if, at the hearing, the Housing Inspector produces the certified copy of an ordinance adopted by the Village Council pursuant to division (C) above authorizing the Housing Inspector to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this division (E) unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the Village Council has ordered the Housing Inspector to proceed to exercise his or her duties under divisions (A), (B) and (C) above to vacate and close or remove and demolish the dwelling. (Ord. 2015-02, passed 3-9-2015)

§ 151.11 COMPLAINTS AND ORDERS; SERVICE.

(A) (1) Complaints or orders issued by the Housing Inspector shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten days after the mailing.

(2) If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(B) (1) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence or, if the owners are known, but have refused to accept service by registered or certified mail, and the Inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the village at least not later than the time at which personal service would be required under the provisions of this chapter.

(2) When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.
(Ord. 2015-02, passed 3-9-2015)

§ 151.12 APPEALS.

(A) The Board of Adjustment is hereby appointed as the Housing Appeals Board to which appeals from any decision or order of the Housing Inspector may be taken. Except where this chapter provides for different rules or procedures, the Board of Adjustment acting as the Housing Appeals Board shall follow its rules of procedure, which may be amended to provide specifically for this function.

(B) An appeal from any decision or order of the Housing Inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the village. Any appeal from the Housing Inspector shall be taken within ten days from the rendering of the decision or service of the order by filing with the Housing Inspector and with the Village Clerk a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Housing Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Housing Inspector refusing to allow the person aggrieved thereby to do any such act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the Housing Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Housing Inspector certifies to the Board after the notice of appeal is filed with him or her, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended, except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Housing Inspector, by the Board, or by a court of record upon petition made pursuant to division (E) below.

(C) The Board of Adjustment shall fix a reasonable time for hearing appeals, shall give due notice to the parties and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that, in its opinion, ought to be made in the matter and, to that end, it shall have all the powers of the Housing Inspector, but simple majority vote of the members of the Board shall be necessary to reverse or modify any decision or order of the Housing Inspector. The Board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

(D) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.

(E) Any person aggrieved by an order issued by the Housing Inspector or a decision rendered by the Board may petition the Superior Court for an injunction, restraining the Housing Inspector from carrying out the order or decision and the Court may, upon such petition, issue a temporary injunction restraining the Housing Inspector pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the Court on a petition within 20 days, and shall be given preference over other matters on the Court's calendar. The Court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this division (E).

(Ord. 2015-02, passed 3-9-2015)

§ 151.13 ALTERNATIVE REMEDIES.

(A) Nothing in this chapter, nor any of its provisions, shall be construed to impair or limit in any way the power of the village to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other chapters or laws. In addition to the remedies provided for herein, any violation of the terms of this chapter shall subject the violator to the penalties and remedies as set forth in § 10.99 of this code of ordinances.

(B) No dwelling shall be hereafter erected, altered, moved or changed in occupancy without a certificate of compliance. In any case where the Housing Inspector, after notice and hearing as required herein, finds that a dwelling or dwelling unit is unfit for human habitation, he or she shall withhold issuance of a certificate of compliance for such dwelling or dwelling unit until such time that he or she determines that it is fit for human habitation. In addition, in any case where the Housing Inspector, after preliminary investigation as provided for herein, concludes, based upon that investigation, that a dwelling or dwelling unit is unfit for human habitation and believes that the occupancy of such dwelling or dwelling unit could cause imminent peril to life or property from fire or other hazards, he or she shall withhold issuance of a certificate of compliance for such dwelling or dwelling unit until such time that he or she determines that it is fit for human habitation.

(C) If any dwelling is erected, constructed, altered, repaired, converted, maintained or used in violation of this chapter or of any valid order or decision of the Housing Inspector or Board made pursuant to any ordinance adopted under authority of this chapter, the Housing Inspector may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or occupancy, to restrain, correct or abate the violation, to prevent the occupancy of the dwellings, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

(Ord. 2015-02, passed 3-9-2015) Penalty, see § 10.99

§ 151.14 CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the village, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the village's jurisdiction shall prevail. The North Carolina Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this chapter.

(Ord. 2015-02, passed 3-9-2015)

§ 151.15 VIOLATIONS.

In addition to the conditions, acts or failures to act that constitute violations specified in this chapter above, it shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. It shall be unlawful for the owner of any dwelling, with respect to which an order has been issued pursuant to § 151.09 of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition.

(Ord. 2015-02, passed 3-9-2015) Penalty, see § 10.99

CHAPTER 152: NON-RESIDENTIAL BUILDING AND STRUCTURE STANDARDS

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§ 152.01 PURPOSE.

It is the purpose of the provisions of this chapter to provide a just, equitable and practicable method to evaluate whether non-residential buildings or structures fail to meet minimum standards of maintenance, sanitation and safety established by the village. The minimum standards address conditions that are dangerous and injurious to public health, safety and welfare and identify circumstances under which a public necessity exists for the repair, closing or demolition of such buildings or structures. The

provisions of this chapter are cumulative with and in addition to any other remedy provided by law including the current editions of standard codes adopted by the village.

(Ord. 2015-05, passed 3-9-2015)

§ 152.02 FINDINGS; AUTHORITY.

(A) Pursuant to G.S. § 160A-439, it is hereby found and declared that there exist in the village non-residential buildings or structures which are unsafe and especially dangerous to life because of liability to fire or because of bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress and other causes.

(B) In addition, it is hereby found and declared, that there exist in the village non-residential buildings or structures which, although not meeting the classification of unsafe and especially dangerous to life, fail to fully comply with all the minimum standards for non-residential buildings or structures fitness as established herein and, therefore, have present one or more conditions which are inimical to the public health, safety and general welfare. Such conditions, if not corrected, can lead to deterioration and dilapidation of non-residential buildings or structures which render them unsafe and especially dangerous to life.

(Ord. 2015-05, passed 3-9-2015)

§ 152.03 SCOPE; JURISDICTION.

The provisions of this chapter shall apply to all existing non-residential buildings or structures and to all non-residential buildings or structures hereafter constructed within the corporate village limits as now or hereafter established.

(Ord. 2015-05, passed 3-9-2015)

§ 152.04 DEFINITIONS AND INTERPRETATIONS.

(A) (1) Unless specifically defined in division (B) below, words used in the non-residential building or structure standards shall have their respective customary dictionary definitions.

(2) For the purpose of these regulations certain words, terms or phrases used herein are interpreted and defined as follows.

(a) Words used in the present tense shall include the future tense.

(b) Words used in the singular shall include the plural and words used in the plural shall include the singular.

(c) The words “shall” and “will” always indicate mandatory. The words “should” and “may” always indicate optional.

(d) The word “lot” includes the words “plot” and/or “parcel”.

(e) The word “building” includes the word “structure”.

(f) The word “person” includes a “firm, association, organization, partnership, trust, company, corporation and/or individual”.

(g) The word “use” includes the terms “arranged, designed and/or intended” for a use, activity and/or purpose.

(h) The term “Board of Adjustment” shall always indicate the “Board of Adjustment of the Village of Wesley Chapel, North Carolina” as created and appointed by the Village Council.

(i) The term “Village Council” shall always indicate the “Village Council of the Village of Wesley Chapel, North Carolina”.

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

BUILDING. Any covered structure intended for shelter, housing or enclosure of persons, animals, facilities, equipment or chattels; the term **BUILDING** shall be construed to include the term **STRUCTURE**; furthermore, it shall be construed as if followed by the term or part thereof.

BUILDING, ACCESSORY. A detached subordinate building located on a lot, parcel or tract whose use is incidental to that of the principal building. A building cannot be considered **ACCESSORY** unless it accompanies a principal building on the same lot, parcel or tract.

BUILDING, PRINCIPAL. A building in which the principal use of the lot, parcel or tract is conducted.

BUILDING CODE. The North Carolina State Building Code.

DETERIORATION. The condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, rusting, peeling paint or other evidence of physical decay or loss of structural integrity.

FIRE HAZARD. (See also **NUISANCE**.) Any thing or act which increases, or may cause an increase of, the hazard, likelihood or menace of fire to a greater degree than reasonable for the conduct of the non-residential use on the premises, or which may unreasonably obstruct, delay or hinder, or may unreasonably become the cause of an obstruction, a delay, a hazard or an unreasonable hindrance to the prevention, suppression or extinguishment of fire.

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

INFESTATION. The haunting or overrunning by rats, snakes, birds, insects or other destructive vermin or animals that endanger the public health and safety.

NON-RESIDENTIAL BUILDING OR STRUCTURES STANDARDS INSPECTOR. The person delegated as such by the Village Council. (Hereinafter, referred to as the **INSPECTOR**.)

NUISANCE.

(a) Any public nuisance known as common law or in equity jurisprudence, or as provided by the statutes of the state or the ordinances of the village;

(b) Any condition including an attractive nuisance which may prove detrimental to human health or safety whether in a building, on the premises of a building or part of a building or upon an occupied lot;

(c) Physical conditions dangerous to human life or detrimental to health of persons in, on or near the premises where the condition exists;

(d) Unsanitary conditions or conditions that are dangerous to public health, well-being or the general welfare; or

(e) Fire hazards or other safety hazards.

OCCUPANT. Any person who has charge, care or control of a non-residential building or structure or a part thereof, whether with or without the knowledge and consent of the owner, or any person, individually or jointly, entitled to possession regardless of whether the building or structure is actually occupied or not.

OWNER. The holder of the title in fee simple and every mortgagee of record of a property.

PARTIES IN INTEREST. All individuals, associations and corporations who have interests of record in a non-residential building or structure and any who are in possession thereof.

PHYSICAL VALUATION. The estimated cost to replace a building in kind.

PLUMBING. All of the following supplies, facilities and equipment: gas pipes, gas burning equipment, water pipes, water heaters, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, vents and other similar fixtures, together with all connections to water, sewer or gas lines, and water pipes and lines utilized in conjunction with HVAC equipment.

PREMISES. A lot, plot or parcel of land including the buildings or structures thereon, under control by the same owner or occupant, devoted to or zoned for non-residential use.

PUBLIC SANITARY SEWER. Any sanitary sewer owned, operated and maintained by the county and/or the village and available for public use for the disposal of sewage.

RUBBISH. Combustible and non-combustible waste materials, except garbage and ashes, including, but not limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

SEWAGE. Waste from a flush toilet, bathtub, sink, lavatory, dishwashing or laundry machine or water-carried waste from any other fixture, equipment or machine.

STRUCTURALLY SOUND. Substantially free from flaw, defect, decay or deterioration to the extent that such structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

STRUCTURE. Anything constructed or erected which requires location on the ground. (Refer to the definition of **BUILDING** herein.)

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

VACANT INDUSTRIAL WAREHOUSE. Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

VACANT MANUFACTURING FACILITY. Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.
(Ord. 2015-05, passed 3-9-2015)

§ 152.05 OFFICE OF INSPECTOR CREATED; POWERS AND DUTIES.

(A) For the purposes of administering and enforcing the provisions of this chapter, the office of Non-Residential Building or Structures Standards Inspector, herein called “Inspector”, is hereby created.

(B) The Inspector shall be appointed by the Village Council and shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provision of this chapter, including without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

(1) To investigate the non-residential building conditions in the jurisdiction in order to determine which buildings therein are unsafe, being guided in such examinations of buildings by the

requirements set forth in this chapter and for the purpose of carrying out the objectives of this chapter with respect to such non-residential buildings or structures;

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

(3) To enter upon and within premises and buildings for the purpose of making examinations and investigations; provided that, such entries shall be made at reasonable hours in such a manner as to cause the least possible inconvenience to the persons in possession; and

(4) To delegate any of his or her functions and powers under this chapter to such officers and agents as he or she may designate.

(Ord. 2015-05, passed 3-9-2015)

§ 152.06 OWNER AND OCCUPANT; DUTIES AND RESPONSIBILITIES.

(A) It shall be the duty and responsibility of the owner to maintain all non-residential buildings or structures in accordance with all standards for non-residential buildings or structures fitness as stated in this chapter.

(B) It shall be the duty and responsibility of the occupant to ensure that:

(1) All parts of the premises under the control of the occupant shall be kept in a safe, clean and sanitary condition consistent with the non-residential use and the occupant shall refrain from performing any acts which would render any part of the building or premises unsafe or unsanitary or which would obstruct any adjacent owner/occupant from performing any duty required, or from maintaining his or her building or premises in a safe and sanitary condition;

(2) Every occupant shall be responsible for the elimination of infestation in and on the premises, subject to his or her control;

(3) Every occupant shall maintain all supplied plumbing fixtures in a safe and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same;

(4) No garbage or solid waste shall be stored or allowed by the occupant to accumulate on the premises unless contained in a trash receptacle(s) which is in accordance with the ordinances of the village;

(5) Damage to public sidewalks and/or curb and gutter located in the public right-of-way shall be repaired or replaced at no expense to the village when such damage is caused by vehicles making deliveries to the non-residential use under the control of the occupant; and

(6) Where the owner would not otherwise know of a defect of any facility, utility or equipment required to be furnished hereunder and the same is found to be defective or inoperable, the occupant affected thereby shall, upon learning of such defect, provide notice to the owner.
(Ord. 2015-05, passed 3-9-2015)

§ 152.07 RELATIONSHIP OF DUTIES AND RESPONSIBILITIES TO OCCUPANCY.

The provisions of this chapter that apply to the exterior or exterior components of a structure or building or to the premises shall be complied with whether the structure or building or premises is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured by their owners to prevent the entry of unauthorized persons or the formation of nuisance conditions such as infestation.
(Ord. 2015-05, passed 3-9-2015)

§ 152.08 VALIDITY.

If any section, division, sentence, clause or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this chapter. The Village Council hereby declares that it would have passed this chapter and each section, division, clause and phrase thereof, irrespective of the fact that any one or more sections, divisions, sentences, clauses or phrases be declared invalid.
(Ord. 2015-05, passed 3-9-2015)

§ 152.09 CONFLICT WITH OTHER PROVISIONS.

In the event any provision, standard or requirement of this chapter is found to be in conflict with any provision of any other ordinance or code of the village, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the jurisdiction shall prevail. The North Carolina State Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this chapter.
(Ord. 2015-05, passed 3-9-2015)

§ 152.10 AMENDMENTS.

The Village Council may, from time to time, amend, supplement or change the provisions and requirements of this chapter. Any such amendment shall be by ordinance of the Village Council.
(Ord. 2015-05, passed 3-9-2015)

§ 152.11 UNLAWFUL TO OWN UNSAFE BUILDINGS AND STRUCTURES; STANDARDS.*(A) Prohibited.*

(1) It shall be unlawful for any firm, person or corporation to own a building or a structure situated in the jurisdiction of the village which is in such a defective or hazardous condition that it is unsafe and especially dangerous to life. The Village Council has determined that unsafe and especially dangerous buildings and structures are detrimental to the health, safety and welfare of the citizens of the village, that such unsafe and especially dangerous buildings and structures shall be condemned, and that the owners of such unsafe and especially dangerous buildings and structures shall immediately remedy the unsafe, dangerous, hazardous or unlawful conditions or demolish such buildings or structures.

(2) A building or structure shall be found to be especially dangerous to life and held unsafe by the Inspector if the Inspector finds that any one of the following conditions exists in such building or structure:

(a) Interior walls or vertical studs which seriously list, lean or buckle to an extent as to render the building unsafe;

(b) Supporting member or members which show 33% or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which shows 50% or more of damage or deterioration;

(c) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used;

(d) Such damage by fire, wind or other causes as to render the building unsafe;

(e) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people of the jurisdiction;

(f) Inadequate facilities for egress in case of fire or panic;

(g) Defects significantly increasing the hazards of fire, accident or other calamities;

(h) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the jurisdiction;

(i) Lack of proper electrical, heating or plumbing facilities required by this chapter which constitutes a health or a definite safety hazard;

(j) For any building whose occupancy classification requires it, lack of connection to a potable water supply and/or to the public sanitary sewer or other approved sewage disposal system. For

the purposes of this standard, a building is not connected to a potable water supply if the water supply has been “cut off” because of non-payment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap;

(k) Any violation of the state’s Fire Prevention Code which constitutes a condition which is unsafe and especially dangerous to life; and

(l) Any abandoned non-residential building or structure which is found to be a health or safety hazard by the Inspector as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities.

(3) In addition to divisions (A)(2)(a) through (A)(2)(l) above, any one of which renders a building or structure unsafe, the Inspector shall determine that a non-residential building or structure is unsafe if he or she finds that a building or structure fails to fully comply with any five or more of the following enumerated standards of building and premises fitness. Full compliance with a standard means that if any part of the stated standard is not complied with by a particular building and premises, then that building and premises has failed to fully comply with the enumerated standard.

(B) *General.*

(1) Buildings and premises shall be kept clear of accumulations of garbage, trash or rubbish which create health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary way.

(2) Flammable, combustible, explosive or other dangerous or hazardous materials shall be stored in a manner approved for such materials and consistent with the state’s Fire Prevention Code.

(3) Buildings and premises shall be kept free of loose and insufficiently anchored overhanging objects which constitute a danger of falling on persons or property.

(4) The premises shall be kept free of insufficiently protected holes, excavations, breaks, projections, obstructions and other such dangerous impediments on and around fences, walls, walks, driveways, parking lots and other areas which are accessible to and generally used by persons on the premises.

(5) Building and premises surfaces shall be kept clear of cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic or other dangerous objects or similar hazardous conditions. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration.

(6) Buildings and premises shall be kept free of objects and elements protruding from building walls, roof or premises which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects.

(C) *Appurtenances.*

(1) All chimneys, flues and vent attachments thereto shall be maintained structurally sound. Chimneys, flues, gas vents or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment and shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases.

(2) All exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair and free of defects.

(3) All cornices shall be made structurally sound. Rotten or weakened portions shall be removed and/or replaced. All exposed wood shall be treated or painted.

(4) Gutters and down spouts shall be replaced or repaired as necessary and shall be appropriately located and securely installed so as not to cause a hazard to pedestrians, vehicular traffic or property.

(5) Attached and unattached accessory structures shall be maintained in a state of good repair.

(6) Advertising sign structures, attached or freestanding, awnings, marquees and their supporting members and other similar attachments and structures shall be maintained in good repair and shall not cause a nuisance or safety hazard.

(D) *Structural.*

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

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

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

(4) Interior and exterior steps, railings, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fall or collapse.

(5) Where a wall of a building has become exposed as a result of demolition of an adjacent building, said wall must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall unless such doors, windows, vents or other similar openings are to be

maintained in accordance with the provisions of this chapter. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked and weather-proofed if necessary to prevent deterioration of the wall.

(E) *Plumbing, electrical and supplied facilities.*

(1) All plumbing fixtures and pipes shall meet the standards of the state's Plumbing Code and shall be maintained in a state of good repair and in good working order.

(2) All electrical fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used and installed in accordance with the state's Electric Code.

(3) Every supplied facility, piece of equipment or utility which is required under this chapter or the state's Building Code for occupancy or use shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

(F) *Egress.*

(1) Facilities for egress in case of fire or panic shall be adequate and shall remain clear for such purposes.

(2) All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints or broken or loose mullions.

(3) All windows shall be maintained free of broken glass that could be dangerous to the public, invitees or third parties ordinarily expected to use the premises, from falling or shattering.

(4) All openings originally designed as windows shall be maintained as windows, unless specifically approved by the Inspector for enclosure.

(G) *Drainage.* All yards and premises shall be properly graded and maintained so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

(Ord. 2015-05, passed 3-9-2015) Penalty, see § 10.99

§ 152.12 BUILDINGS AND PREMISES NOT DECLARED UNSAFE BUT WHICH ARE NOT IN COMPLIANCE WITH ALL STANDARDS.

(A) In any case where the Inspector determines that a non-residential building or structure fails to fully comply with one or more, but less than five, of the standards of non-residential buildings or structures fitness set forth in § 152.11(C) of this chapter, such building or structure shall not be found to be unsafe and shall not be subject to the procedures and remedies as provided for in this chapter for unsafe buildings and premises.

(B) Each such failure of non-compliance, however, shall constitute a violation of the terms of this chapter and shall subject the violator to the penalties and enforcement procedures of § 152.21(B) of this chapter.

(C) In such case the Inspector shall notify the owner as provided for in § 152.14 of this chapter. (Ord. 2015-05, passed 3-9-2015)

§ 152.13 INVESTIGATIONS; COMPLAINT; NOTICE OF HEARING; ORDER TO TAKE CORRECTIVE ACTION; CONTENTS; ISSUANCE; SERVICE.

(A) *Investigation.* Whenever it appears to the Inspector that any non-residential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the Village Council, the Inspector shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. § 15-27.2 or with permission of the owner, the owner's agent, a tenant or other person legally in possession of the premises.

(B) *Complaint and notice of hearing.* If the preliminary investigation discloses evidence of a violation of the minimum standards, the Inspector shall issue and cause to be served upon the owner of and parties in interest in the non-residential building or structure a complaint. The complaint shall state the charges and contain a notice that a hearing will be held before the Inspector (or his or her designated agent) at a place within the county scheduled not less than ten days, nor more than 30 days, after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

(C) *Order to take corrective action; contents; issuance.* If, after notice and hearing, the Inspector determines that the non-residential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards as established by the Village Council, the Inspector shall state in writing the findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(1) An order may require the owner to repair, alter or improve the non-residential building or structure in order to bring it into compliance with the minimum standards established by the Village Council or to vacate and close the non-residential building or structure for any use.

(2) An order may require the owner to remove or demolish the non-residential building or structure if the cost of repair, alteration or improvement of the building or structure would exceed 50% of its then current value. Notwithstanding any other provision of law, if the non-residential building or

structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Village Council determines, after a public hearing as provided by ordinance, that the non-residential building or structure is of individual significance or contributes to maintaining the character of the district, and the non-residential building or structure has not been condemned as unsafe, the order may require that the non-residential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this chapter.

(3) An order may not require repairs, alterations or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

(D) *Service of complaints and orders of Inspector.* Complaints or orders issued by the Inspector pursuant to this chapter shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is refused, but the regular mail is not returned by the post office within ten days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, and the Inspector makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the village at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(Ord. 2015-05, passed 3-9-2015)

§ 152.14 APPEAL OF ORDER OF INSPECTOR; FINALITY IF NOT APPEALED.

Any owner who has received an order under § 152.13(C) of this chapter may appeal from the order to the Village Board of Adjustment by giving notice of appeal in writing to the Inspector and to the Village Clerk within ten days following issuance of the order. In the absence of an appeal to the Board of Adjustment within the prescribed time, the order of the Inspector shall be final. The Board of Adjustment shall hear appeals within a reasonable time after receipt of the notice of appeal and it may modify and affirm or revoke the order. Any person aggrieved by a decision or order of the Inspector shall have the remedies provided in G.S. § 160A-446.

(Ord. 2015-05, passed 3-9-2015)

§ 152.15 FAILURE TO COMPLY WITH ORDER OF INSPECTOR.

(A) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the non-residential building or structure, the Village Council may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Inspector may cause the building or structure to be repaired, altered or improved or to be vacated and closed. The Inspector may cause to be posted on the main entrance of any non-residential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a misdemeanor.

(B) If the owner fails to comply with an order to remove or demolish the non-residential building or structure, the Village Council may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a non-residential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the Village Council. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the office of the Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Inspector may cause the building or structure to be removed or demolished.

(Ord. 2015-05, passed 3-9-2015)

§ 152.16 REMEDIES; LIEN FOR COST OF DEMOLITION AND REMOVAL.

(A) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority and be collected as the lien for special assessment provided in G.S. Ch. 160A, Art. 10.

(B) The amount of the costs is also a lien on any other real property of the owner located within the village limits, except for the owner's primary residence. The additional lien provided in this division (B) is inferior to all prior liens and shall be collected as a money judgment.

(C) (1) If the non-residential building or structure is removed or demolished by the Inspector, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining

shall be deposited in the Superior Court by the Inspector, shall be secured in a manner directed by the Court and shall be disbursed by the Court to the persons found to be entitled thereto by final order or decree of the court.

(2) Nothing in this section shall be construed to impair or limit in any way the power of the Village Council to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

(Ord. 2015-05, passed 3-9-2015)

§ 152.17 FAILURE OF OCCUPANT TO COMPLY WITH ORDER TO VACATE.

If any occupant fails to comply with an order to vacate a non-residential building or structure, the Inspector may file a civil action in the name of the village to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the non-residential building or structure. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed ten days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor and if, on its return, it appears to have been duly served and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the Village Council pursuant to § 152.15 of this chapter to vacate the occupied non-residential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the non-residential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered under this section by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of the judgment may be stayed as provided in G.S. § 7A-227. An action to remove an occupant of a non-residential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this section unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing body has ordered the Inspector to proceed to exercise his or her duties under § 152.16 of this chapter to vacate and close or remove and demolish the non-residential building or structure.

(Ord. 2015-05, passed 3-9-2015)

§ 152.18 ACTION BY VILLAGE COUNCIL UPON ABANDONMENT OF INTENT TO REPAIR.

(A) If the Village Council has adopted an ordinance or the Inspector has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the Village Council may make findings that the owner has abandoned the intent and purpose to repair, alter or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety and welfare of the municipality in that it would continue to

deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Village Council may, after the expiration of the two-year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

(1) If the cost to repair the non-residential building or structure to bring it into compliance with the minimum standards is less than or equal to 50% of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or

(2) If the cost to repair the non-residential building or structure to bring it into compliance with the minimum standards exceeds 50% of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

(B) In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of five years before the Village Council may take action under this section. The ordinance shall be recorded in the office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Inspector shall effectuate the purpose of the ordinance.
(Ord. 2015-05, passed 3-9-2015)

§ 152.19 DEMOLITION OF NON-RESIDENTIAL BUILDINGS BY OWNER.

Where a non-residential building or structure is under the jurisdiction of this chapter, the building may be demolished by the owner; provided that, the following requirements are met:

(A) The owner shall obtain a demolition permit from the Building Inspections Department;

(B) All sewer, gas, water and similar taps or connections shall be properly closed and disconnected;

(C) All debris from the building shall be removed from the site. This requirement is for the removal of all debris that is above the street level of the building;

(D) The lot shall be graded to a smooth, even, finished grade, free from building material, debris, holes and/or depressions. Where building debris remains on the site below street level, the owner must backfill the lot with 12 inches of clean fill which shall be graded to a smooth, even, finished grade; and

(E) Where walls of adjacent buildings become exposed as a result of the demolition, said walls must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall, unless such doors, windows, vents or other similar openings are to be maintained in accordance with the provisions of this chapter. No protrusions or loose material shall be in the wall. The exposed

wall shall be painted, stuccoed or bricked and weather-proofed if necessary to prevent deterioration of the wall.

(Ord. 2015-05, passed 3-9-2015)

§ 152.20 INSPECTIONS; DEFECTS IN BUILDINGS TO BE CORRECTED.

(A) (1) For the purpose of carrying out the intent of this chapter, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all non-residential buildings and premises, including abandoned structures. The owner or occupant of every non-residential building or the person in charge thereof, shall give the Inspector free access to such building and its premises, at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a non-residential building shall give the owner thereof, or his or her agent or employee, access to any part of such building and its premises at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this chapter or with any lawful order issued pursuant to the provisions of this chapter.

(2) The Inspector may make periodic inspections for unsafe, unsanitary or otherwise hazardous and unlawful conditions in non-residential structures within the jurisdiction. In addition, he or she may make inspections when he or she has reason to believe that such conditions may exist in a particular structure or premises.

(B) When the Inspector finds any defects in a non-residential building, or finds that a building has not been constructed in accordance with applicable state and village laws, or that a building because of its condition is dangerous or contains fire hazardous conditions, it shall be his or her duty to notify the owner or occupant of the building of its defects, hazardous conditions or failure to comply with law. The owner or occupant shall each immediately remedy the defects, hazardous conditions or violations of law in the property he or she owns. Failure to do so shall constitute a violation of this chapter. Each day any violation of this chapter shall continue shall constitute a separate offense.

(Ord. 2015-05, passed 3-9-2015) Penalty, see § 10.99

§ 152.21 VIOLATIONS; PROCEDURE IS ALTERNATIVE.

(A) In addition to the conditions, acts or failure to act that constitute violations specified in this chapter, it shall be unlawful for the owner of any building or structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. It shall be unlawful for the owner of any building, with respect to which an order has been issued pursuant to § 152.13(C) of this chapter, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing or vacation and removal or demolition.

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(B) Neither this chapter, nor any of its provisions, shall be construed to impair or limit in any way the power of the village to define and declare nuisances and to cause their abatement by summary action or otherwise, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedy or remedies provided herein or in other ordinance or laws. In addition to the remedies provided for herein, any violation of the terms of this chapter shall subject the violator to the penalties and remedies as set forth in § 10.99 of this code of ordinances.

(Ord. 2015-05, passed 3-9-2015) Penalty, see § 10.99

CHAPTER 153: LAND USE PLAN

Section

153.01 Land Use Plan adopted by reference

§ 153.01 LAND USE PLAN ADOPTED BY REFERENCE.

The village's 2015 Land Use Plan is hereby adopted by reference and included herein as if set out in full.

(Ord. passed - -; Ord. 2016-06, passed 5-12-2016)

CHAPTER 154: FLOOD DAMAGE PREVENTION

Section

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GENERAL PROVISIONS

§ 154.01 STATUTORY AUTHORIZATION.

The Legislature of the state has, in G.S. Ch. 143, Art. 21, Part 6, in G.S. Ch. 160A, Art. 19, Parts 3, 5 and 8 and in G.S. Ch. 160A, Art. 8, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare.
(Ord. 2008-13, passed 1-12-2009)

§ 154.02 FINDINGS OF FACT.

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

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood-prone areas of uses vulnerable to floods or other hazards.
(Ord. 2008-13, passed 1-12-2009)

§ 154.03 STATEMENT OF PURPOSE.

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

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

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

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

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

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

(Ord. 2008-13, passed 1-12-2009)

§ 154.04 OBJECTIVES.

The objectives of this chapter are to:

(A) Protect human life, safety and health;

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

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

(D) Minimize prolonged business losses and interruptions;

(E) Minimize damage to public facilities and utilities (i.e., water and gas mains, electric, telephone, cable and sewer lines, streets and bridges) that are located in flood-prone areas;

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

(G) Ensure that potential buyers are aware that property is in a special flood hazard area.

(Ord. 2008-13, passed 1-12-2009)

§ 154.05 DEFINITIONS.

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

ACCESSORY STRUCTURE (APPURTENANT STRUCTURE). A structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal

structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as *ACCESSORY STRUCTURES* on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

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

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

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

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

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. (Also known as the *100-YEAR FLOOD*.)

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

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

BUILDING. See *STRUCTURE*.

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

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

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

DRAINAGE EASEMENT. An area of land dedicated for the purpose of conveying storm water runoff by means of an open channel or drainage pipe.

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

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

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

FEMA. Federal Emergency Management Agency, or its designated authority.

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

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD INSURANCE. The insurance coverage provided under the National Flood Insurance Program.

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

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

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

FLOOD ZONE. A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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

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

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

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

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

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

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

FREEBOARD. The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The base flood elevation (BFE), plus the freeboard, establishes the "regulatory flood protection elevation". **FREEBOARD** also means the vertical distance between the water level and the top of a structure, such as a dam, that impounds or restrains water.

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

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

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

HISTORIC STRUCTURE. Any structure that is:

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

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

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

(4) Certified as contributing to the historical significance of a historic district designated by a community with a certified local government (CLG) program. Certified local government (CLG) programs are approved by the U.S. Department of the Interior in cooperation with the state's Department of Cultural Resources through the state's Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966, 54 U.S.C. §§ 300101 et seq., as amended in 1980.

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

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

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

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

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

MEAN SEA LEVEL. For purposes of this chapter, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to

which base flood elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

NEW CONSTRUCTION. Structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

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

POST-FIRM. Construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map.

PRE-FIRM. Construction or other development for which the “start of construction” occurred before the effective date of the initial Flood Insurance Rate Map.

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

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

PUBLIC WATER SUPPLY SYSTEM. Any water supply system furnishing potable water to ten or more dwelling units or businesses or any combination thereof.

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

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

REFERENCE LEVEL. The top of the lowest floor for structures within special flood hazard areas designated as Zones A1-A30, AE, A, A99 or AO, and represents the portion of the structure/utility that must meet the regulatory flood protection elevation.

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

REMEDY A VIOLATION. To bring the structure or other development into compliance with state and community floodplain management regulations or, if this is not possible, to reduce the impacts of its non-compliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations or reducing federal financial exposure with regard to the structure or other development.

RIVERINE. Relating to, formed by, or resembling a river (including tributaries), stream, brook and the like.

RUNOFF. Precipitation from rain or snowfall, which flows over the ground.

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

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

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

SPECIAL FLOOD HAZARD AREA (SFHA). The land in the floodplain subject to a 1 % or greater chance of being flooded in any given year, as determined in § 154.07 of this chapter.

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

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

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

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, rehabilitation, addition or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

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

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

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

VIOLATION. The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in §§ 154.25 through 154.28 and 154.40 through 154.51 of this chapter is presumed to be in **VIOLATION** until such time as that documentation is provided.

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

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

(Ord. 2008-13, passed 1-12-2009)

§ 154.06 LANDS TO WHICH CHAPTER APPLIES.

This chapter shall apply to all special flood hazard areas within the jurisdiction, including extraterritorial jurisdictions (ETJs) of village.

(Ord. 2008-13, passed 1-12-2009)

§ 154.07 BASIS FOR ESTABLISHING SPECIAL FLOOD HAZARD AREAS.

(A) The special flood hazard areas are those identified under the cooperating technical state (CTS) agreement between the state and FEMA in its Flood Insurance Study (FIS) for Union County dated 10-16-2008, and its accompanying Flood Insurance Rate Map Panels for the village, also dated 10-16-2008 (4474J, 4475J, 4484J, 4485J, 4486J, 4494J, 4495J, 4496J, 4497J, 5405J and 5406J), which are adopted by reference and declared to be a part of this chapter.

(B) The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:

(1) Union County Unincorporated Area, dated 7-18-1983; and

(2) Wesley Chapel, Village of, dated 7-18-1993.

(Ord. 2008-13, passed 1-12-2009)

§ 154.08 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT.

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities within special flood hazard areas determined in accordance with the provisions of § 154.07 of this chapter.

(Ord. 2008-13, passed 1-12-2009)

§ 154.09 COMPLIANCE.

No structure or land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of this chapter and other applicable regulations.

(Ord. 2008-13, passed 1-12-2009)

§ 154.10 ABROGATION AND GREATER RESTRICTIONS.

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

(Ord. 2008-13, passed 1-12-2009)

§ 154.11 INTERPRETATION.

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

(A) Considered as minimum requirements;

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

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.
(Ord. 2008-13, passed 1-12-2009)

§ 154.12 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by human-made or natural causes. This chapter does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the village or by any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

(Ord. 2008-13, passed 1-12-2009)

§ 154.13 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOOD DAMAGE PREVENTION ORDINANCE.

(A) (1) This chapter in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted 8-22-2000, as amended, and it is not the intention to repeal, but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced.

(2) The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending.

(3) All provisions of the Flood Damage Prevention Ordinance of the village enacted on 8-22-2000, as amended, which are not reenacted herein are repealed.

(B) The date of the initial Flood Damage Prevention Ordinance for Union County is 5-24-1983.
(Ord. 2008-13, passed 1-12-2009)

§ 154.14 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.

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

(Ord. 2008-13, passed 1-12-2009)

ADMINISTRATION

§ 154.25 FLOODPLAIN ADMINISTRATOR; DUTIES AND RESPONSIBILITIES.

(A) The Zoning Administrator, or his or her designee, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this chapter.

(B) The Floodplain Administrator shall, with the assistance of the village’s Engineering Consultant as necessary, perform, but not be limited to, the following duties:

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

(2) Review all proposed development within special flood hazard areas to assure that all necessary local, state and federal permits have been received;

(3) Notify adjacent communities and the state’s Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained;

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of § 154.45 of this chapter are met;

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of § 154.26(C) of this chapter;

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been flood-proofed, in accordance with the provisions of § 154.26(C) of this chapter;

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of § 154.26(C) of this chapter;

(9) When flood-proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of §§ 154.26(C) and 154.42(B) of this chapter;

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

(11) When base flood elevation (BFE) data has not been provided in accordance with the provisions of § 154.26 of this chapter, obtain, review and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state or other source, including data developed pursuant to § 154.43(B)(2) of this chapter, in order to administer the provisions of this chapter;

(12) When base flood elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of § 154.26 of this chapter, obtain, review and reasonably utilize any floodway data or non-encroachment area data available from a federal, state or other source in order to administer the provisions of this chapter;

(13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a special flood hazard area is above the base flood elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA; and maintain a copy of the LOMA issued by FEMA in the floodplain development permit file;

(14) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, 5 U.S.C. § 552a, as amended;

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

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

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

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

(19) Follow through with corrective procedures of § 154.27 of this chapter;

(20) Review, provide input and make recommendations for variance requests;

(21) Maintain a current map repository to include, but not limited to, the FIS report, FIRM and other official flood maps and studies adopted in accordance with the provisions of § 154.07 of this chapter, including any revisions thereto including Letters of Map Change, issued by FEMA; and notify the state and FEMA of mapping needs; and

(22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).
(Ord. 2008-13, passed 1-12-2009)

§ 154.26 FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION.

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

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

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

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

(b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in § 154.07 of this chapter, or a statement that the entire lot is within the special flood hazard area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in § 154.07 of this chapter;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in § 154.07 of this chapter;

(e) The base flood elevation (BFE) where provided as set forth in §§ 154.07, 154.25 or 154.43 of this chapter;

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

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

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

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

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

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

(d) If flood-proofing, a flood-proofing certificate (FEMA Form 81-65) with supporting data, an operational plan and an inspection and maintenance plan that include, but are not limited to, installation, exercise and maintenance of flood-proofing measures;

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

1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

2. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with § 154.42(D)(3) of this chapter when solid foundation perimeter walls are used in Zones A, AO, AE and A1-30.

(f) Usage details of any enclosed areas below the lowest floor;

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

(h) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received;

(i) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of § 154.41(F) and (G) of this chapter are met; and

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

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

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

(2) The special flood hazard area determination for the proposed development in accordance with available data specified in § 154.07 of this chapter;

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

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

(5) All certification submittal requirements with timelines;

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

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

(8) Limitations of below BFE enclosure uses (if applicable) (i.e., parking, building access and limited storage only).

(C) *Certification requirements.*

(1) *Elevation certificates.*

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

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

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

(2) *Flood-proofing certificate.*

(a) If non-residential flood-proofing is used to meet the regulatory flood protection elevation requirements, a flood-proofing certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the flood-proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood-proofing certification shall be prepared by or under the direct

supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

(b) If a manufactured home is placed within Zones A, AO, AE or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of § 154.42(C)(2) of this chapter.

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

(3) *Certification exemptions.* The following structures, if located within Zones A, AO, AE or A1-30, are exempt from the elevation/flood-proofing certification requirements specified in divisions (C)(3)(a) and (C)(3)(b) below:

(a) Recreational vehicles meeting requirements of §§ 154.41(D) and 154.42(F)(1) of this chapter;

(b) Temporary structures meeting requirements of §§ 154.41(E) and 154.42(G) of this chapter; and

(c) Accessory structures less than 150 square feet meeting requirements of §§ 154.41(F) and 154.42(H) of this chapter.
(Ord. 2008-13, passed 1-12-2009)

§ 154.27 CORRECTIVE PROCEDURES.

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

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

(1) The building or property is in violation of the floodplain management regulations;

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

(3) Following the hearing, the Floodplain Administrator may issue an order to alter, vacate or demolish the building or to remove fill as applicable.

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

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

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

(Ord. 2008-13, passed 1-12-2009)

§ 154.28 VARIANCE PROCEDURES.

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

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

(C) Variances may be issued for:

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

(2) Functionally dependent facilities if determined to meet the definition as stated in § 154.05 of this chapter; provided, provisions of divisions (C)(4)(b), (C)(4)(c) and (C)(4)(e) below have been

satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety;

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

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

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

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

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

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

(e) The necessity to the facility of a waterfront location as defined under § 154.05 of this chapter as a functionally dependent facility, where applicable;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

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

and

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

(Ord. 2008-13, passed 1-12-2009)

FLOOD HAZARD REDUCTION

§ 154.40 GENERAL STANDARDS.

In all special flood hazard areas, the following provisions are required.

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

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

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

(D) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters and electric outlets/switches.

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

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

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

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

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

(J) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards and chemical storage facilities shall not be permitted.

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

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

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

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

(O) When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(P) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.

(Ord. 2008-13, passed 1-12-2009)

§ 154.41 SPECIFIC STANDARDS FOR LOTS RECORDED ON OR AFTER 8-22-2000.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in §§ 154.07 and 154.43 of this chapter, the following provisions, in addition to the provisions of § 154.40 of this chapter, are required.

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation and shall be located outside the limits of the SFHA, as defined in § 154.05 of this chapter.

(B) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation and shall be located outside the limits of the SFHA, as defined in § 154.05 of this chapter.

(C) *Manufactured homes.* New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation and shall be located outside the limits of the SFHA, as defined in § 154.05 of this chapter.

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

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

(2) Meet all the requirements for new construction.

(E) *Temporary non-residential structures.* Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the

removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
- (2) The name, address and phone number of the individual responsible for the removal of the temporary structure;
- (3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- (4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- (5) Designation, accompanied by documentation, of a location outside the special flood hazard area, to which the temporary structure will be moved.

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

- (1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas).
- (2) Accessory structures shall not be temperature-controlled.
- (3) Accessory structures shall be designed to have low flood damage potential.
- (4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters.
- (5) Accessory structures shall be firmly anchored in accordance with the provisions of § 154.40(A) of this chapter.
- (6) All service facilities such as electrical shall be installed in accordance with the provisions of § 154.40(D) of this chapter.
- (7) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of § 154.42(D)(3) of this chapter.

(8) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood-proofing certificate. Elevation or flood-proofing certifications are required for all other accessory structures in accordance with § 154.26(C) of this chapter.

(G) *Recordation of lots within SFHA.* Prior to recordation of lots within the SFHA, as defined in § 154.05 of this chapter, the following provisions shall be met.

(1) *Lots wholly located within the SFHA.* No proposed residential or non-residential building lot, excepting lots strictly to be used for recreational purposes and without a structure, that is wholly located within the SFHA shall be approved.

(2) *Lots partially located within the SFHA.*

(a) No proposed residential or non-residential building lot that is partially located within the SFHA shall be approved unless there is established on the lot plan a contour line representing the regulatory flood protection elevation, as defined in § 154.05 of this chapter. All buildings or structures shall be located on such a lot so that the lowest floor, as defined in § 154.05 of this chapter, shall not be below the regulatory flood protection elevation.

(b) Where only a portion of a proposed lot is located within the SFHA, such lot may be approved only if it has:

1. An area that is located outside the SFHA that is equal to or exceeds the minimum lot size for the zoning district; and

2. Available for building a usable lot area of not less than 5,000 square feet of contiguous area. The usable lot area shall be determined by deducting from the total lot area the area of all yard setbacks required by the applicable zoning regulations, areas within restrictive easements and any remaining area of the lot lying below the regulatory flood protection elevation contour line.

(H) *Dryland access.* Access to habitable buildings during a flood event is extremely hazardous. Dryland access must be provided to new or substantially improved habitable buildings according to the following criteria.

(1) Dryland access is required if any portion of either the habitable building or vehicular access route, connecting the habitable building to a public street, is within the SFHA. If dryland access cannot be obtained, a variance to the requirements for dryland access may be granted by the Board of Adjustment. Plans and details for the dryland access must be submitted by a registered professional engineer or surveyor and approved by the Floodplain Administrator.

(2) The following are exempt from the dryland access requirement:

(a) Substantial improvement to an existing habitable building where the property does not have any access to a non-flooding street; and

(b) Construction of a new habitable building where both the habitable building and the access route connecting it to a street, are located entirely outside the floodway and where the property does not have any access to a non-flooding street. Under this exemption, access from the habitable building to the street must:

1. Connect to the highest point of the public street adjacent to the property;
 2. Be constructed of gravel, pavement or concrete and be at least 12 feet wide; and
 3. Be constructed entirely at or above the elevation of highest point of the public street adjacent to the property.
- (Ord. 2008-13, passed 1-12-2009)

§ 154.42 SPECIFIC STANDARDS FOR LOTS RECORDED PRIOR TO 8-22-2000.

In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in §§ 154.07 or 154.43 of this chapter, the following provisions, in addition to the provisions of § 154.40 of this chapter, are required.

(A) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 154.05 of this chapter.

(B) *Non-residential construction.* New construction and substantial improvement of any commercial, industrial or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in § 154.05 of this chapter. Structures located in A, AE, AO and A1-30 Zones may be flood-proofed to the regulatory flood protection elevation in lieu of elevation; provided that, all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are water-tight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the flood-proofing elevation shall be in accordance with § 154.46(B) of this chapter. A registered professional engineer or architect shall certify that the flood-proofing standards of this division (B) are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in § 154.26(C) of this chapter, along with the operational plan and the inspection and maintenance plan.

(C) *Manufactured homes.*

(1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in § 154.05 of this chapter.

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

(3) All enclosures or skirting below the lowest floor shall meet the requirements of division (D) below.

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

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

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

(2) Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and

(3) Shall include, in Zones A, AO, AE and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of flood waters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

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

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

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

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

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

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

(E) *Additions/improvements.*

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

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

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

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

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

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

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

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

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

(2) Meet all the requirements for new construction.

(G) *Temporary non-residential structures*. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

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

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

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

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

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

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

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

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

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

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

(5) Accessory structures shall be firmly anchored in accordance with the provisions of § 154.40(A) of this chapter.

(6) All service facilities such as electrical shall be installed in accordance with the provisions of § 154.40(D) of this chapter.

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

(8) An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or flood-proofing certificate. Elevation or flood-proofing certifications are required for all other accessory structures in accordance with § 154.26(C) of this chapter.

(Ord. 2008-13, passed 1-12-2009)

§ 154.43 STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.

Within the special flood hazard areas designated as Approximate Zone A and established in § 154.07 of this chapter, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of § 154.40 of this chapter, shall apply.

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

(B) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria.

(1) When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this chapter and shall be elevated or flood-proofed in accordance with standards in §§ 154.40 and 154.41 of this chapter.

(2) When floodway or non-encroachment data is available from a federal, state or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of §§ 154.41 and 154.45 of this chapter.

(3) All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with § 154.07 of this chapter and utilized in implementing this chapter.

(4) When base flood elevation (BFE) data is not available from a federal, state or other source as outlined above, the reference level shall be elevated or flood-proofed (non-residential) to or above the regulatory flood protection elevation, as defined in § 154.07 of this chapter. All other applicable provisions of § 154.41 of this chapter shall also apply.
(Ord. 2008-13, passed 1-12-2009)

§ 154.44 STANDARDS FOR RIVERINE FLOODPLAINS WITH BASE FLOOD ELEVATIONS BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.

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

(A) Standards of §§ 154.40 and 154.41 of this chapter; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
(Ord. 2008-13, passed 1-12-2009)

§ 154.45 FLOODWAYS AND NON-ENCROACHMENT AREAS.

(A) Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in § 154.07 of this chapter. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of flood waters that have erosion potential and carry debris and potential projectiles.

(B) The following provisions, in addition to standards outlined in §§ 154.40 and 154.41 of this chapter, shall apply to all development within such areas.

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

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

(b) A Conditional Letter of Map Revision (CLOMR) has been approved by the village and FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(2) If division (B)(1) above is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this chapter.

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

- (a) The anchoring and the elevation standards of § 154.42(C) of this chapter; and
- (b) The no encroachment standard of division (B)(1) above.

(4) Development which causes a rise of greater than zero feet in the FEMA base flood elevation and impacts an existing habitable building will not be allowed.
(Ord. 2008-13, passed 1-12-2009)

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

(A) Located within the special flood hazard areas established in § 154.07 of this chapter are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.

(B) In addition to §§ 154.40 and 154.41 of this chapter, all new construction and substantial improvements shall meet the following requirements.

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM) in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least four feet above the highest adjacent grade if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be flood-proofed to the same level as required in division (A) above so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with §§ 154.26(C) and 154.41(B) of this chapter.

(3) Adequate drainage paths shall be provided around structures on slopes, to guide flood waters around and away from proposed structures.
(Ord. 2008-13, passed 1-12-2009)

§ 154.47 SPECIAL PROVISIONS FOR SUBDIVISIONS.

(A) An applicant for a major development permit authorizing a major subdivision, and an applicant for minor subdivision final plat approval, shall be responsible for compliance with the use and construction restrictions contained in this chapter if any portion of the land to be subdivided lies within a floodway or SFHA, as defined in § 154.05 of this chapter.

(B) Final plat approval for any subdivision containing land that lies within a floodway or SFHA shall not be granted unless the plat shows the boundary of all floodway and/or SFHA and contains in clearly discernible print the following statement: "Use of land within a floodway or special flood hazard area (SFHA) is substantially restricted by the Village of Wesley Chapel Zoning Ordinance."

(C) Any major development permit for a major subdivision and any minor subdivision final plat approval shall not be granted if:

(1) The land to be subdivided lies within a zone where residential uses are permissible and it reasonably appears that the proposed subdivision is configured to create residential building lots that infringe on floodways or non-encroachment areas or the SFHA;

(2) Any portion of one or more of the proposed lots lies within a floodway or SFHA; and

(3) It reasonably appears that one or more lots could not practicably be used as a residential building site because of the restrictions set forth in this chapter.

(Ord. 2008-13, passed 1-12-2009)

§ 154.48 WATER SUPPLY AND SANITARY SEWER SYSTEMS IN FLOODWAYS, NON-ENCROACHMENT AREAS AND SPECIAL FLOOD HAZARD AREAS.

(A) Whenever any portion of a proposed development is located within a floodway or SFHA, the agency or agencies responsible for certifying to the village the adequacy of the water supply and sewage disposal systems for the development (as set forth in Ch. 155 of this code of ordinances) shall be informed by the developer that a specified area within the development lies within a floodway or SFHA.

(B) Thereafter, approval of the proposed system by that agency shall constitute a certification that:

(1) Such water supply system is designed to minimize or eliminate infiltration of flood waters into it;

(2) Such sanitary sewer system is designed to minimize or eliminate infiltration of flood waters into it and discharges from it into flood waters; and

(3) Any on-site sewage disposal system is located to avoid impairment to it or contamination from it during flooding.

(Ord. 2008-13, passed 1-12-2009)

§ 154.49 LOCATION OF BOUNDARIES OF SPECIAL FLOOD HAZARD AREAS AND FLOODWAY DISTRICTS.

As used in this article, the terms SFHA and floodway refer in the first instance to certain areas whose boundaries are determined and can be located on the ground by reference to the specific fluvial characteristics set forth in the definitions of these terms. These terms also refer to overlay zoning districts SFHAs shown on the maps referenced in § 154.07 of this chapter, which boundaries are intended to correspond to the actual, physical location of floodways, non-encroachment areas and SFHAs. These overlay districts thus differ from other zoning districts, whose boundaries are established solely according to planning or policy, rather than physical, criteria. Therefore, the Administrator is authorized to make necessary interpretations as to the exact location of the boundaries of floodways, non-encroachment areas or SFHAs if there appears to be a conflict between a mapped boundary and actual field conditions.

(Ord. 2008-13, passed 1-12-2009)

§ 154.50 SETBACKS FROM STREAMS OUTSIDE DESIGNATED SPECIAL FLOOD HAZARD AREAS.

(A) Flood limits of any stream shown on the National Flood Insurance Program Flood Insurance Rate Map (FIRM) designated as a Zone A or Zone AE flood hazard area shall have those limits drawn on the plat to proper scale and certified by a duly licensed professional engineer or registered land surveyor by the state. If the stream is shown on the FIRM with flood elevations, the flooding limits are to be drawn based on the ground survey. If detailed flood elevations do not exist, the applicant may obtain a letter of map amendment (LOMA) or letter of map revision (LOMR) from the Federal Emergency Management Agency (FEMA) for use as a basis of the regulatory flood protection elevation. For lots outside of a detailed study area (Zone A) as shown on the FIRM for which no LOMA or LOMR exists, and where the proposed subdivision, manufactured home park or other development is greater than five acres or has more than 50 lots/manufactured home sites, the base flood elevation data shall be calculated. In all cases, the regulatory flood protection elevation shall be set as described in this chapter.

(B) For all other lots located outside of a detailed study area (Zone A) as shown on the FIRM for which no LOMA or LOMR exists, a regulatory flood protection elevation shall be established as two feet above the highest adjacent drainage easement grade.

(C) In all cases where lots are upstream from street crossings, the regulatory flood protection elevation shall be established as described in this section or set two feet above the low elevation of the street, whichever is greater, and shown on the plat.

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(D) Drainage easements shall be established and recorded for all lots containing storm drainage pipes or channels. No structure, with the exception of a fence, shall be erected across or within a drainage easement. Fences are allowed within drainage easements provided the fence does not restrict or obstruct the natural flow of water in an open channel. The following table shall be used as a minimum for drainage easements for all open channels and streams:

- (1) Less than 25 acres: 20 feet;
- (2) Less than 50 acres: 30 feet;
- (3) Less than 75 acres: 40 feet; and
- (4) Greater than 75 acres: 50 feet.

(E) In addition, all drainage pipes shall have a minimum drainage easement width of 20 feet. The strip of land in the drainage easement to a stream or river shall be retained in its natural vegetative state unless prior approval from the Zoning Administrator is obtained. The values provided in divisions (D)(1) through (D)(4) above are intended for a guide and as a minimum and is not intended to be used in place of accepted engineering practices.

(F) Each plat containing drainage easements for watershed areas exceeding 50 acres will require the following engineering certification:

| |
|---|
| <p>I, _____, a duly registered professional engineer, licensed in the State of North Carolina, do hereby certify that the drainage easements shown on this plat are sufficient to carry the 100-year storm runoff within the easement limits as shown.</p> <p>N.C.P.E. # _____ Date _____</p> <p>_____ (Signature and Seal)</p> |
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(Ord. 2008-13, passed 1-12-2009)

§ 154.51 ARTIFICIAL OBSTRUCTIONS WITHIN FLOODWAYS AND NON-ENCROACHMENT AREAS PROHIBITED.

(A) No artificial obstruction may be located within any floodway.

(B) For purposes of this section, the term *ARTIFICIAL OBSTRUCTION* means any obstruction, other than a natural obstruction, that is capable of reducing the flood-carrying capacity of a stream or may accumulate debris and thereby reduce the flood carrying capacity of a stream. A natural obstruction

includes any rock, tree, gravel or analogous natural matter that is an obstruction and has been located within the floodway by a non-human cause.

(Ord. 2008-13, passed 1-12-2009)

Editor's note:

This section was revised on 9-14-2009.

§ 154.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the village from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2008-13, passed 1-12-2009)

CHAPTER 155: SUBDIVISIONS

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GENERAL PROVISIONS

§ 155.001 TITLE.

This chapter shall be known and may be cited as the “Subdivision Ordinance of the Village of Wesley Chapel, North Carolina”, and may be referred to as the “Subdivision Ordinance” or herein as “this chapter”.

(Ord. passed 8-21-2000, § 101)

§ 155.002 PURPOSE.

(A) The purpose of this chapter is to establish procedures and standards for the development and subdivision of land within the corporate limits of the village. It is further designed to provide for the orderly growth and development of the village, for the coordination of transportation networks and utilities within proposed subdivisions, with existing or planned streets and highways and with other public facilities; for the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision and of rights-of-way or easements for street and utility purposes; to protect floodplains and wetlands; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will assure conditions that substantially promote the public’s health, safety and general welfare.

(B) This chapter is designed to further facilitate adequate provision of water, sewer, parks, schools and playgrounds, and also to facilitate the further resubdivision of larger tracts into smaller parcels of land.

(Ord. passed 8-21-2000, § 102; Ord. passed 1-5-2006)

§ 155.003 AUTHORITY.

This chapter is hereby adopted under the authority and provisions of G.S. Ch. 160A, Art. 19, Part 2.

(Ord. passed 8-21-2000, § 103)

§ 155.004 JURISDICTION.

The regulations contained herein, as provided in G.S. Ch. 160A, Art. 19, Part 2, shall govern each and every subdivision of land within the village corporate limits and the extraterritorial jurisdiction area. (Ord. passed 8-21-2000, § 104; Ord. passed 2-12-2007)

§ 155.005 COMPLIANCE REQUIRED.

All plats for the subdivision of land shall conform to the requirements of this chapter and shall be submitted in accordance with the procedures and specifications established herein. (Ord. passed 8-21-2000, § 105)

§ 155.006 PLATS TO BE APPROVED.

(A) After the effective date of this chapter, no subdivision plat of land within this chapter's jurisdiction shall be filed or recorded with the county's Register of Deeds until it shall have been submitted to and approved by the village as provided hereinafter in this chapter and no land shall be sold or transferred by reference to a plat that has not been approved and recorded in accordance with the provisions of this chapter.

(B) Notwithstanding, the provisions of this chapter shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved or recorded with the Register of Deeds; provided, the contract does all of the following:

(1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance;

(2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat;

(3) Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat; and

(4) Provides that, if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or

lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

(C) The provisions of this chapter shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved or recorded with the Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business; provided that, no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under this chapter and recorded with the Register of Deeds.

(Ord. passed 8-21-2000, § 106; Ord. passed 1-5-2006)

§ 155.007 SUBDIVISION ADMINISTRATOR.

The Village Council shall appoint a Subdivision Administrator to administer this chapter and to undertake other duties as provided for under this chapter.

(Ord. passed 8-21-2000, § 107)

§ 155.008 STREETS AND PUBLIC UTILITIES.

No street shall be maintained by the village, nor shall any street dedication be accepted for ownership and maintenance in any subdivision by virtue of enactment of this chapter. Pursuant to G.S. § 160A-374, approval of a plat required under this chapter shall not be deemed to constitute or effect acceptance by the village of the dedication of any street or other ground, public utility or other public facility shown on the plat. Rather such acceptance, if and when granted, will be by separate ordinance or similar action on the part of the Village Council.

(Ord. passed 8-21-2000, § 108)

§ 155.009 ZONING AND OTHER PLANS.

All proposed subdivisions must also comply in all respects with the requirements of Ch. 156 of this code of ordinances in the area proposed to be subdivided, and any other officially adopted plans in effect for the area proposed to be subdivided.

(Ord. passed 8-21-2000, § 109)

§ 155.010 DEFINITIONS.

(A) "Subdivision" defined.

(1) For purposes of this chapter, **SUBDIVISION** means all division of a tract or parcel of land into two or more lots, building sites or the divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition, nor be subject to any regulations enacted pursuant to this chapter:

(a) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the village as shown in this chapter;

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

(c) The public acquisition by purchase of strips of land for the express purpose of widening or opening of streets; and

(d) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the village as shown in this chapter and Ch. 156 of this code of ordinances.

(e) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with the intestate succession under G.S. Ch. 29.

(2) However, all exempt subdivisions shall be approved via issuance of the following exemption certificate by the Subdivision Administrator prior to the recording of same with the county, but only after submittal of a certificate of submittal type by surveyor to the Subdivision Administrator.

(a) *Exemption certificate.*

I hereby certify that this subdivision of land is exempt from the Wesley Chapel Subdivision Ordinance, and may be recorded with the Union County Register of Deeds Office.

Subdivision Administrator

Date

(b) *Certificate of subdivision type by surveyor.* It is the duty of the surveyor, by a certificate, to certify to the following on the face of the plat:

This survey is of another category of subdivision such as recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision found in the Village of Wesley Chapel Subdivision Ordinance.

(Ord. passed 8-21-2000, § 110)

(B) *“Administrative subdivision” and “minor subdivision” defined.*

(1) *“Administrative subdivision” defined.*

(a) An **ADMINISTRATIVE SUBDIVISION** is defined as a subdivision where:

1. No public or private streets are proposed or necessary;
2. No rights-of-way are dedicated, no easements are dedicated;
3. Where three or fewer lots will result after the subdivision is completed; and
4. Where no public water or sewer systems are proposed.

(b) However, if the subdivider owns, leases, holds an option on or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road or right-of-way, from the property to be subdivided, the proposed subdivision shall not qualify for consideration under § 155.048 of this chapter.

(c) Additionally, the procedure for review of administrative subdivisions shall not be used for an additional time within ten years on any property less than 1,500 feet from the original property boundaries, by anyone, who owned, had an option on or any legal or beneficial interest in the original subdivision at the time the original subdivision received preliminary or final plat approval.

(2) *“Minor subdivision” defined.*

(a) A **MINOR SUBDIVISION** is defined as a subdivision where:

1. No public or private streets are proposed or necessary;
2. No rights-of-way are dedicated, no easements are dedicated;
3. Where four to ten lots are created after the subdivision is completed; and

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4. Where no public water or sewer systems are proposed.

(b) However, if the subdivider owns, leases, holds an option on, or holds any legal or equitable interest in any property adjacent to or located directly across a street, easement, road, or right-of-way, from the property to be subdivided, the proposed subdivision shall not qualify for consideration under § 154.049 of this chapter.

(3) *Generally.* Additionally, § 154.049 of this chapter shall not be used for an additional time within three years on any property less than 1,500 feet from the original property boundaries, by anyone, who owned, had an option on or any legal or beneficial interest in the original subdivision at the time the original subdivision received preliminary or final plat approval.
(Ord. passed 8-21-2000, § 111)

(C) *“Major subdivision” defined.* A **MAJOR SUBDIVISION** is defined as a subdivision where one or more of the following exist:

- (1) New public or private streets or roads are proposed or necessary;
- (2) More than ten lots will result after the subdivision is completed; and
- (3) Public water or sewer systems are proposed.

(Ord. passed 8-21-2000, § 112)

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

ADMINISTRATOR, SUBDIVISION. The person designated by the Village Council to administer this chapter and to undertake other duties as called for in this chapter.

BLOCK. A piece of land bounded by streets or roads.

DEDICATION. A grant, by the owner, of a right to use land for a specified purpose or purposes. Because a transfer of property rights is entailed, **DEDICATION** must be made by written instrument, and shall be completed with a written, complimentary acceptance, both in a form acceptable for recording.

DEEDS OFFICE. Office of the Register of Deeds of Union County, North Carolina.

EASEMENT. The right to use a specified portion of a tract or tracts of land for a specified purpose. All **EASEMENTS** must be made in writing, and in a form suitable for recording as part of a plat.

EXTRATERRITORIAL JURISDICTION. The legal ability of a government to exercise authority beyond the incorporated municipal limit.

EXTRATERRITORIAL JURISDICTION AREA. The area outside the municipal limits, but within the extraterritorial jurisdiction of the village, as may from time to time be adopted by the village.

GATED RESIDENTIAL DEVELOPMENT. A residential subdivision with a gate placed across the entrance street(s) at the outer periphery of the development in order to restrict access. Internal streets of such a development shall be private streets maintained by the homeowners' association.

LOT. A parcel or tract of land or a contiguous combination of several parcels of land in single ownership, and of sufficient area and dimension to comply with all minimum requirements for the uses permitted in the zoning district in which such lot is located.

LOT OF RECORD. A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of the county prior to the adoption of this chapter, or a lot described by metes and bounds, the description of which has been so recorded prior to the date of adoption of this chapter which lot is not in violation of the then-existing county subdivision regulations.

LOT TYPES.

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

(b) **DOUBLE FRONTAGE LOT.** Any lot having access to two street rights-of-way.

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

(d) **PANHANDLE LOT.** A lot which contains a narrow strip providing access under lot type.

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

OFFICIAL MAPS OR PLANS. Any maps or plans officially adopted by the Village Council.

OPEN SPACE. An area (land and/or water) generally lacking in human-made structures and reserved for enjoyment in its unaltered state. Common areas, when so designated on plats, shall be considered as **OPEN SPACE** and subject to the limitations thereof.

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

PRIVATE DRIVEWAY. A roadway serving two or fewer lots, building sites or other division of land not intended to be public ingress or egress.

PRIVATE ROAD. An undedicated private right-of-way which affords access to abutting properties and requires a subdivision streets disclosure statement in accordance with G.S. § 136-102.6.

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

RESERVATION. A designation of land that does not involve any transfer of property rights, but constitutes an obligation to keep the property free from developments for a stated period of time.

RETAINING WALL. A vertical structure designed to restrain soil to a slope that it would not naturally adhere to (typically a steep, near-vertical or vertical slope). **RETAINING WALLS** are used to provide separation between different elevations often in terrain where the landscape needs to be engineered for more specific purposes.

SANITARY SEWER SYSTEM. A complete system of sewage collection, treatment and disposal including approved privies, septic tank systems, connection to public or community sewage systems or other such systems, any of which shall be approved by the appropriate state agency.

SEWAGE. The waste water, and its contents from kitchen, bathroom, toilet, lavatory and laundry of any residence, business establishment, institution or any public building.

STREET.

(a) A dedicated public right-of-way for vehicular traffic (or a private road when permitted by this chapter). The word **STREET** includes, but is not limited to, **ROAD**, **FREEWAY**, **HIGHWAY**, **EXPRESSWAY** and **THOROUGHFARE**.

(b) The following classifications shall apply.

1. **COLLECTOR STREETS.** Streets which carry traffic from minor streets to the system of major streets.

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

3. **FRONTAGE ROAD.** A local street or road that is parallel to a full or partial access controlled facility and functions to provide access to adjacent land.

4. **LOCAL RESIDENTIAL ROAD.** Cul-de-sac dead end streets, as limited by § 155.083 of this chapter, loop streets less than 2,500 feet in length or streets less than one mile in length that do not connect thoroughfares, or serve major traffic generators, and do not collect traffic from more than 100 dwelling units.

5. **MAJOR THOROUGHFARES.** A major thoroughfare as designated by the county's Thoroughfare Plan and adopted by the village, as amended from time to time; additionally, any other routes as designated by the village.

6. **MARGINAL ACCESS STREETS.** Minor streets which are parallel to and adjacent to major streets and highways and which provide access to abutting properties and protection from through traffic.

7. **MINOR ("RESIDENTIAL") STREETS.** Streets which are used primarily for access to the abutting properties.

8. **MINOR THOROUGHFARE.** A minor thoroughfare as designated by the county's Thoroughfare Plan and adopted by the village, as amended from time to time; additionally, any other routes as designated by the village.

9. **RESIDENTIAL COLLECTOR ROAD.** A local access street which serves as a connector street between local residential streets and the thoroughfare system. **RESIDENTIAL COLLECTOR STREETS** typically collect traffic from 100 to 400 dwelling units.

STRUCTURE. Any building, sign, wall, fence or similar physical obstruction placed or erected on the property.

STRUCTURE SETBACK LINE. A line establishing the minimum allowable distance between the nearest portion of any structure including porches and the nearest street right-of-way line when measured perpendicular thereto.

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

SUBDIVISION. Refer to division (A) above.

SUBDIVISION, MAJOR. Refer to division (C) above.

SUBDIVISION, MINOR. Refer to division (B) above.

VILLAGE. The Village of Wesley Chapel, North Carolina.

VILLAGE COUNCIL. The Village Council of the Village of Wesley Chapel, North Carolina.

VILLAGE ENGINEER. The consulting engineering firm chosen by the village to provide engineering services to the village.

(Ord. passed 8-21-2000, § 113; Ord. passed 9-13-2004; Ord. passed 1-5-2006; Ord. passed 10-9-2006; Ord. passed 2-12-2007; Ord. passed 11-10-2014; Ord. 2017-06, passed 10-12-2017; Ord. 2018-03, passed 5-14-2018)

§ 155.011 WORD INTERPRETATION.

For the purpose of this chapter, certain words shall be interpreted as follows.

(A) Words used in the present tense include the future tense.

(B) Words used in the singular number include the plural and words used in the plural number include the singular, unless the natural construction of the wording clearly indicates otherwise.

(C) The word “person” includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.

(D) The word “used for” shall include the meaning “designed for”.

(E) The word “structure” shall include the word “building”.

(F) The word “lot” shall include the words “plot”, “parcel” and “tract”.

(G) The words “shall”, “must” or “will” are always mandatory and not merely directory.

(H) The word “he” shall include the word “she”.

(I) The word “may” is directory and not mandatory.

(J) The work “day” shall mean a normal business day unless otherwise specified.

(K) The words “town”, “village” and the like denote the “incorporated Village of Wesley Chapel”.

(L) All words not specifically defined herein shall be assigned their customary definitions.
(Ord. passed 8-21-2000, § 114)

LEGAL PROVISIONS**§ 155.025 GENERAL PROCEDURE FOR PLAT APPROVAL.**

(A) After the effective date of this chapter, no subdivision plat of land within the village’s jurisdiction shall be filed or recorded in the office of the county’s Register of Deeds until it has been submitted and approved as set forth in §§ 155.045 through 155.057 of this chapter.

(B) The county’s Register of Deeds shall not file or record a plat of a subdivision of land located within the territorial jurisdiction of the village that has not been first approved in accordance with these

provisions, nor shall the county's Clerk of Superior Court order or direct the recording of a plat if the recording would be in conflict with this chapter.

(Ord. passed 8-21-2000, § 201)

§ 155.026 STATEMENT BY OWNER.

The owner of land within the jurisdiction of this chapter, which land is shown on a subdivision plat submitted for recording, shall himself or herself, or through his or her authorized agent, sign a notarized statement on that plat stating that the land shown thereon is within the subdivision regulation jurisdiction of the village.

(Ord. passed 8-21-2000, § 201.1)

§ 155.027 FEES FOR FILING, REVIEW AND APPROVAL.

From time to time, the Village Council shall establish a schedule of fees for plat filing, review and approval, which fees must be paid upon plat submission.

(Ord. passed 8-21-2000, § 202)

§ 155.028 ISSUANCE OF BUILDING PERMITS ON SUBDIVISION LOTS.

No zoning permit, building permit or certificate of occupancy shall be issued for any lot which was created by subdivision after the effective date of this chapter without having first been approved in accordance with this chapter and recorded at the county's Register of Deeds office and, where applicable, an improvements permit has been issued by the county's Health Department.

(Ord. passed 8-21-2000, § 203)

§ 155.029 SEPARABILITY.

Should any section or provision of this chapter be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the ordinance as a whole or any part thereof other than that part of the ordinance so declared to be unconstitutional or invalid.

(Ord. passed 8-21-2000, § 205)

§ 155.030 MODIFICATIONS.

(A) *General.* The Village Council may authorize a modification of these regulations when, in its opinion, undue hardship may result from verbatim compliance with these regulations. Such a modification shall be granted only to the extent that is absolutely necessary and not to an extent which would violate the intent of this chapter.

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(B) *Procedure.* A petition for any such modification shall be submitted in writing by the subdivider to the Subdivision Administrator. The petition shall include:

- (1) The precise nature of the proposed modification of this chapter;
- (2) The reason(s) that the need for the modification exist;
- (3) A plat of the subject property drawn to a scale, suitable for recordation in the office of the appropriate County Register of Deeds, in which the property is located, indicating:
 - (a) North arrow;
 - (b) Dimensions of the subject property; and
 - (c) The precise dimensions of the variance requested.
- (4) The grounds for the modification and all facts relied upon by the subdivider; and
- (5) Any other factual information pertinent to the proposed modification.

(C) *Review.* The Subdivision Administrator shall review the petition and submit his or her written comments and recommendations with the petition to the Planning Board and Village Council for their recommendation and decision.

(D) *Modification; review.*

(1) In granting any modification, the Village Council shall make findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity.

(2) No modification shall be granted unless the Village Council finds:

(a) There are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his or her land;

(b) The modification is necessary for the preservation and enjoyment of a substantial property right of the petitioner;

(c) The circumstances giving rise to the need for the modification are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this chapter;

(d) The granting of the modification will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated; and

(e) The modification will not vary the provisions of Ch. 156 of this code of ordinances applicable to the property.

(3) In approving modifications, the Village Council may also require such additional conditions as will, in its sole judgment, secure substantially the objectives and standards or requirements of this chapter.

(Ord. passed 8-21-2000, § 206; Ord. passed 1-5-2006; Ord. passed 11-10-2014)

§ 155.031 AMENDMENTS.

(A) (1) For the purpose of providing for public health, safety and general welfare, the Village Council may from time to time amend the provisions of this chapter (but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review).

(2) The proposed amendment must be submitted to the Planning Board at least 15 calendar days in advance of the meeting at which the Planning Board considers said amendment, unless this requirement is waived by majority vote of the Planning Board members at the meeting the amendment is considered.

(3) The Planning Board shall have 30 calendar days from the meeting the proposed amendment is considered, within which to submit its report.

(4) If the Planning Board fails to submit a report within the time specified above, the proposed amendment will be forwarded to the Village Council without recommendation of the Planning Board.

(B) (1) No amendment shall be adopted by the Village Council until it has held a public hearing on the amendment.

(2) Notice of the hearing shall be published in a newspaper of general circulation in the village at least once a week for two successive weeks prior to the hearing. The initial notice shall appear not more than 25 calendar days, nor not less than ten calendar days, prior to hearing date. In computing the ten- to 25-calendar day periods, the date of publication shall not be counted, but the date of the hearing shall be counted.

(Ord. passed 8-21-2000, § 207)

§ 155.032 ABROGATION.

This chapter shall neither repeal, abrogate, annul, impair, nor interfere with any existing subdivisions, the plats of which are properly recorded in the county's office of the Register of Deeds prior to the effective date of this chapter, nor with existing easements, covenants, deed restrictions, agreements or permits previously adopted or issued pursuant to law prior to the effective date of this chapter.

(Ord. passed 8-21-2000, § 501)

SUBDIVISION PLATS; REVIEW AND APPROVAL PROCEDURE**§ 155.045 PLAT SHALL BE REQUIRED ON ANY SUBDIVISION OF LAND.**

Pursuant to G.S. § 160A-372, a final plat shall be prepared, approved and recorded in accordance with the provisions of this chapter as a condition precedent to the subdivision of any land with the village.

(Ord. passed 8-21-2000, § 301)

§ 155.046 APPROVAL PREREQUISITE TO PLAT RECORDATION.

Pursuant to G.S. § 160A-373, no plat of a subdivision within the jurisdiction of the village as established in § 155.004 of this chapter shall be recorded by the county's Register of Deeds until it has been finally approved as provided herein. To secure such approval of a proposed subdivision plat, the subdivider shall follow the procedures established in this subchapter, as well as all applicable procedures found in Ch. 156 of this code of ordinances.

(Ord. passed 8-21-2000, § 302)

§ 155.047 PRELIMINARY CONFERENCE.

Any person contemplating the subdivision of property is encouraged to have a preliminary conference with the Subdivision Administrator in order that questions may be answered and that the subdivider may gain a better understanding of the requirements of this chapter, and any other applicable requirements.

(Ord. passed 8-21-2000, § 303; Ord. passed 10-9-2006)

§ 155.048 PROCEDURE FOR ADMINISTRATIVE SUBDIVISIONS.

(A) The Zoning Administrator shall approve or disapprove administrative subdivision final plats in accordance with the provisions of this section.

(B) Prior to submission of a final plat, the subdivider is encouraged to submit to the Subdivision Administrator a sketch plan of the proposed subdivision. The purpose of the sketch plan is to familiarize the Subdivision Administrator with the proposed development and to ensure that it is in compliance with all applicable regulations. The sketch plan should contain the information in § 155.051 of this chapter.

(C) The final plat shall be prepared in accordance with § 155.049 of this chapter.

(D) The Subdivision Administrator shall make a decision within 14 working days after receipt of the complete application.

(E) The Subdivision Administrator shall approve the proposed subdivision unless the subdivision is not an administrative subdivision as defined herein or the proposed subdivision fails to comply with any other applicable requirement of this chapter or Ch. 156 of this code of ordinances.

(F) If the subdivision is disapproved, the Subdivision Administrator shall promptly furnish the applicant with a written statement of the reasons for disapproval.

(G) The subdivider shall file the approved final plat with the County Deeds office within 90 days of approval; otherwise, such approval shall be null and void.

(H) The subdivider shall submit a copy of the recorded plat to the village within 30 days of recording.

(Ord. passed 8-21-2000, § 304; Ord. passed 10-9-2006)

§ 155.049 PROCEDURE FOR REVIEW OF MINOR SUBDIVISIONS.

(A) *“Minor subdivision” defined.* A minor subdivision is defined as set forth in § 155.010(B) of this chapter. This referenced section also provides certain limitations which shall be considered an integral part of this section.

(B) *Preliminary plat review for minor subdivisions.* Prior to submission of a final plat, the subdivider shall submit to the Subdivision Administrator three folded copies of a preliminary plat of the proposed subdivision, along with the fee required by this chapter containing at least the information specified below:

(1) A sketch vicinity map, including north arrow and showing the location of the proposed subdivision in relation to neighboring tracts, existing and/or platted subdivisions, roads, floodplains, wetlands and waterways;

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(2) The boundaries of the tracts;

(3) The total acreage to be subdivided;

(4) The existing and proposed uses of the land within the proposed subdivision and the existing uses of land adjoining it with any proposed use of floodplains or wetlands whatsoever in or adjacent to the proposed subdivision clearly set forth and accompanied by a statement to the effect that no prohibited infringement on such areas will result;

(5) The name, address and telephone number of the property owner;

(6) The name of the proposed subdivision;

(7) Streets and lots of adjacent developed or platted properties;

(8) The zoning classification of the tract and of adjacent properties;

(9) For proposed subdivisions where individual septic tanks are the proposed method for wastewater treatment, the preliminary plat shall be based on the physical characteristics of the site. The applicant shall conduct at least two soil core borings for every one acre of land in the tract to be subdivided and the borings shall be an average of a least four feet in depth. Each boring shall be assigned a separate number and the report shall present the findings of each boring. The subdivider shall show the location of each boring (by number assigned) on the preliminary plat. The report shall contain a written finding stating that each lot contains an adequate building site (meeting all setbacks required by the village), a septic tank drainfield, drainfield repair area and area for well site; thereby complying with all applicable state and county regulations;

(10) The preliminary plat of the proposed subdivision shall show the following:

(a) All streets and property lines;

(b) Proposed building area for each lot;

(c) Septic tank and drainfield locations for each lot;

(d) Site and repair area for each lot;

(e) Proposed area for well site for each lot;

(f) A separate map drawn at the same scale as the final plat showing streets and lot lines, topography with contour intervals of no greater than ten feet (at the discretion of the Subdivision Administrator, contour intervals of five feet may be required), and an accurate mapping of all soil classifications found on the site and general depths thereof; and

(g) A statement provided by a registered land surveyor or professional engineer currently licensed by the state to the effect that no part of the proposed minor subdivision is within any delineated floodplain and/or wetland, or any special flood hazard area.

(h) A separate rough grading concept plan drawn as the same scale as the final plat showing lot lines, topography with contour intervals of no greater than ten feet (at the discretion of the Subdivision Administrator contour intervals of five feet may be required), and an accurate mapping of all soil classifications found on the site and general depths thereof.

(i) A separate map or plan illustrating general site constrains including, but not limited to: areas within floodplains; areas of slopes greater than 15%; and, areas where retaining walls may be required.

(j) Where any retaining walls are required, indicate proposed wall height and proposed material. Retaining wall materials shall have a decorative texture and an integrally tinted earth tone color.

(11) A certificate for future use, in the following form:

| |
|---|
| <p>Preliminary Plat Approval Certificate</p> <p>I hereby certify that the minor preliminary plat shown hereon has been found to comply with the subdivision regulations of the Village of Wesley Chapel, North Carolina, on this _____ day of _____, 20____.</p> <p>_____</p> <p>Subdivision Administrator Village of Wesley Chapel, N.C.</p> |
|---|

(a) 1. A report shall be prepared by a qualified soil scientist and the qualifications and references of the soil scientist shall be documented in the report.

2. Lots to be served by public water shall not be subject to the well site area requirements and lots to be served by public sewer shall not be subject to the septic tank drainfield designation requirements.

3. Written evidence of approval of the proposed lots by the county’s Health Department for septic tanks shall be acceptable in lieu of the soils test requirements, but all other requirements of this division (B)(11) regarding the use of septic tanks must still be met in order for further consideration to take place of any such proposed subdivision.

(b) The preliminary plat shall be prepared by a registered land surveyor currently licensed by the state’s Board of Registration for Professional Engineers and Land Surveyors.

(c) The Subdivision Administrator shall review the preliminary plat within 30 calendar days of its submission and fee(s) payment for general compliance with the requirements of this chapter, and Ch. 156 of this code of ordinances and shall advise the subdivider or his or her authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the final plat, and shall approve, or conditionally approve, pending satisfaction of certain conditions or disapprove the preliminary plat.

(d) One copy of the preliminary plat along with the Subdivision Administrator's comments, recommendations and/or conditions shall be returned to the subdivider and one copy of the same shall be retained by the Subdivision Administrator.

(e) In the event the subdivider disagrees with the written comments, conditional approval conditions and/or recommendations of the Subdivision Administrator, he or she may appeal the Subdivision Administrator's decision to the Planning Board. Such appeal shall be in writing, detailing in full the basis of the appeal.

(f) In the event of an appeal of the Subdivision Administrator's decision, one copy of the preliminary plat along with the Subdivision Administrator's comments, recommendations and/or conditional approval comments, or his or her reasons for disapproval and the appeal itself shall be forwarded to the Planning Board within 15 days of receipt of the appeal. The Planning Board shall consider all information thus provided and shall review and approve or disapprove the preliminary plat at its next regular meeting that follows at least 15 days after the Subdivision Administrator's submittal, or at such other meeting as may be called by the Chairperson of the Planning Board to consider same.

(g) If the preliminary plat is not approved by the Planning Board, a written statement of reasons for denial shall be provided to the subdivider, with a copy being returned to the Subdivision Administrator within five days of disapproval. Upon making necessary changes, but not later than 180 calendar days from receipt of disapproved plat by the subdivider, the subdivider may revise and resubmit the preliminary plat to the Planning Board for approval.

(h) Preliminary plat approval of a minor subdivision shall constitute a vested right as defined in G.S. § 160A-385.1. Said approval shall be documented by the Subdivision Administrator by completing the certificate required as part of the preliminary plat. (See division (B)(11)(a) above).

(C) *Final plat for minor subdivisions.*

(1) Upon approval of a preliminary plat by the Subdivision Administrator or the Planning Board, or in the event of a successful appeal from the Subdivision Administrator's decision, the subdivider may proceed with preparation of the final plat in accordance with the requirements of this chapter.

(2) The subdivider shall submit at least 15 folded copies of the proposed final plat so marked and one Mylar reproducible copy, to the Subdivision Administrator at least 15 days prior to the Planning Board meeting at which it is to be reviewed, along with the required fee.

(3) In the event that the subdivider fails to submit a proposed final plat within one year of approval of the preliminary plat, the approval of the preliminary plat becomes null and void, and the subdivider must begin the procedure as if no preliminary plat had been initially submitted for consideration by the Subdivision Administrator, including the payment of another filing fee as required under this chapter.

(4) (a) The proposed final plat shall be prepared by a registered land surveyor currently licensed and registered by the state's Board of Registration for Professional Engineers and Land Surveyors.

(b) The final plat shall conform to the provisions for plats, subdivisions and mapping requirements set forth in G.S. § 47-30 and the *Manual of Practice for Land Surveying in North Carolina*.

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

(6) (a) Prior to review of the proposed final plat by the Planning Board, the subdivider shall submit a copy of the plat to the county's Health Department for review and comment.

(b) The plat must be returned to the Subdivision Administrator by the subdivider, accompanied by written recommendations from the Health Department for sewage disposal and water supply before any Planning Board consideration shall commence.

(7) (a) Each proposed final plat of a minor subdivision shall also be sent by the subdivider to the District Conservationist of the Natural Resources Conservation Service for review and comment before Planning Board review.

(b) The plat must be returned to the Subdivision Administrator by the subdivider, accompanied by written recommendations from the District Conservationist before any Planning Board consideration shall commence.

(8) The proposed final plat shall meet the specifications established in § 155.054 of this chapter, and the Subdivision Administrator shall review each proposed final plat submittal to ensure that all applicable requirements of this chapter have been fully satisfied. Any errors or omissions discovered shall be identified to the subdivider for correction before proceeding in accordance with division (D) below. The following certificates shall appear on all copies of the minor subdivision final plat. Certificates in divisions (C)(8)(a), (C)(8)(b), (C)(8)(c) and (C)(8)(d) below shall be completed and signed prior to submittal.

(a) *Certificate of ownership and dedication.*

[Certificate is on next page]

Wesley Chapel - Land Usage

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Village of Wesley Chapel, and that I hereby adopt this plan of subdivision with my free consent and hereby establish minimum building setback lines as noted.

Owner(s)

Date

(b) Certificate of survey and accuracy in accordance with the standards and practice for land surveying in the state.

1. a. On the face of each map prepared for recordation, there shall appear a certificate acknowledged before an officer authorized to take acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon.

b. The certificate shall include a statement of error of closure calculated by latitudes and departures.

c. Any lines on the map which are not actually surveyed must be clearly indicated of the map and a statement included in the certificate revealing the source of the information.

2. The certificate shall take the following general form:

State of North Carolina, _____ County

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, etc.) (other); that the ratio of precision as calculated by latitudes and departures is 1: _____, (that _____ the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____); that this map was prepared in accordance with G.S. § 47-30, as amended.

Witness my original signature, registration number and seal this _____ day of _____, 20____.

Registered Land Surveyor

Official Seal

Registration Number

(Certificate of survey and accuracy Form Cont'd)

I, (officer authorized to take acknowledgments) , do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the _____ day of _____, 20____.

Signature of Officer

Official Seal

(c) Certificate of septic tank suitability (if applicable).

The Union County Health Department has evaluated each lot shown for its own septic tank system. As of _____, based on conditions noted in soil evaluation ASE # _____, each lot is suitable for a system. This statement does not guarantee that an improvement permit will be issued.

Signature _____
Date _____

(d) Certificate of approval of the design and installation of utilities and other required improvements.

I hereby certify that any and all required improvements have been installed in an acceptable manner and according to the Village of Wesley Chapel specifications and standards in the Wesley Chapel Subdivision Ordinance, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Village of Wesley Chapel have been given and received.

Mayor, Village of Wesley Chapel, North Carolina

Date

(e) Certificate of approval for recording.

[Certificate is on next page]

Wesley Chapel - Land Usage

I hereby certify that the final subdivision plat shown hereon has been found to comply with the subdivision regulations of the Village of Wesley Chapel, North Carolina, and that this plat has been approved by the Subdivision Administrator and Planning Board for recording in the office of the Register of Deeds of Union County this _____ day of _____, 20_____. Said plat shall be recorded within 90 days of approval; otherwise, without such recordation, the plat shall become null and void.

 Chairperson of the Planning Board
 Village of Wesley Chapel, North Carolina

(f) *Certificate for recording.*

STATE OF NORTH CAROLINA, UNION COUNTY

The foregoing certificate(s) of _____ is (are) certified to be correct. This instrument was presented for registration this day and hour and duly recorded in the office of the Register of Deeds of Union County, N.C. in Book _____, page _____. This _____ day of _____, 20_____ at _____ o'clock A.M., P.M.

By: _____
 Register of Deeds

(D) *Approval of final plat by the Planning Board and recording.*

(1) Following approval of the preliminary plat by the Subdivision Administrator, or the Planning Board on appeal, the subdivider may submit a proposed final plat as specified in division (C) above, for consideration by the Planning Board as follows: 18 copies and one reproducible Mylar copy of the proposed final plat shall be submitted to the Subdivision Administrator, who within 15 days of receipt of said plats shall review same, and shall submit same to the Planning Board along with his or her comments and recommendations, unless the proposed final plat contains errors or omissions that require further action on the part of the subdivider, as provided for in division (C) above. The Subdivision Administrator shall recommend approval, approval conditional upon certain modifications to bring the plat into compliance, or disapproval of the final plat along with his reasons for recommending disapproval.

(2) During review of the proposed final plat, the Subdivision Administrator may appoint an engineer or surveyor to confirm the accuracy of the proposed final plat. If an error greater than 5% is found, the costs of such additional engineering or surveying shall be charged to the subdivider, and the proposed final plat shall not be further considered until such errors are corrected, and all associated costs reimbursed by the subdivider.

(3) Following review and recommendation by the Subdivision Administrator, the Planning Board shall review the proposed final plat at or before its next regularly scheduled meeting which follows

at least 15 days after the Subdivision Administrator's report, or such other time as the Planning Board by majority vote decides.

(4) If the Planning Board approves the proposed final plat without comment, it shall transmit one Mylar and two copies of the plat and its certification thereof to the subdivider through the Subdivision Administrator.

(5) If the Planning Board renders a decision of conditional approval of the proposed final plat with modifications to bring the plat into compliance, it shall retain one copy of the proposed final plat for its minutes, and return its written recommendations and a copy of the plat to the subdivider, and shall remit a copy of the plat and its written recommendations to the Subdivision Administrator, and upon the subdivider complying with the recommendations of the Planning Board, the plat may be resubmitted for consideration by the Planning Board at its next meeting following 15 days from time of receipt of the evidence by the Planning Board and the Subdivision Administrator of subdivider compliance with the Planning Board's recommendations.

(6) If the Planning Board disapproves the final plat, it shall submit in writing to the subdivider one copy of the plat, and the reasons for such disapproval, specifying the provisions of this chapter with which the final plat does not comply, and instruct the subdivider concerning resubmission of a revised plat and the subdivider may make such changes as will bring the plat into compliance with the provisions of this chapter, and resubmit same for consideration by the Planning Board; in which case the procedures set forth in division (C) above and this division shall be repeated.

(7) If the Planning Board approves the final plat, either initially or subsequently as provided for herein, such approval shall be shown on each copy of the plat, including the reproducible Mylar copy, by completion of the certificate in division (C)(8)(e) above.

(8) Once the final plat is recorded, the certificate in division (C)(8)(f) above on the final plat shall be completed and signed by the Register of Deeds and a copy sent by the applicant to the Subdivision Administrator. The reproducible Mylar copy shall be recorded with the county's Register of Deeds office by the subdivider within 90 calendar days of approval; otherwise, such approval shall become null and void.

(Ord. passed 8-21-2000, § 305; Ord. passed 11-10-2014; Ord. 2017-06, passed 10-12-2017)

§ 155.050 MAJOR SUBDIVISION PLAT APPROVAL.

A major subdivision is defined as set forth in § 155.010(C) of this chapter. Prior to the start of construction or installation of any subdivision improvements, all major subdivisions shall be submitted and approved in accordance with §§ 155.051, 155.052, 155.054, 155.091 and 155.110 through 155.115 of this chapter.

(Ord. passed 8-21-2000, § 306; Ord. passed 9-9-2002)

§ 155.051 SKETCH PLAN FOR MAJOR SUBDIVISIONS.

A sketch plan, as provided in § 155.051(A) of this chapter, shall be prepared by a registered land surveyor currently licensed and registered in the state by the state's Board of Registration for Professional Engineers and Land Surveyors.

(A) *Number of copies and contents.* Prior to the initiation of an application for approval consideration of a preliminary plat, the subdivider shall submit to the Subdivision Administrator three folded copies of a sketch plan of the proposed subdivision containing the following information:

(1) A sketch vicinity map, including a north arrow, and showing the location of the proposed subdivision in relation to neighboring tracts, existing and/or platted subdivisions, roads, floodplains, wetlands and waterways;

(2) The boundaries of the tract and the portion of the tract to be subdivided;

(3) The total acreage to be subdivided;

(4) The existing and proposed uses of land within the proposed subdivision and the existing uses of land adjoining it with any proposed use of floodplains or wetlands whatsoever in or adjacent to the proposed subdivision clearly set forth and accompanied by a statement to the effect that no infringement on such areas will result;

(5) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;

(6) The name, address and phone number of the property owner;

(7) The name of the proposed subdivision;

(8) Streets and lots of adjacent developed or platted properties;

(9) The zoning classification of the tract and of adjacent properties;

(10) For proposed subdivisions where individual septic tanks are the proposed method for wastewater treatment, the subdivider shall submit a report evaluating the suitability of the site for septic tank drainfields. The report shall be based of the physical characteristics of the site. The applicant shall conduct at least two soil core borings for every one acre of land in the tract to be subdivided and the borings shall be an average of at least four feet in depth. Each boring shall be assigned a separate number and the report shall present the findings of each boring. The subdivider shall show the location of each boring (by number assigned) on the sketch plan. The report shall include the description of soils in accordance with: N.C.A.C. Title 10, Department of Human Resources, Ch. 10, Health Services; Environmental Health, Subch. 10A, Sanitation, and the U.S. Department of Agriculture Handbook Number 18, Soil Survey Manual. The report shall also include a description of soil color, using the

Munsell Soil Color Charts, Published Munsell Color, Macbeth Division of Kollmorgen Corporation. The report shall further draw conclusions as to the suitability of the number and type of septic systems proposed as derived from the testing, color and type of soil for each sample of soil taken; and

(11) (a) The sketch plan shall also show the following:

1. All streets and property lines;
2. Proposed building area for each lot;
3. Septic tank and drainfield location for each lot;
4. Site and repair area for each lot;
5. Proposed area for well site for each lot;
6.
 - a. A separate rough grading concept plan drawn at the same scale as the final plat showing streets and lot lines, topography with contour intervals of no greater than ten feet (at the discretion of the Subdivision Administrator contour intervals of five feet may be required), and an accurate mapping of all soil classifications found on the site and general depths thereof;
 - b. A separate map or plan illustrating general site constraints including, but not limited to: areas within floodplains; areas of slopes greater than 15%; and, areas where retaining walls may be required;
 - c. Where any retaining walls are required, indicate proposed wall height and proposed material. Retaining wall materials shall have a decorative texture and an integrally tinted earth tone color; and
7. A discussion of how any floodplains and/or wetlands are protected.

(b) The report shall be prepared by a qualified soil scientist and the qualifications and references of the soil scientist shall be documented in the report. Lots to be served by public water shall not be subject to the well site area requirements and lots to be served by public sewer shall not be subject to the septic tank drainfield designation requirements. Written evidence of approval of the proposed lots by the county's Health Department for septic tanks shall be acceptable in lieu of the soils test requirement, but all other requirements of this division (A) regarding the use of septic tanks must still be met in order for further consideration to take place of any such proposed subdivision.

(B) *Submission and review procedure for major subdivisions.*

(1) The Subdivision Administrator shall, within 30 calendar days of receipt of the requisite number of copies of the sketch plan and associated information required in division (A) above for any

major subdivision and the specified fee, review the sketch plan and accompanying information to ensure general compliance with the requirements of this chapter and Ch. 156 of this code of ordinances.

(2) The Subdivision Administrator shall then advise the subdivider or his or her authorized agent of the regulations pertaining to the proposed subdivision and the procedures to be followed in the preparation and submission of the preliminary and final plats. The Subdivision Administrator, at his or her discretion, may request review of the sketch plan by the Village Engineer if there are floodplain, drainage, storm water management, transportation or other engineering concerns. Any expenses associated with plan reviews by the Village Engineer shall be borne entirely by the subdivider.

(3) One copy of the sketch plan and associated information shall be retained as a part of the record of the Subdivision Administrator with another copy being returned to the subdivider or his or her authorized agent along with any notations of non-compliance made by the Subdivision Administrator or Village Engineer.

(Ord. passed 8-21-2000, § 307; Ord. passed 10-11-2004; Ord. 2017-06, passed 10-12-2017)

§ 155.052 MAJOR SUBDIVISION PRELIMINARY PLAT SUBMISSION AND REVIEW.

(A) Submission procedure.

(1) Following receipt of Subdivision Administrator notations, the subdivider may submit a preliminary plat, accompanied by the fee required by this chapter, which shall be submitted to the Subdivision Administrator, who shall review the preliminary plat within 30 calendar days of receipt thereof. The number of lots on the preliminary plat shall not exceed by 5% the number of lots on the sketch plan. Should they exceed 5%, a new sketch plan and accompanying information shall be filed with the Subdivision Administrator before further consideration and the original submission shall become null and void.

(2) At least 15 folded copies of the preliminary plat shall be submitted to the Subdivision Administrator at least 60 calendar days prior to the meeting at which the subdivider desires the Planning Board to review the preliminary plat. One additional copy of the preliminary plat shall be on reproducible Mylar material.

(3) The preliminary plat shall be of a size suitable for recording with the county's Register of Deeds and shall be at a scale of not less than one inch equals 200 feet. The preliminary plat shall be prepared by a registered land surveyor currently licensed and registered by the state's Board for Professional Engineers and Land Surveyors. Maps may be placed on more than one sheet with appropriate match lines.

(4) (a) Preliminary plats shall meet all specifications set forth in § 155.054 of this chapter, plus the certificates found in § 155.049(C)(8)(a), (b), and (c) of this chapter shall be completed and included on the plat as well as the following certificates:

- 1. *Certificate of NCDOT approval for public roads.*

| |
|--|
| <p>DEPARTMENT OF TRANSPORTATION DIVISION OF HIGHWAYS</p> <p>PROPOSED SUBDIVISION ROAD CONSTRUCTION STANDARDS CERTIFICATION</p> <p>APPROVED _____ District Engineer</p> <p>DATE _____</p> |
|--|

- 2. *Certificate of approval for private roads.*

| |
|--|
| <p>PROPOSED SUBDIVISION ROAD CONSTRUCTION STANDARDS CERTIFICATION</p> <p>APPROVED _____ Village of Wesley Chapel Consulting Engineer</p> <p>DATE _____</p> |
|--|

- 3. *Preliminary plat approval certificate.*

| |
|---|
| <p>I hereby certify that the preliminary plat shown hereon has been found to comply with the subdivision regulations of the Village of Wesley Chapel, North Carolina on this _____ day of _____, 20____.</p> <p>_____ Mayor, Village of Wesley Chapel, N.C.</p> |
|---|

(b) For proposed subdivisions where individual septic tank are the proposed method for wastewater treatment, the preliminary plat shall be accompanied by a report of site suitability for individual wells and septic tanks and soil suitability for septic tank drainfields. The report shall contain all of the information required in division (A) above with respect to soil suitability for septic tank drainfields including the results of any findings of any subsequent borings made. The report shall contain a written finding stating that each lot contains, separate from an adequate building site (meeting all

setbacks required by the village), a septic tank drainfield, drainfield repair area and well site; meeting all applicable state regulations. The report shall contain a map of the proposed subdivision showing the following:

1. All streets and property lines;
2. Proposed building area for each lot;
3. Septic tank and drainfield locations for each lot;
4. Site and repair area for each lot;
5. Proposed well site for each lot;
6. A separate map drawn at the same scale as the final plat showing streets and lot lines, topography with contour intervals of no greater than ten feet (at the discretion of the Subdivision Administrator contour intervals of five feet may be required), an accurate mapping of all soil classification found on the site and general depths thereof;
7. Intention, if any, to submit the proposed final plat in segments as allowed (and limited) in § 155.053(C) of this chapter; and
8. A discussion of how any floodplains and/or wetlands are protected.

(c) The report shall be prepared by a qualified soil scientist and the qualifications of the soil scientist shall be documented in the report. The report shall include the description of soils in accordance with: N.C.A.C. Title 10, Department of Human Resources, Ch. 10, Health Services; Environmental Health, Subch. 10A, Sanitation; and the U.S. Department of Agriculture Handbook Number 18, Soil Survey Manual.

(d) The report shall also include a description of soil color, using the Munsell Soil Color Charts, Published Munsell Color, Macbeth Division of Kollmorgen Corporation.

(e) The report shall further draw conclusions as to the suitability of the number and type of septic systems proposed as derived from the testing, color and type of soil for each sample of soil taken.

(f) Written evidence of approval of the proposed lots by the county's Health Department for septic tanks shall be acceptable in lieu of the soils test requirement, but all other requirements of this division (A) regarding the use of septic tanks must still be met in order for further consideration of any such proposed subdivision.

(g) The above preliminary plat shall be prepared by a registered land surveyor currently licensed by the state by the state's Board of Registration for Professional Engineers and Land Surveyors.

(B) *Review by Health Department and other agencies.*

(1) Once the preliminary plat and all associated information has been received by the Subdivision Administrator, he or she shall determine the agencies to which the preliminary plat shall be submitted for review and recommendation. The Subdivision Administrator shall prepare a form cover letter for each agency to which the preliminary plat shall be submitted for use by the subdivider. The letter shall state the date of the Planning Board meeting at which the preliminary plat shall first be considered. All preliminary plats and soils information shall be submitted to the county's Health Department and Natural Resource Conservation Service for review of suitability of the land for septic tanks and wells and for other considerations as appropriate. All preliminary plats and accompanying streets information shall be submitted to the office of the District Engineer of the state's Department of Transportation. The Subdivision Administrator shall determine other agencies for preliminary plat review, as appropriate, including, but not limited to, the state's Department of Natural Resources and Community Development (including appropriate individual, agencies within said Department), the county's Public Works Department and the county's Board of Education.

(2) The Subdivision Administrator, at his or her discretion, may request review of the preliminary plat by the Village Engineer if there are floodplain, drainage, storm water management, transportation or other engineering concerns. The subdivider shall respond to all comments by the Village Engineer, make all necessary revisions to the preliminary plat and associated plans, and submit revised copies to the Subdivision Administrator at least 15 days prior to the Planning Board meeting at which the preliminary plat is to be considered. Any expenses associated with plan reviews by the Village Engineer shall be borne entirely by the subdivider.

(3) The subdivider shall deliver preliminary plat copies along with the form cover letter to the agencies which are determined by the Subdivision Administrator to be appropriate for review at least 30 calendar days prior to the desired Planning Board meeting. Upon receipt of all replies, the subdivider shall submit the agencies' reviews to the Subdivision Administrator at least 15 days prior to the Planning Board meeting at which the preliminary plat is to be considered. No proposed subdivision shall be considered by the Planning Board until the subdivider has fully complied with this requirement.

(4) The Subdivision Administrator shall submit a written report including comments of the review agencies and his comments on the proposed subdivision to the Planning Board at least five days in advance of its meeting. Said written report shall include a recommendation to the Planning Board to either approve, or conditionally approve, pending satisfaction of certain conditions, or disapprove the proposed subdivision preliminary plot.

(5) If the Subdivision Administrator recommends disapproval of the preliminary plat, the reasons for such disapproval shall be specified in writing. One copy of the plat and the reasons thereof shall be forwarded to the Planning Board, one copy shall be retained by the Subdivision Administrator and one copy shall be returned to the subdivider. The subdivider may request an extension of time to respond, in such instance the procedures set forth in divisions (A) and (B) above shall be repeated. If no such action is initiated by the subdivider, the procedure of division (C) below shall be followed.

(C) *Review procedure.*

(1) Following review of the preliminary plat by the Subdivision Administrator, the preliminary plat shall be submitted to the Planning Board for action, unless the subdivider requests time to consider the reasons for a recommendation for disapproval, and to resubmit.

(2) The Planning Board shall review the preliminary plat at or before its next regularly scheduled meeting which follows at least 15 days after the Subdivision Administrator receives comments on the preliminary plat from the appropriate agencies.

(3) The Planning Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within 30 calendar days of its first consideration of the plat or at its next regularly scheduled meeting following the meeting at which the plat was first considered, whichever occurs later.

(4) If the Planning Board recommends Village Council approval of the preliminary plat, it shall retain one copy of the plat for its minutes and transmit two copies of the plat, to the Village Council with its written recommendation.

(5) If the Planning Board recommends conditional approval of the preliminary plat, it shall keep one copy of the plat for its minutes, transmit one copy of the plat and its recommendation to the Village Council, and return the remaining copy along with its comments to the subdivider.

(6) If the Planning Board recommends disapproval of the preliminary plat, it shall retain one copy of the plat for its minutes, transmit one copy of the plat and its recommendation to the Village Council and return the remaining copy of the plat and its reasons for disapproval to the subdivider.

(7) If disapproval of the preliminary plat is recommended by the Planning Board, the subdivider may make changes necessary to resolve the forwarded reasons for disapproval and submit a revised preliminary plat, or appeal the recommendation to the Village Council. The subdivider may, in the case of conditional approval action by the Planning Board, make the recommended changes or appeal the Planning Board's recommendation.

(8) If the Planning Board does not make a written recommendation within the time set forth herein for its consideration of the plat, the subdivider may apply directly to the Village Council for approval or disapproval.

(9) If the Village Council approves the preliminary plat, such approval shall be noted on two copies of the plat by completion of the certificate in § 155.051 of this chapter. One copy of the plat shall be filed by the Subdivision Administrator and one copy shall be returned to the subdivider. If the Village Council conditionally approves the preliminary plat, approval shall be noted on two copies of the plat along with a reference to the conditions. One copy of the plat along with the conditions shall be retained by the Village Council and one copy of the plat along with the conditions shall be returned to the subdivider.

(10) Once these conditions are satisfied, the plat may be resubmitted by the subdivider to the Subdivision Administrator for consideration by the Village Council. If the Village Council disapproves the preliminary plat, the reasons for such disapproval shall be specified in writing. One copy of the plat and the reasons shall be retained by the Village Council and one copy shall be returned to the subdivider. If the preliminary plat is disapproved, the subdivider may make such changes as will bring the preliminary plat into compliance and resubmit the same to the Subdivision Administrator for reconsideration by the Planning Board and Village Council.

(Ord. passed 8-21-2000, § 308; Ord. passed 10-11-2004; Ord. passed 11-10-2014; Ord. 2017-06, passed 10-12-2017)

§ 155.053 FINAL MAJOR SUBDIVISION PLAT SUBMISSION AND REVIEW.

(A) *Preparation of final plat and installation of improvements.* Upon approval of a preliminary plat by the Village Council, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat and all applicable requirements of this chapter and Ch. 156 of this code of ordinances. Prior to initiation of any construction of utility and street improvements, plans shall have all necessary approvals from state agencies and the county, and one folded copy of all such approved plans shall be filed with the Subdivision Administrator. Prior to any consideration of a final plat, the subdivider shall have installed and dedicated the improvements specified in this chapter and on the approved preliminary plat, or guaranteed their installation and maintenance as provided herein. No final plat will be considered by the Village Council unless accompanied by written notice by the Subdivision Administrator acknowledging compliance with the improvement and guarantee standards of this chapter. If the street and other required improvements are completed prior to preparation of the final plat, § 155.057 of this chapter, shall be complied with, and the Village Engineer shall inspect all required improvements before submission of the final plat to the Village Council for consideration. Any expenses associated with inspection of required improvements and cost verifications incurred by the Village Engineer shall be borne entirely by the subdivider. The final plat shall constitute only that portion of the preliminary plat which the subdivider proposes to record and develop at that time; nevertheless such portion shall conform to all requirements of this chapter as if the entire subdivision were developed.

(B) *Improvement and guarantee standards.*

(1) *Improvement and guarantee standards.* In lieu of requiring the completion and dedication of all improvements prior to final plat approval, the village may enter into an agreement with the subdivider whereby the subdivider shall guarantee completion of all required improvements. Once said agreement is signed by both parties and the surety required herein is provided, work may proceed and the final plat may subsequently be considered for approval by the Village Council, if all other requirements of this chapter are met. To secure this agreement, the subdivider shall provide either one,

or a combination of the following guarantees equal to one and one-quarter times the entire estimated cost as provided herein. The type of surety shall be chosen by the subdivider. The amount shall be subject to the approval of the Village Council.

(a) *Surety bond(s) or letter of credit.* The subdivider shall obtain a surety bond(s) from a company authorized to do business in the state or a letter of credit issued by any financial institution licensed to do business in the state. The bond(s) or letter of credit shall be payable to the village and shall be made in or total an amount equal to one and one-quarter times the entire cost, as estimated by the subdivider, verified by the Village Engineer (or office of the District Engineer, state's Department of Transportation, Division of Highways, for street improvements) and thereafter accepted by the Village Council, for the installation of all required improvements. The duration of the bond(s) or letter of credit shall be for not more than two years, or until such time as the improvements are accepted by the Village Council or otherwise dedicated, whichever is less. Any expenses associated with cost verifications incurred by the village shall be borne entirely by the subdivider.

(b) *Other form of guarantee that provides equivalent surety to a surety bond or letter of credit.*

1. The subdivider shall deposit such guarantee with the Village Clerk before any work commences. The use of any instrument other than cash shall be subject to the approval of the Village Council. The amount of said guarantee shall be equal to one and one-quarter times the cost as estimated by the subdivider, verified by the Village Engineer and thereafter accepted by the Village Council, for the installation of all required improvements.

2. Interest derived on any such cash or equivalent security deposit(s) shall inure to the provisional credit of the subdivider, and shall be delivered to him or her upon completion, acceptance and dedication of all required improvements, less any reasonable administrative expenses.

(2) *Default.* Upon default, meaning the failure on the part of the subdivider to complete the required improvements within two years as spelled out in the performance bond or other surety, then the surety shall, if requested by the Village Council, pay all or any portion of the surety to the village up to the amount needed to complete the improvements based on an updated engineering estimate. Upon payment, the Village Council, at its sole discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements, or restore the property to its pre-development state to the maximum extent feasible. The Village Council shall return to the subdivider, or guarantor in the event the guarantor is called upon to pay for improvements, any funds not so spent, less any reasonable administrative expenses. Any cash or equivalent surety held by the village may be used likewise, in event of default.

(3) *Release of guarantee surety.*

(a) The Village Council may release a portion of any surety posted as the improvements are completed and recommended for approval by the Subdivision Administrator. Within 30 calendar days after receiving the Subdivision Administrator's recommendation, the Village Council shall approve or

disapprove said improvements. When the Village Council approves said improvements, it shall immediately release such amount of surety posted, as it deems appropriate; provided however, the balance remaining as surety shall continue to equal one and one-quarter times the estimated cost of the remaining improvements, as verified by the Village Engineer.

(b) Whenever a surety bond, letter of credit, or other approved surety has been submitted, the Subdivision Administrator shall notify the subdivider at least 90 calendar days prior to the time said guarantee is about to expire. If the subdivider does not extend or replace said guarantee within 60 calendar days of said notification, the Subdivision Administrator shall, through the Village Attorney's office, and after notifying the Village Clerk's office, begin proceedings for calling upon the guarantee. Any extension or replacement shall be calculated in the same manner as the original guarantee at an amount equal to 125% of the cost of completion of the remaining incomplete improvements still outstanding at the time the extension is obtained.

(c) The period within which required improvements must be completed shall not in any event exceed two years from the date of final plat approval, unless an extension is agreed upon by the Village Council, or the village shall begin the process of calling upon the guarantee as specified herein.

(d) If the subdivider indicates that the final plat will be completed in sections as herein provided, he or she may post such guarantee separately, but before the time each respective section is submitted and considered for final plat approval.

(C) *Final plat submission procedure.*

(1) (a) Within two years following the approval of the preliminary plat, but not less than 60 calendar days beforehand, the subdivider may submit a proposed final plat as set forth below: at least 15 folded copies of the proposed final plat (additional copies may be required by the Subdivision Administrator to send to various agencies), accompanied by the fee required by this chapter, shall be submitted to the Subdivision Administrator at least 30 calendar days prior to the meeting at which subdivider desires the Planning Board reviews the final plat.

(b) One additional copy of the final plat shall be on reproducible Mylar material.

(c) Materials and drawing medium for the original shall be in accordance with the *Standards of Practice for Land Surveying in North Carolina*, where applicable, and the requirements of the county's Register of Deeds.

(2) (a) The proposed final plat shall be prepared by a registered land surveyor currently licensed by the state or by the state's Board of Registration for Professional Engineers and Land Surveyors, and shall be of a scale of not less than one inch equals 200 feet.

(b) Maps may be placed on more than one sheet with appropriate match lines.

(3) (a) The final plat may be submitted in segments, at the discretion of the subdivider; provided that, prior notification has been given as required in § 155.052(A) of this chapter.

(b) In such case, at least one final plat segment proposal shall be submitted per year, on or before the anniversary date of preliminary plat approval.

(c) In no case shall preliminary plat approval for any segment extend beyond five years from the original date of preliminary plat approval.

(4) The proposed final plat shall conform substantially to the preliminary plat as approved, and if desired by the owner or subdivider, it may refer to that portion of the approved preliminary plat which he or she proposes to record as a final plat.

(5) Failure to submit a proposed final plat within two years after preliminary plat approval, in whole or in part shall render the preliminary plat approval null and void.

(6) The proposed final plat shall meet all applicable specifications established in § 155.054 of this chapter and the Subdivision Administrator shall review each proposed final plat submittal to ensure all applicable requirements have been fully satisfied. Any errors or omissions discovered shall be identified to the subdivider for correction before proceeding in accordance with division (D) below. The following certificates shall appear on each copy of the plat. Certificates in divisions (C)(6)(a), (C)(6)(b), (C)(6)(c), (C)(6)(d), (C)(6)(e) and (C)(6)(f) below shall be completed and signed prior to submittal.

(a) *Certificate of ownership and dedication.*

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Village of Wesley Chapel and that I hereby adopt this plan of subdivision with my free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks and other sites and easements to public or private use as noted.

Owner

Date

(b) *Certificate of survey and accuracy in accordance with the standards and practice for land surveying in the state.*

1. a. On the face of each map prepared for recordation, there shall appear a certificate acknowledged before an officer authorized to take acknowledgments and executed by the person making the survey or map including deeds and any recorded data shown thereon.

b. The certificate shall include a statement of error of closure calculated by latitudes and departures.

c. Any lines on the map which were not actually surveyed must be clearly indicated of the map and a statement included in the certificate revealing the source of the information.

2. The certificate shall take the following general form:

State of North Carolina, Union County

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in Book _____, Page _____, etc.) (other); that the ratio of precision as calculated by latitudes and departures is 1: _____, (that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____); that this map was prepared in accordance with G.S. § 47-30, as amended. Witness my original signature, registration number and seal this _____ day of _____, 20____.

Registered Land Surveyor

Official Seal

Registration Number

I, (officer authorized to take acknowledgments) , do hereby certify that (name of registered surveyor) personally appeared before me this day and acknowledged the due execution of this certificate. Witness my hand and (where an official seal is required by law) official seal this the _____ day of _____, 20____.

Signature of Officer

Official Seal

(c) *Certificate of approval of the design and installation of streets, utilities and other required improvements.*

I hereby certify that all streets and other required improvements have been installed in an acceptable manner and according to N.C. Department of Transportation and/or Village of Wesley Chapel specifications and standards in the Wesley Chapel Subdivision Ordinance, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Village of Wesley Chapel have been given and received.

Mayor, Village of Wesley Chapel, North Carolina

Date

Wesley Chapel - Land Usage

(d) Construction standards approval.

1. General certificates:

I hereby certify that the streets on this plat designated as "public" are or will be in accordance with the minimum right-of-way and construction standards established by the Board of Transportation for acceptance into the state highway system.

NC DOT DISTRICT ENGINEER _____
Date

I hereby certify that the streets on this plat designated as "private" satisfy the Village of Wesley chapel's minimum construction standards as herein established and that such roads will be privately maintained.

Village of Wesley Chapel Consulting Engineer _____
Date

2. The following certificate shall also appear on any subdivision having a privately maintained road accessing a road maintained by NCDOT:

I HEREBY CERTIFY THAT THE RIGHT-OF-WAY DEDICATION ALONG (ENTER NAME OF NCDOT MAINTAINED ROAD BEING ACCESSED) AS SHOWN ON THIS PLAT, IS APPROVED AND ACCEPTED AS A PUBLIC RIGHT-OF-WAY BY THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, DIVISION OF HIGHWAYS.

APPROVED _____

District Engineer _____
Date

(e) Certificate of septic tank suitability (if applicable).

The Union County Health Department has evaluated each lot shown for its own septic tank system. As of _____, based on conditions noted in soil evaluation ASE # _____, each lot is suitable for a system. This statement does not guarantee that an improvement permit will be issued.

Signature _____

Date _____

(f) *Certificate of subdivision type.* It is the duty of the surveyor, by signed certificate, to certify to one of the following on the face of the plat:

1. The survey creates a subdivision of land within the area of the village that is regulated by this chapter, that regulates the subdivision of parcels of land;
2. The survey is of an existing parcel or parcels of land;
3. The survey is of another category, such as recombination of existing parcels, a court-ordered survey, or other exception to the definition of subdivision; or
4. The information available to the surveyor is such that the surveyor is unable to make a determination to the best of his or her professional ability as to the provisions contained in divisions (C)(6)(f)1. through (C)(6)(f)3. above.

(g) *Certificate of final major subdivision plat approval by the Village Council.*

This subdivision plat has been found to comply with the provisions of the Wesley Chapel Subdivision Ordinance and is approved this date by the Wesley Chapel Village Council for recording in the Union County Office of the Register of Deeds. The plat shall be recorded by the subdivider within 90 calendar days of this date. If recordation does not occur during said period, the plat shall be deemed null and void.

Mayor, Village of Wesley Chapel

Date

(h) *Certificate of registration.*

The foregoing certificates of _____, a Notary (or Notaries) Public of Union County, are certified to be correct. Filed for registration on the _____ day of _____, and duly recorded in the Office of the Register of Deeds in Book _____ of Deeds Number _____, Page _____.

Register of Deeds

By _____
Deputy

(D) *Review and approval of final plat.*

(1) The proposed final plat shall be submitted in number and kind as specified in division (C) above to the Subdivision Administrator for review and comment not less than 30 calendar days prior to the meeting of the Planing Board, at which the subdivider desires the proposed final plat be reviewed by said Board. A disk or tape copy of the proposed final plat shall be submitted in a format compatible to the village's GIS system. If this can not be supplied, the reasonable cost for so doing in the time available will be charged to the developer for the service to be completed by the village, plus 15%.

During his or her review of the proposed final plat, the Subdivision Administrator may appoint a registered land surveyor to confirm the accuracy of the plat. If any error is found which exceeds 5% of the figures shown on the proposed final plat, the costs of the review shall be charged to the subdivider and the proposed final plat shall not be further considered until such errors are corrected, and all associated costs reimbursed by the subdivider. The Subdivision Administrator may recommend approval, approval conditional upon certain modifications to bring the plat into compliance, or disapproval of the final plat with reasons for disapproval.

(2) Following review by the Subdivision Administrator, the Planning Board shall recommend approval, conditional approval with modifications to bring the plat into compliance or disapproval of the proposed final plat with reasons within 30 calendar days of its first consideration of the proposed final plat.

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

(4) If the Planning Board recommends conditional approval of the proposed final plat with modifications, to bring the plat into compliance, it shall retain one print of the plat for its minutes, and return its recommendations and one copy of the plat to the subdivider, and transmit one copy of the plat and its written recommendations to the Village Council through the Subdivision Administrator. The Village Council may consider the proposed final plat on its own motion or at the specific written request of the subdivider, at which time, Council may consider the proposed final plat and the modifications recommended by the Planning Board.

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

(6) In the event the Planning Board fails to make a written recommendation to Village Council within the time set forth herein, the subdivider may apply directly to Village Council for approval of the proposed final plat.

(7) If the Planning Board recommends approval or conditional approval with modifications to bring the proposed final plat into compliance, or the subdivider appeals to the Village Council, Village Council shall review and approve or disapprove the proposed final plat within 30 calendar days after the proposed final plat is considered by the Village Council at a Village Council meeting.

(8) Thereafter, if the Village Council approves the final plat, such approval shall be shown on the original Mylar reproducible and each copy of the plat by completion of the certificate in division (C)(6)(g) above.

(9) If the Village Council conditionally approves the proposed final plat, such approval, along with the conditions noted, shall be forwarded to the subdivider. Once those conditions are met, the plat may be resubmitted to the Subdivision Administrator for further consideration by the Village Council.

(10) In the event the proposed final plat is disapproved by the Village Council, the reasons for such denial shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply. One copy of such reasons and one print of the plat shall be retained by the Village Clerk, as part of the Village Council proceedings and one copy of the plat and a copy of the reasons shall be forwarded to the subdivider.

(11) If the proposed final plat is disapproved, the subdivider may make such changes as will bring the proposed final plat into compliance, and resubmit same for reconsideration by the Village Council; provided, such resubmission is made within 180 calendar days from the date of disapproval. Otherwise, the subdivider must begin the subdivision plat approval process as though no plat had been previously submitted for consideration by the village.

(12) The subdivider shall submit to the Subdivision Administrator an original Mylar reproducible of the final plat as approved by the Village Council within five days of Council approval. The Subdivision Administrator will have 15 days thereafter to review the Mylar to be signed by the Mayor and promptly returned to the subdivider for recording at the county's Register of Deeds.

(13) The Mayor shall not sign any Mylar reproductions without first obtaining written certification from the Subdivision Administrator that the Mylar is identical to the proposed final plat approved by the Village Council.

(14) In the event any Mylars submitted are not identical to the final plat approved by the Village Council, the Subdivision Administrator shall report same to the Mayor, who shall place the matter on the agenda for next village meeting for Village Council review.

(15) (a) Upon receipt of the report of the Subdivision Administrator, Council may, in its absolute discretion:

1. Request review of the Mylars by the village's Planning Board and resubmittal to Council for review and approval; or

2. Review the Mylars and determine they are in substantial conformity with the final plat previously approved by Council and that the lots reflect on the Mylars are in full compliance with Ch. 156 of this code of ordinances.

(b) In the event Council elects to proceed in accordance with division (D)(15)(a)2. above, the Mylars as reviewed by the Subdivision Administrator shall constitute the final plat of the proposed subdivision.

(16) The subdivider shall file the approved final plat with the county’s Register of Deeds within 30 calendar days of the certificate (in division (C)(6)(g) above) completion; otherwise, such approval shall be null and void, and the subdivider must begin the procedure for approval from the sketch plan stage, in accordance with all provisions of § 155.051 of this chapter and including payment of the required fee. Once the final plat is recorded, the certificate in division (C)(6)(h) above shall be completed and signed by the Register of Deeds. Two copies of this original Mylar reproducible shall be provided by the subdivider to the Subdivision Administrator. One copy shall be retained by the Subdivision Administrator and one by the Village Clerk.

(Ord. passed 8-21-2000, § 309; Ord. passed 10-11-2004; Ord. passed 1-5-2006; Ord. passed 11-10-2014; Ord. 2016-09, passed 6-13-2016)

§ 155.054 INFORMATION TO BE CONTAINED IN OR DEPICTED ON PRELIMINARY AND FINAL PLATS.

All proposed preliminary and final plats shall depict or contain the information indicated in the following table, plus any and all information otherwise required by this chapter. An “X” indicates that the information is required. Preliminary plat information is only required for major subdivisions, unless otherwise specified for minor subdivisions elsewhere in this chapter.

| <i>Information to Be Contained in or Depicted on Preliminary and Final Plats</i> | | |
|---|-------------------------|-------------------|
| <i>Information</i> | <i>Preliminary Plat</i> | <i>Final Plat</i> |
| A copy of any proposed deed restrictions or similar covenants | X | X |
| A copy of permits from Army Corps of Engineers, pursuant to Ch. 156 of this code of ordinances | X | |
| A copy of the approved roadway plan submitted to the appropriate office of the state’s Department of Transportation for any major subdivision | X | |
| A copy of the approved erosion control plan submitted to the appropriate field office of the Department of Natural Resources and Community Development for any major subdivision | X | X |
| A disk or tape copy of the final plat to be submitted in a format compatible to the village’s GIS system | | X |
| A scale of drawing in feet per inch listed in words and figures (drawing shall not be at a scale less than 1 inch equals 200 feet) | X | X |
| A separate map drawn at the same scale as the preliminary plat showing only proposed streets and lot lines, topography with contour intervals of no greater than 10 feet (at the discretion of the Subdivision Administrator contour intervals of 5 feet may be required), and an accurate mapping of soil classifications found on the site and general depths thereof | X | |
| A sketch vicinity map with north arrow showing the relationship between the proposed subdivision and surrounding area at a scale of 1” equals 2,000’ | X | X |

| <i>Information to Be Contained in or Depicted on Preliminary and Final Plats</i> | | |
|---|---|---|
| Acreage in parks and recreation areas and other non-residential uses | X | |
| Acreage in public green ways or other open space | X | X |
| Acreage in the smallest lot in the subdivision, square footage of all lots under 1 acre in size, acreage for all lots over 1 acre | X | X |
| Acreage in total tract to be subdivided | X | |
| Bar graph scale | X | X |
| Compliance with § 156.223 of this code of ordinances | X | X |
| Corporate limits, county lines and other jurisdictional lines, if any, on the tract | X | X |
| Cul-de-sac radius from center point | X | X |
| Date of plat preparation | X | X |
| Date or dates survey was conducted and plat prepared | X | X |
| Design engineering data for all corners and curves | X | X |
| Establishment of flood protection elevation (FPE) in accordance with § 156.223 of this code of ordinances | X | X |
| Existing and platted roads on adjoining properties and in the proposed subdivision | X | X |
| Existing and proposed streets showing pavement or curb lines, pavement width dimensions (face to face), cul-de-sac pavement radius from center point | X | |
| Existing buildings or other structures, watercourses, wetlands, railroads, bridges, culverts, storm drains, both on the land to be subdivided and land immediately adjoining plus dimensions and distances to property lines of buildings to remain on final plat | X | X |
| Existing land use within the property and adjacent properties | X | |
| Existing property lines on the tract to be subdivided and on adjoining properties | X | X |
| Homeowners' association articles of incorporation, bylaws and proposed budget (per § 155.094 of this chapter) | | X |
| If any road is proposed to intersect with a state maintained road, the subdivider shall apply for driveway approval as required by the NCDOT, Division of Highways' <i>Manual on Driveway Regulations</i> . Evidence that the subdivider has obtained such approval | X | X |
| Letter of acceptance by the county's 911 system (attach to plat) | X | |
| Letter of acceptance of subdivision name by the county (attach to plat) | X | |
| Linear feet in streets | X | |
| Location (including address, township, county and state) | X | X |

Wesley Chapel - Land Usage

| <i>Information to Be Contained in or Depicted on Preliminary and Final Plats</i> | | |
|---|---|---|
| Marshes, swamps, rock outcrops, ponds or lakes, streams or stream beds and any other natural features affecting the site | X | X |
| Minimum building setback lines for all lots | X | X |
| Name of plat (preliminary or final) | X | X |
| North arrow and orientation (north arrow shall be oriented to the top of the plat where applicable) | X | X |
| Pavement widths | X | X |
| Plat book or deed book references | X | X |
| Proposed grades (re: roads) | X | X |
| Proposed lot lines, lot and block numbers and approximate dimensions, show bearings and distances on final plat | X | X |
| Proposed roads with horizontal and vertical alignment | X | X |
| Rights-of-way, location and dimensions | X | X |
| Road names | X | X |
| Septic tank suitability data furnished by the appropriate County Health Department | X | |
| Tax map, block, parcel(s) numbers of property and adjacent property | X | X |
| The accurate locations and descriptions of all monuments, markers and control points | | X |
| The boundaries of the tract or portion thereof to be subdivided, distinctly and accurately represented with all bearings and distances shown | X | |
| The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings and the location of existing boundary lines of adjoining lands | | X |
| The exact location of the flood hazard, floodway and floodway fringe areas from the village's FEMA maps if applicable | X | X |
| The future ownership (dedication or reservation for public use to governmental body, homeowners' association or for tenants remaining in subdivider's ownership) of recreational and open space lands | X | X |
| The location and dimension of all parks and recreation areas with specific type indicated | X | X |
| The location and dimensions of all pedestrian or bicycle paths | X | X |
| The location and dimensions of all buffer strips | X | X |
| The location and dimensions of all drainage easements as defined in §§ 156.215 through 156.224 of this code of ordinances, including P.E. certification when required | X | X |
| The location and dimensions of all utility and other easements | X | X |

| <i>Information to Be Contained in or Depicted on Preliminary and Final Plats</i> | | |
|---|---|---|
| The location and dimensions of all school sites, both existing and proposed | X | X |
| The location and dimensions of areas to be used for purposes other than residential with the purpose of each stated | X | X |
| The lots numbered consecutively throughout the subdivision | X | X |
| The name, address and phone number of the subdivider/preparer of plat | X | X |
| The name and location of any property or buildings within the proposed subdivision or within any contiguous property that is listed on the U.S. Department of Interior's National Register of Historic Places or is designated as a local historic property by the county | X | X |
| The names, addresses and telephone number of all owners, mortgagees, registered land surveyors, developers, land planners, architects, landscape architects and professional engineers responsible for the subdivision | X | X |
| The names of owners of adjoining properties (and/or deed book references) | X | X |
| The registration numbers and seals of the professional engineers and land surveyors | X | X |
| The zoning classifications of the tract to be subdivided and on adjoining properties | X | X |
| Title block containing the subdivision name and the name of the owner | X | X |
| Total number of parcels created | X | |
| Traffic impact analysis (as required per § 156.092 of this code of ordinances) | X | |
| Typical road cross-sections | X | X |

(Ord. passed 8-21-2000, § 310)

§ 155.055 VACATION OF PLATS.

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

(B) Such an instrument shall be approved by the Village Council which may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

(C) Such an instrument shall be executed, either acknowledged or approved by the Village Council and, thereafter, recorded and filed in the same manner as a final plat; and being duly recorded or filed shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all

public rights in the streets, alleys and public grounds, and all dedications laid out or described in such plat.

(D) When lots have been sold, the plat may be vacated in the manner provided in divisions (A) through (C) above if, and only if, all owners of the lots in such plat join the execution of such writing. (Ord. passed 8-21-2000, § 311)

§ 155.056 RESUBDIVISION PROCEDURES.

For any replatting or resubdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision, as approved. (Ord. passed 8-21-2000, § 312)

§ 155.057 MAINTENANCE OF DEDICATED AREAS UNTIL ACCEPTANCE.

Subject to § 155.053(A) of this chapter's requirements, all facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority. (Ord. passed 8-21-2000, § 313; Ord. passed 6-13-2016)

REQUIRED IMPROVEMENTS AND MINIMUM DESIGN STANDARDS

§ 155.070 GENERAL.

Each subdivision shall contain the improvements specified in this subchapter, which shall be installed in accordance with the requirements of this chapter and paid for by the subdivider. Land shall be dedicated and reserved in each subdivision as specified in this subchapter. Each subdivision shall adhere to the minimum standards of design established by this subchapter. (Ord. passed 8-21-2000, § 401)

§ 155.071 SUITABILITY OF LAND.

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

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

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

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

(E) Minimum lot sizes, as prescribed by Ch. 156 of this code of ordinances, shall be exclusive of any required buffer, open and/or common areas, floodplains or floodways, lakes/ponds, wetlands, streams and stream buffers as designated under the Flood Damage Prevention Ordinance and tree retention areas.

(Ord. passed 8-21-2000, § 402; Ord. passed 12-8-2014; Ord. 2018-09, passed 9-10-2018; Ord. 2019-04, passed 6-10-2019)

§ 155.072 SUBDIVISION AND STREET NAMING.

The name of the subdivision and the names of the streets within the subdivision shall not duplicate nor closely approximate the name of an existing subdivision nor any existing streets within the county. (Ord. passed 8-21-2000, § 403)

§ 155.073 BLOCKS.

(A) The lengths, widths and shapes of blocks shall be determined with due regard to provision of adequate building sites suitable to the special needs of the type of use contemplated; zoning requirements; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; avoidance of permanent structures of any kind in floodplains or wetlands; and convenient access to water areas.

(B) Blocks shall not be less than 400 feet, nor more than 1,500 feet, in length. Where a longer block will reduce the number of railroad grade crossings, major stream crossings or where blocks will result in less traffic through residential subdivisions from adjoining business areas, the Village Council may authorize block lengths in excess of 1,500 feet.

(C) Blocks shall have sufficient width to allow two rows of lots of minimum depth per applicable zoning regulations, except where single row lots are required to separate residential development from through vehicular traffic or another type of use, in non-residential subdivisions or where abutting floodplain or wetlands or a water area.

(Ord. passed 8-21-2000, § 404)

§ 155.074 LOT DIMENSIONS.

(A) All lots in new subdivisions shall conform to the village's zoning requirements of the district in which the subdivision is located, conformance to zoning requirements means, among other things, that the smallest lot in the subdivision must meet all area and dimensional requirements of Ch. 156 of this code of ordinances.

(B) Side lot lines shall be substantially at right angles or radial to street lines. Double frontage lots shall be avoided wherever possible, unless authorized by the Village Council.

(C) (1) Panhandle lots and other irregular shaped lots may be approved in cases where such lots would:

- (a) Not be contrary to the purpose of this chapter;
- (b) Heighten the desirability of the subdivision; and
- (c) Where necessary, enable a lot to be served by water and/or a waste disposal system.

(2) All panhandle lots shall have a minimum road frontage width of 35 feet thereby providing access to the lot. The length of said access shall not exceed 200 feet. Said access shall not be used to determine lot area or width or setback lines.

(D) All minimum lot dimensions shall be increased in order to comply with applicable requirements of the county's Health Department.

(Ord. passed 8-21-2000, § 404)

§ 155.075 RETENTION OF EXISTING VEGETATION.

The village encourages the retention of existing vegetation to help assure a future environment in keeping with the current character of the village. In particular, the retention of mature trees and large shrubs throughout all proposed minor and major subdivisions may enhance the approval process and will increase the desirability of such attractively developed properties.

(A) *Purpose and intent.* Protection of existing tree and vegetation cover is intended to preserve the visual and aesthetic qualities of natural landscapes; encourage site design techniques that preserve the natural environment and enhance the developed environment; increase slope stability, and control erosion, slippage and sediment run-off into streams and waterways; protect wildlife habitat and migration corridors; and conserve energy by reducing heating and cooling costs.

(B) *Applicability.* The standards of this section shall apply to development of all minor and major subdivisions.

(C) *Tree and vegetation protection exemptions.* The following development activities and types of vegetation are exempt from the standards of this section:

(1) *Removal of dead vegetation.* The removal of dead or naturally fallen trees or vegetation;

(2) *Maintaining clear visibility.* The selective and limited removal of trees or vegetation necessary to obtain clear visibility at driveways or intersections, or for the purpose of performing authorized field survey work;

(3) *Utility companies.* The actions of public and private utility companies within their utility easements; provided, crown reduction of trees is limited to lateral limbs. Cutting the leader constitutes topping and is prohibited. Pruning which removes more than one-fourth of the canopy of a tree is prohibited. If removal of trees is necessary, they shall be replaced by trees with a minimum four-inch caliper and a cumulative caliper measurement equal to that of the trees that are damaged or removed. Removed trees listed as “large maturing” in § 155.095 of this chapter shall only be replaced by trees also listed as “large maturing” and removed trees listed as “small maturing” in § 155.095 of this chapter shall only be replaced by trees also listed as “small maturing”. In addition, trees of a hardwood species equal to or greater than ten inches diameter at breast height (DBH) shall be replaced by hardwood trees; and

(4) *Federal, state and local regulations.* No part of this chapter shall in any way exempt relevant parties from or prohibit enforcement of federal, state and local applicable regulations with regards to tree, vegetation or vegetative debris removal. Tree, vegetation and vegetative debris removal shall be subject to the state’s Division of Water Quality Catawba River Basin Buffer Rules (15A N.C.A.C. 02B.0243).

(D) *Retention of existing tree canopy.*

(1) *Tree inventory.* Prior to beginning any tree clearing, development work or land disturbance, the owner of land subject to this section shall prepare and submit an inventory of trees on the parcel, subject to the following requirements.

(a) *General.* The inventory shall identify any canopy tree ten inches or larger in diameter at breast height (DBH), and any groups of trees in close proximity (i.e., those within five feet of each other), which are to be designated as a clump or cluster of trees. The survey should depict any individual trees and areas of existing tree canopy that are to be saved in accordance with this section. Known dead or diseased trees shall be identified, where practical.

(b) *Professionally prepared.* All tree surveys for minor or major subdivisions shall be prepared by a licensed landscape architect, surveyor, arborist, registered forester or engineer registered in the state.

(c) *Use of aerial photo for developments larger than ten acres.* Aerial photos may be used to identify clumps or clusters of trees (i.e., those within five feet of each other), but shall not be used to identify trees ten DBH or greater.

(2) *Tree canopy retention standards.*

(a) *Existing tree canopy.*

1. For the purposes of this section, the “existing tree canopy” shall be composed of significant vegetation. For the purposes of this section, “significant vegetation” shall be composed of the crowns of all healthy self-supporting canopy trees with a diameter of ten inches or greater and understory trees with a caliper size of four inches or greater.

2. In no case shall less than the percentage of the existing tree canopy indicated in table below, Tree Canopy Retention Standards, be retained on a parcel of land during any tree clearing or development process on land subject to this section:

| <i>Tree Canopy Retention Standards Minimum Required Tree Canopy Retention (As a Percent of the Total Tree Canopy Cover)</i> | |
|---|--|
| <i>Existing Tree Canopy</i> | <i>Cover (As a Percent of the Total Tree Canopy Cover)</i> |
| 80% - 100% | 30% |
| 60% - 79% | 36% |
| 40% - 59% | 45% |
| 20% - 39% | 48% |
| 19% or less | 54% |

(b) *“Heritage trees” defined.* For purposes of this section, **HERITAGE TREES** shall be defined as trees having a 15 inches or greater diameter at breast height (DBH) with at least 50% of crown remaining.

(c) *Priority retention areas.*

1. Priority areas for retention of existing trees and vegetation shall include the following (listed in priority order):

- a. Areas designated as endangered, threatened, candidate, federal species of concern, bald and golden eagle, experimental or proposed species, as defined by the U.S. Fish and Wildlife Service, Critical Habitat;
- b. Riparian buffers, wetlands or wellhead protection areas;
- c. Areas containing heritage trees and their associated critical root zones; and

d. Thoroughfare buffers.

2. Streets, buildings and lot layouts shall be designed to minimize disturbance to all trees ten inches DBH or larger.

(E) *Tree protection zone.*

(1) For purposes of this division (E), the area containing the canopy and critical root zones of trees composing the existing tree canopy to be retained shall be known as the “tree protection zone”.

(2) Prior to the approval of a zoning permit, all tree protection zones shall be identified for protection in a form acceptable to the City Attorney, and shall be areas where the existing tree canopy will be maintained, and where buildings and structures can not be located. The tree protection zone shall be depicted on the preliminary plat for subdivision, site plan or PD master plan, whichever is appropriate. The tree protection zone shall also be depicted on the final plat for subdivision if it is required prior to development.

(3) When development of a site causes accidental damage or disturbance to trees inside the tree protection zone, the disturbed area shall be re-vegetated to preexisting conditions as follows.

(a) *Replacement of trees with less than ten-inch DBH.* Any tree that is damaged or removed from the tree protection zone shall be replaced with trees that have a caliper of at least two inches and a cumulative caliper equal to one and one-half times the tree cover that has been damaged or removed.

(b) *Replacement of trees with ten-inch dbh or greater.* Any tree with a ten-inch DBH or larger that is accidentally damaged or removed from the tree protection zone shall be replaced by trees with a four-inch caliper with a cumulative caliper measurement equal to twice that of the tree that is damaged or removed. Removed trees listed as “large maturing” in § 155.095 of this chapter shall be only be replaced by trees also listed as “large maturing” and removed trees listed as “small maturing” in § 155.095 of this chapter shall only be replaced by trees also listed as “small maturing”. In addition, trees of hardwood species shall be replaced by trees of hardwood species.

(c) *Priority replacement areas.*

1. Priority areas for the replacement of damaged or removed trees shall include the following (listed in priority order):

- a. Tree protection zones;
- b. Thoroughfare buffers;
- c. Anywhere on development site; and

d. Protection of heritage trees.

2. For purposes of this section, **HERITAGE TREES** shall be defined as trees having a 20-inch or greater diameter at breast height (DBH). All major or minor subdivision plats and development shall be required to protect heritage trees on a development site in accordance with the following standards.

a. *General requirement.*

i. No heritage tree may be removed, except in accordance with provisions of this section.

ii. In addition, heritage trees shall have the following protections.

A. *Cutting, removal or harm prohibited.* Heritage trees shall not be cut, removed, pushed over, killed or otherwise harmed.

B. *Paving or soil compaction prohibited.* The area within the dripline of any heritage tree shall not be subject to paving or soil compaction greater than 10% of the total dripline square footage or within 12 feet of the tree trunk.

b. *Removal of a heritage tree.* A heritage tree that is certified by an arborist or other qualified professional as severely diseased, high risk or dying shall be exempt preservation requirements.

c. *Replacement/mitigation standards.* When development of a site causes accidental damage or disturbance to a heritage tree, the tree shall be replaced with trees that have a caliper of at least four inches and have a cumulative caliper equal to three times the DBH of the heritage tree that has been damaged or removed. Removed trees listed as “large maturing” in § 155.095 of this chapter shall be only be replaced by trees also listed as “large maturing” and removed trees listed as “small maturing” in § 155.095 of this chapter shall only be replaced by trees also listed as “small maturing”. In addition, trees of hardwood species shall be replaced by trees of hardwood species.

d. *Priority replacement areas.* Priority areas for the replacement of damaged or removed heritage trees shall include the following (listed in priority order):

- i. Tree protection zones;
- ii. Thoroughfare buffers; and
- iii. Anywhere on development site.

e. *Tree protection during construction.*

i. *Owner’s responsibility.* During development, the owner or developer shall be responsible for the erection of any and all barriers necessary to protect any existing or installed vegetation from damage both during and after construction.

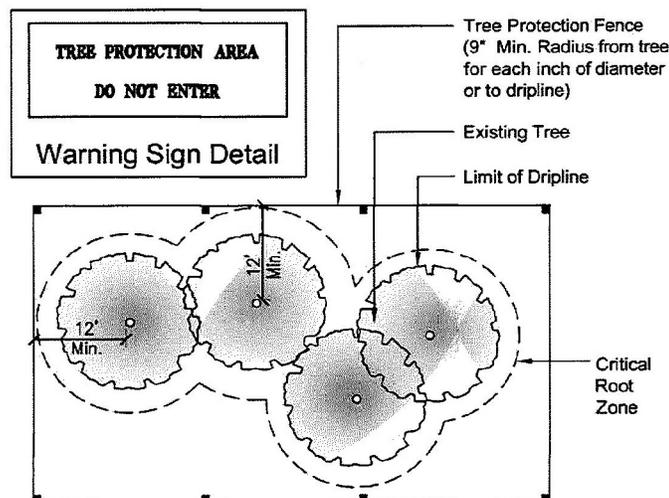
ii. *Tree protection fencing.*

A. *Where required.* Heritage trees, trees in a tree protection zone and other existing trees being used for credit towards landscaping requirements in accordance with this section shall be fenced with a sturdy and visible fence before grading begins. Fencing shall extend as far as practical, preferably at least nine inches in radius from the tree for each inch of diameter (DBH), or to the dripline, whichever is greater. The applicant and municipal staff shall consider existing site conditions in determining the exact location of any tree protection fencing.

B. *Type of fencing.* All fencing required by this section shall be a minimum four feet high and of durable construction (i.e., chainlink or wooden post with 2x4 wire mesh). Chainlink or wire fencing utilized as tree protection fencing shall not be required to vinyl coated. Passive forms of tree protection may be utilized to delineate tree save areas that are remote from areas of land disturbance. These must be surrounded by fencing, continuous rope or durable taping (minimum four inches wide).

C. *Signage.* Signs shall be installed on the tree protection fence visible on all sides of the fenced-in area at a rate of at least one for every 150 linear feet. The size of each sign must be a minimum of two feet by two feet and shall contain the following language: “TREE PROTECTION ZONE: KEEP OUT”.

D. *When required.* The tree protection fencing shall be clearly shown on the site plan or preliminary and final plat for subdivision. No construction, grading, equipment or material storage or any other activity shall be allowed within the fenced area. Fencing shall be maintained until after the final site inspection.



iii. *Encroachments into critical root zones.* Encroachments within the critical root zones of trees protected in accordance with this division (E)(3)(c)2. shall occur only when no other alternative exists. If such an encroachment is anticipated, the following preventive measures shall be employed.

A. *Clearing activities.* The removal of trees adjacent to tree save areas can cause inadvertent damage to the protected trees. Prior to clearing activities, trenches located along the limits of land disturbance with a minimum width of one and-one-half inches and a minimum depth sufficient to cut rather than tear tree roots shall be installed.

B. *Soil compaction.* Where compaction might occur due to traffic or materials through the tree protection zone or other protection areas associated with heritage trees, or retained existing vegetation, the area must first be mulched with a minimum four-inch layer of wood chips. Equipment or materials storage shall not be allowed within a tree protection zone.

C. *Chemical contamination.* Trees located within a tree protection zone shall be protected from chemical contamination from liquids or other materials, including, but not limited to, paint, chemical solvents, gasoline, oil, diesel fuel, hydraulic fluid, concrete spoils or rinse water from vehicle cleaning, including rinsing of concrete truck tanks and chutes.

(Ord. passed 8-21-2000, § 404; Ord. passed 2-22-2011)

§ 155.076 EASEMENTS.

Easements shall be provided as follows.

(A) *Utility easements.* A utility easement of not less than ten feet in width shall be provided where deemed necessary. Wider easement widths may be required if determined necessary by the Subdivision Administrator after consultation with all private and public utility company(ies) involved.

(B) *Drainage easements.* Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such a stream and shall be of sufficient width as will be adequate for the purpose. Other drainage easements may be required for the proper drainage of all lots. (Ord. passed 8-21-2000, § 404; Ord. passed 11-10-2014)

§ 155.077 PUBLIC AND PRIVATE ROADS.

(A) (1) All subdivision lots, except as provided for in § 155.092 of this chapter, shall abut public roads.

(2) All public roads shall be built to construction standards of the state's Department of Transportation (NCDOT) for subdivision roads. Streets which are not eligible to be placed in the

NCDOT system because there are too few lots or residences shall, nevertheless, be offered for dedication to the public and shall be designed and constructed in accordance with the above referenced standards.

(3) A written maintenance agreement with provision for maintenance of any and all streets until acceptance as part of the NCDOT system shall be included in the proposed preliminary plat.

(B) Roads that are to be privately maintained shall meet all specifications contained in § 155.093 of this chapter.

(Ord. passed 8-21-2000, § 405; Ord. passed 9-13-20014; Ord. passed 5-14-2007; Ord. passed 11-10-2014)

§ 155.078 SUBDIVISION STREET DISCLOSURE STATEMENT.

All streets shown on the final plat shall be designated in accordance with G.S. § 136-102.6 and designated as public or private streets. All designated public streets shall be conclusively presumed to include an offer of dedication to the public. Where streets are dedicated to the public, but not accepted into a municipal or the NCDOT system, and before any lots are sold, a statement explaining the status of the street shall be included with the final plat. Except for roads contained in gated residential developments, all privately maintained roads shall be dedicated for public usage and travel.

(Ord. passed 8-21-2000, § 405; Ord. passed 9-15-2004; Ord. passed 11-10-2014)

§ 155.079 MARGINAL ACCESS STREET.

Where a minor or major subdivision would adjoin a major or minor thoroughfare as designated on the village's zoning map or adopted transportation plan, the subdivider shall provide a public or private marginal access street, with platted right-of-way and built to the state's Department of Transportation standards in addition to additional requirements in this section, for the lots to be developed adjacent to the thoroughfare. Private driveways shall be prevented from having direct access to the thoroughfare.

(Ord. passed 8-21-2000, § 405; Ord. passed 2-22-2011)

§ 155.080 BUFFERING ALONG THOROUGHFARES.

(A) Where side and rear lot lines abut along a major or minor thoroughfare as designated on the village's zoning map, the subdivider shall provide a natural buffer between the lot lines paralleling the thoroughfare and the thoroughfare road right-of-way. The natural buffer shall materially screen all principal and accessory uses from public view from the thoroughfare. The buffer shall consist of a natural planting or a berm with natural planting. Any walls, fences or other constructed devices allowed within the buffer area by this chapter and/or Ch. 156 of this code of ordinances shall be approved by the Zoning Administrator.

Wesley Chapel - Land Usage

(B) The subdivider is encouraged to propose the use of existing natural vegetation and/or topography or a combination of existing features as prescribed in this section when the purpose and intent of this section can be fully or partially met by utilizing such methods.

(C) Such screening shall be located on the property with the use with which it is associated or required and shall materially screen the subject use from the view of the adjoining properties. Screening shall be in the form of all natural material, including brick with no exposed cement block. When screening is in the form of natural vegetation, a buffer strip at least ten feet wide shall be planted. This strip shall be free of all encroachments by building, parking areas or impervious coverage.

(D) Buffer requirements include a given minimum distance separation from the property line and required planting trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the tract to be subdivided, shall be in accordance herewith.

| Acres | less than 0.5 | 0.5 | 1.0 | 1.5 | 2.0 | 2.5 | 3.0 | 3.5 | 4.0 | 4.5 | 5.0 | 5.5 | 6.0 | 6.5 | 7.0 | 7.5 | 8.0 | 8.5 | 9.0 | 9.5 | 10 or more |
|---------------------|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|------------|
| Buffer Width* | 10 | 12 | 14 | 16 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 | 40 | 42 | 44 | 46 | 48 | 50 |
| Trees (Per 100 Ft) | 3 | 3 | 3 | 4 | 4 | 4 | 5 | 5 | 5 | 6 | 6 | 6 | 7 | 7 | 7 | 7 | 8 | 8 | 8 | 8 | 9 |
| Shrubs (Per 100 Ft) | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 |

NOTES TO TABLE:
 * The minimum width of a buffer may be reduced by an additional 20% if a fence or wall is constructed in accordance with these regulations, ft = feet of buffer width.

(E) The width of the buffer may be reduced by 20% with construction of either of the following.

(1) A fence or wall constructed in a durable fashion using brick, stone or other masonry materials, or any combination thereof as may be approved by the Subdivision Administrator. No more than 25% of the fence surface shall be left open and the finished side of the fence shall face the abutting property. Walls and fences shall be a minimum six feet in height.

(2) A berm in compliance with division (I), below.

(F) Required trees and shrubs within the buffer shall meet the following standards.

(1) Forty percent of the required trees within the buffer shall be large mature trees.

(2) All trees shall have a minimum caliper of two and one-half inches measured six inches above ground and the minimum height of all trees shall be eight feet at the time of planting.

(3) (a) Shrubs shall be evergreen and at least three feet tall when planted with the average height of six feet in three to four years. However, 25% of the shrubs may vary from the above standard. The allowed variations are as follows.

1. Shrubs may be deciduous.

2. Shrubs may be two feet tall when planted; provided, an average height of three to four feet is expected as normal growth within four years.

(b) Shrubs planted on a berm may be of lesser height; provided, the combined height of the berm and plantings is at least eight feet after four years.

(4) Shrubs and trees shall be on the approved plant list in § 155.095 of this chapter.

(5) All specifications for the measurement, quality and installation of trees and shrubs shall be in accordance with the *American Standards for Nursery Stock*, published by the American Association of Nurserymen, and free of disease.

(6) Twenty-five percent of all trees shall be evergreen.

(G) Landscaping buffers will have an arrangement of trees and shrubs in the buffer area which shall be done in a manner that provides a visual separation between abutting land uses. Shrubs shall be massed in rows or groups to achieve the maximum screening effect.

(H) In the event that it can be demonstrated that existing vegetation meets the intent of this section, but the plant materials are not on the approved list, the Subdivision Administrator may waive the requirements for plant materials. If a plant material is not on the approved list, the Subdivision Administrator may determine whether it is acceptable.

(I) Berms may be used as screening provided such berms are at least five feet in height with a maximum slope of four to one (4:1) as measured from the exterior property line.

(1) Berms shall be stabilized to prevent erosion and landscaped.

(2) If a berm is constructed, shrubs are required, but the number may be reduced by 25%. However, constructing a berm does not modify the number of trees required.

(J) Required buffers shall not be disturbed for any reason except for required driveways, sidewalks or other pedestrian or bicycle paths, walls, fences or required landscaping, landscaping maintenance or replacement or maintenance and construction of berms, or utility lines. However, utility line construction must meet the following requirements.

(1) The removal of any tree larger than six inches caliper or any dogwood or redbud larger than two inches in caliper shall require the approval of the Subdivision Administrator.

(2) No utility easements shall run longitudinally within a buffer yard.

(K) To the extent possible, the path cleared for the utility lines shall be replaced with plant materials which are consistent with those that existed prior to utility line construction in the buffer yard.

(L) In no case shall the plant species of *Pueraria thumberfiana* ('Kudzu') be used for planting with the buffer.

(M) All buffer screening materials shall be properly maintained in order to fulfill the purpose(s) for which it is established. The owner of the property and any tenants shall be jointly and severally responsible for maintenance of all required screening.

(N) All buffers shall be constructed in a manner that shall allow for adequate sight distance where subdivision streets intersect with the thoroughfare.

(O) If utilities are located within the buffer yard, then the right-of-way width must be added to the total buffer width, in addition to the required width in the table above. This additional buffer width can be added into the calculated lot area.

(P) If above ground utilities are to remain in the buffer yard, then all landscaping, including the location of a berm, must be located outside the right-of-way for the utility(ies).

(Q) (1) The area of the buffer shall be in addition to lot area as required by Ch. 156 of this code of ordinances and setbacks as prescribed in Ch. 156 of this code of ordinances shall be measured from the nearest edge of the buffer to any structure of the lot.

(2) The buffer area shall become part of the lot on which it is located, or in the case of commonly owned property, shall be deeded to the homeowners' association.

(R) Preliminary plat proposals shall be accompanied by a statement providing for buffer area permanent maintenance via a method acceptable to the village. Maintenance of the buffer by the village shall not be an acceptable method.

(Ord. passed 8-21-2000, § 405; Ord. passed 2-14-2005; Ord. 2018-04, passed 5-14-2018) Penalty, see § 155.999

§ 155.081 ACCESS TO ADJACENT PROPERTIES.

(A) Where it is deemed desirable by the Village Council, proposed streets shall be extended by dedication to the boundary of such property and a temporary turn-around provided.

(B) Any such turn-around shall comply with the standards for cul-de-sacs, and, upon further extension of street(s), the turn-around shall be removed and the adjacent property restored to its original state, to the maximum extent feasible.

(Ord. passed 8-21-2000, § 405) Penalty, see § 155.999

§ 155.082 STREET DESIGN AND STANDARDS.

For any road to be maintained by NCDOT, minimum street right-of-way, as well as other engineering design standards, shall be in accordance with the minimum design criteria for subdivision roads as established from time to time, by the Division of Highways, state's Department of Transportation, publication entitled *Subdivision Roads - Minimum Construction Standards*. (Ord. passed 8-21-2000, § 405; Ord. passed 5-14-2007; Ord. passed 11-10-2014)

§ 155.083 CUL-DE-SACS.

Permanent dead end streets should not exceed 600 feet in length unless a modification is granted by the Village Council per § 155.030 of this chapter. Said modification may be granted as part of the plat approval process. The length of the cul-de-sac shall be computed from the point where the centerline of the dead end street intersects with the center of a through street to the center of the turnaround of the cul-de-sac. Where one cul-de-sac intersects with another cul-de-sac, the end of each cul-de-sac shall be no more than 600 feet from a through street, measured as stated above, unless a modification is granted by the Village Council. For any road to be maintained by NCDOT, cul-de-sac paving and right-of-way width shall be in accordance with NCDOT standards.

(Ord. passed 8-21-2000, § 405; Ord. passed 3-12-2001; Ord. passed 1-5-2006; Ord. passed 5-14-2007; Ord. passed 11-22-2011; Ord. passed 10-11-2014)

§ 155.084 IMPROVEMENTS WITHIN VILLAGE LIMITS.

(A) Approval of the final plat shall be subject to the subdivider having installed the improvements hereinafter designated or having guaranteed, to the satisfaction of the Village Council, the installation and maintenance of said improvements.

(B) The following requirements shall apply to all streets within the corporate village limits or if annexation of the subdivision to the village is desired or required by the subdivider.

(1) *Grading*. All streets shall be graded to their full right-of-way width. Finished grade, cross-section and profile shall be approved by the state's DOT standards as established herein.

(2) *Paving*. Road base and paving shall be installed in accordance with the state's DOT standards as established herein.

(3) *Sidewalks*. For all major subdivisions, sidewalks are required along both sides of all residential streets and along any portion of property having an entrance along a major thoroughfare, minor thoroughfare or collector street, as designated by the village's zoning map or adopted transportation plan. Sidewalks must be a minimum of five feet wide with four-inch depth concrete with a tamped base. Sidewalks shall include a minimum of two feet grass or masonry material, other than

cinderblock, buffer from back of curb, buffer from edge of pavement if no curb and gutter exists or is required, to sidewalk edge. Installation and maintenance requirements set forth in § 155.053(A) of this chapter shall apply.

(4) *Curbs and gutters.* For all major subdivisions, curbs and gutters are required along both sides of all residential streets. In all cases curb and gutter shall be constructed in accordance with DOT standards.

(5) *Bikeways.* Bikeways are encouraged, but not required, for major subdivisions. Where proposed, the requirements of § 155.086 of this chapter shall apply.

(6) *Street lighting.* Decorative pedestrian street lighting is required for all major subdivisions in which public or private streets are proposed. The outdoor lighting requirements of Ch. 156 of this code of ordinances shall apply. Streetlights shall be installed at the subdivider's expense along streets of new subdivisions at minimum intervals of 120 feet and maximum intervals of 200 feet distance between streetlights on alternating sides of the street. Within the specifications mentioned above, the subdivider shall use his or her discretion to determine the exact locations of streetlights.

(7) *Entrance-way lighting.* Subdivision entry signs, where provided, shall be illuminated and shall meet all requirements for outdoor lighting as set forth in Ch. 156 of this code of ordinances.

(8) *Multiple entrances.* Major subdivisions are required to have one entrance from a public road for every 150 lots.

(9) *Deceleration lanes.* Deceleration lanes onto public roads for major and minor subdivisions shall be determined on a case-by-case basis by NCDOT.

(10) *Access distances and offsets.* Access points located across a major thoroughfare, minor thoroughfare or collector road shall be aligned with the opposite street to the greatest degree feasible and shall meet all applicable NCDOT standards.

(11) *Improvements.* Any improvements specified by an approved transportation impact analysis, as required in § 156.092 of this code of ordinances.

(12) *Multiple lane exits.* One left turn exit lane and one through/right turn exit lane are required for all major subdivisions and shall be designed in accordance with the state's DOT standards as herein established.

(C) Developers are encouraged, but not required, to provide natural areas for the mutual enjoyment of residents and the general public as a part of any proposed major subdivision. (Ord. passed 8-21-2000, § 405; Ord. passed 9-9-2002; Ord. 8-8-2005; Ord. passed 11-22-2011; Ord. passed 11-10-2014; Ord. 2019-05, passed 6-10-2019)

§ 155.085 STREET SIGNS.

Appropriate street name signs which meet the standards of village/county specifications shall be placed at all street intersections at the subdivider's expense.

(Ord. passed 8-21-2000, § 405)

§ 155.086 STREET LAYOUT.

(A) *Conformity to existing maps or plans.* Streets shall be designed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety and to the proposed use of land to be served by such streets.

(B) *Continuation of adjoining streets.* The proposed street layout shall be coordinated with the street system of the surrounding area. Where possible, existing principal streets shall be extended.

(C) *Large tracts or parcels.* Where land is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and logical further resubdivision.

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

(E) *Permits for connection to state roads.* An approved permit is required for connection to any existing state system road. This permit is required prior to the start of construction on any street or road. The application is available at both the Charlotte and Monroe offices of the Division of Highways.

(F) *Reservation of future right-of-way.* Whenever a tract of land to be subdivided has frontage along any part of a major or minor thoroughfare, as designated by the village's zoning map or adopted transportation plan and whenever such right-of-way has been further defined by an adopted village or state transportation plan, a right-of-way for the major or minor thoroughfare must be platted in the location and to the width specified in the plan. The subdivider is responsible for the reservation of the right-of-way. All measurements involving minimum lot standards under this chapter shall be made at the edge of the full/future right-of-way thus reserved.

(Ord. passed 8-21-2000, § 405; Ord. passed 11-22-2011)

§ 155.087 UTILITIES.

All utility lines (electric, water, sewer, telephone, cable, gas and the like) shall be located underground in all subdivisions.

(Ord. passed 8-21-2000, § 405)

§ 155.088 CONNECTION TO PUBLIC WATER, SANITARY AND SEWER LINES.

Subject to availability of public water and/or sanitary sewer service from the county, if county or municipal water and/or sanitary sewer lines are located within one-half mile of a subdivision of ten to 39 lots, or within one mile of a subdivision of 40 lots or more, where the distances are measured along the roadway to the nearest edge of the property, then the developer must connect to these lines to provide water service, fire protection and sewer service for the subdivision.

(Ord. passed 8-21-2000, § 405)

§ 155.089 CONGREGATE MAILBOXES.

(A) As required by the United States Postal Service (USPS), an area for one or more congregate mailboxes shall be provided within the subdivision. Evidence that the USPS has approved the location of the congregate mailbox facility shall be provided with the preliminary plat. A minimum of two paved off-street parking spaces shall be provided for each subdivision where a congregate mailbox is required. For mailboxes that serve more than 100 residences, one additional parking space shall be provided for each additional 50 residences.

(B) For congregate mailboxes that are located within a community center facility designated for that subdivision, off-street parking provided for the community center can be used to satisfy these minimum requirements.

(Ord. passed 8-21-2000, § 405; Ord. 2015-11, passed 8-10-2015; Ord. passed 10-12-2015)

§ 155.090 MONUMENTS.

Unless otherwise specified by this chapter, the *Standards of Practice for Land Surveying*, as adopted by the state's Board of Registration for Professional Engineers and Land Surveyors, under the provisions of 21 N.C.A.C. 56, shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers and property corner ties; to determine the location, design and material of monuments, markers, control corners and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

(Ord. passed 8-21-2000, § 406; Ord. passed 9-9-2002)

§ 155.091 LIGHTING REQUIREMENTS.

(A) *Submission contents.* The applicant for any permit required by this chapter with proposed work involving outdoor lighting fixtures shall submit (as part of a final plat approval) evidence that the proposed work will comply with § 156.134 of this code of ordinances. The submission shall contain, but

shall not necessarily be limited to, the following, all or part of which may be in addition to the information required elsewhere in this chapter upon application for the required permit:

(1) Plans indicating the location on the premises, and the type of illuminating devices, fixtures, lamps, supports, reflectors and other devices;

(2) Description of the illuminating devices, fixtures, lamps, supports, reflectors and other devices and the description may include, but is not limited to, catalog cuts by manufactures and drawings (including sections where required); and

(3) Photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off or light emissions.

(B) *Additional submissions.* The above required plans, descriptions and data shall be sufficiently complete to enable the plans examiner to readily determine whether compliance with the lighting provisions of Ch. 156 of this code of ordinances will be secured. If such plans, descriptions and data cannot enable this ready determination, by reason of the nature or configuration of the devices, fixtures or lamps proposed, the applicant shall additionally submit as evidence of compliance to enable such determination such certified reports of tests as will do so; provided that, these tests shall have been performed and certified by a recognized testing laboratory.

(C) *Subdivision plat certification.* If any subdivision proposes to have installed street or other common or public area outdoor lighting, the final plat shall contain a statement certifying that the applicable provisions of this section will be adhered to.

(D) *Lamp or fixture substitution.*

(1) Should any outdoor light fixture, or the type of light source therein, be changed after the permit has been issued, a change request must be approved by the Zoning Administrator, and any substitute fixtures must meet all applicable requirements of Ch. 156 of this code of ordinances.

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

DIRECT LIGHT. Light emitted directly from the lamp, off of the reflector diffuser, or through the refractor or diffuser lens, of a luminaire.

FIXTURE. The assembly that houses the lamp or lamps and can include all or some of the following parts: a housing; a mounting bracket or pole socket; a lamp holder; a ballast; a reflector or mirror; and/or a refractor or lens.

FLOOD LIGHT or ***SPOTLIGHT.*** Any light fixture or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.

FULLY-SHIELDED LIGHTS. Outdoor light fixtures shielded or constructed so that no light rays are emitted by the installed fixture at angles above the horizontal plane as certified by a photometric test report.

GLARE. Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see, and in extreme cases causing momentary blindness.

HEIGHT OF LUMINAIRE. The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest directly light-emitting part of the luminaire.

INDIRECT LIGHT. Direct light that has been reflected or has scattered off of other surfaces.

LAMP. The component of a luminaire that produces the actual light.

LIGHT TRESPASS. The shining of light produced by a luminaire beyond the boundaries of the property on which it is located.

LUMEN. A unit of luminous flux. One foot-candle is one lumen per square foot. For the purpose of this chapter, the lumen-output values shall be the initial lumen output ratings of a lamp.

LUMINAIRE. This is a complete lighting system, and includes a lamp or lamps and a fixture.

OUTDOOR LIGHTING. The night-time illumination of an outside area or object by any human-made device located outdoors that produces light by any means.

PRE-EXISTING LUMINARIES. Luminaires not conforming to this code that were in place at the time this code was voted into effect.

TEMPORARY OUTDOOR LIGHTING. The night-time illumination of an outside area or object by any human-made device located outdoors that produces light by any means for a period of less than seven days, with at least 180 days passing before being used again.
(Ord. passed 8-21-2000, § 407; Ord. passed 9-9-2002; Ord. passed 11-12-2001)

§ 155.092 LOTS TO ABUT A PUBLIC STREET.

Except for lots specifically approved to being accessed on private roads as provided in § 155.093 of this chapter, each lot shall have frontage on a public street with the following exceptions:

- (A) Existing lots meeting the requirements set forth in § 156.128 of this code of ordinances;

(B) Proposed lots for use by one-family detached dwellings and which do not have frontage on a public street may be approved after making the following findings:

(1) Such lot is a minimum of one acre in size; and

(2) Such lot is provided with access to a public street by means of an easement at least 20 feet in width for the exclusive use of the dwelling to be established on such lot, or a pre-existing private drive or easement at least 20 feet in width providing the sole means of access to no more than two pre-existing lots. Use of a pre-existing easement or private drive shall require signed permission noted on the recorded subdivision plat by all property owners on whose lots the easement traverses and all property owners providing maintenance of the easement.

(C) Creation of such lot is made necessary by virtue of the fact that development of said property by conventional means (i.e., extension of public street) is impractical due to disproportionate costs of required improvements as compared to the relative value of lots created;

(D) Creation of such lots does not unduly restrict or impair future development or extension of an adequate system of public streets within the immediate area; and

(E) Proposed lots which have frontage on private streets built to NCDOT standards within a gated residential development as provided for in § 155.093 of this chapter.

(Ord. passed 8-21-2000, § 409; Ord. passed 6-10-2002; Ord. passed 9-13-2004; Ord. passed 1-10-2005; Ord. passed 11-10-2014)

§ 155.093 PRIVATE ROADS; GATED RESIDENTIAL DEVELOPMENTS.

(A) *Private roads in non-gated subdivisions.* Subdivision roads that are not built to NCDOT design standards and will not be maintained by NCDOT may be built as privately maintained roads. Such roads, with the exception of those that are located in gated residential developments, shall be publicly dedicated and available for public usage. All private roads shall be built to minimum NCDOT design standards with the following exceptions.

(1) The minimum pavement radius of cul-de-sacs shall be 60 feet and a minimum pavement diameter of 120 feet as measured from the center of the turnaround shall be required.

(2) The minimum pavement width for all other subdivision roads shall be 26 feet, not including curb and gutter.

(3) In approving a private road, the Village Council shall have no authority to approve modifications to these standards or to any other NCDOT subdivision road specification standard.

(B) *Gated residential developments.*

(1) Unlike other developments in the village, a gated residential development, where a gate is placed at the outer periphery of the development in order to restrict access, may be allowed to have private streets that are not owned and maintained by NCDOT. All gated residential developments must be developed in accordance with the regulations of this section, other applicable regulations of this chapter and Ch. 156 of this chapter including the road and cul-de-sac pavement widths and sub-grade standards referenced above. In approving a private road in a gated residential development, the Village Council shall have no authority to approve modifications to either of these standards or to any other NCDOT subdivision road specification standard.

(2) The design and layout of any gatehouse, entry gates, external fence, walls and berms shall be located outside any public street right-of-way and shall be designed to blend in, to the greatest degree feasible, with the proposed development and be attractive to motorists and pedestrians from adjoining public streets. Gatehouses and entry gates shall be located outside any required buffer areas. Entry gates shall be setback sufficiently far from public street entrances to allow for stacking of at least three vehicles out of the public travel lanes. An additional setback between the point of the access control device and the entry gate shall be required to allow a vehicle which is denied access to safely turn around and exit onto a public street. Pedestrian access to the gated residential development shall be provided at its entrance outside of the vehicle travel lanes. Entry gates shall have sufficient minimum gate widths and openings to allow safe passage of all vehicles permitted to use public roadways. Overhead barriers or obstructions shall not be allowed above entry gates. All gatehouses, entry gates, external fences and walls shall be subject to specific review and approval of the village's Planning Board prior to the start of construction. Said review and approval shall include any signage and/or illumination integral to subdivision gatehouses, entry gates, external fences and walls.

(3) With the exception of the placement of a gate and guardhouse in a private street right-of-way, all private roads, traffic signs and markings shall meet all applicable minimum right-of-way, pavement, construction and design standards for public roads as herein established. The village reserves the right to have streets inspected during the construction phase to ensure that they are being built in accordance with all applicable standards. The developer of the subdivision shall bear all costs borne by the village in association with such inspections.

(4) Prior to the approval of a final plat, the subdivider shall submit to the village evidence that the subdivider has created a homeowners' association whose responsibility it will be to maintain common areas, private streets, curb and gutter and sidewalks within the subdivision. Such evidence shall include filed copies of the articles of incorporation, declarations and homeowners' association bylaws.

(5) The maintenance and upkeep of any guardhouses or entry structures, and subdivision walls, fences or berms located at the external periphery of the subdivision as well as internal streets, curb, gutter and sidewalks shall be the sole responsibility of the subdivider and/or any duly incorporated and active homeowners' association. Accordingly, any maintenance bond accepted by the village per § 155.057 of this chapter for a gated residential development subdivision shall be calculated using the construction costs of all facilities listed above (in addition to the cost of roads as provided in § 155.057

of this chapter). The maintenance bond shall remain in place for two years following final plat approval of the subdivision plat or until the Village Council is satisfied (in its own exclusive discretion) that the homeowners' association is controlled by individual lot owners other than the developer (one year, at a minimum, after a homeowners' association is incorporated and active), has made necessary assessments for payment of maintenance of the roads and facilities, and has otherwise taken over the full responsibility of maintenance of such facilities and the private roads within the subdivision. The decision to release the bond shall rest entirely with the Village Council and shall be made based upon the homeowners' association financial ability to properly maintain these roads and common facilities. After the maintenance bond is released by the Village Council, the homeowners' association shall be required to submit to the village, by January 15 of each calendar year, the names, addresses and telephone numbers of all duly elected members of their board of directors as well as a copy of their annual financial statement showing, at a minimum, the amount of funds budgeted to maintain such facilities. In the event the Village Council, in its discretion, believes the homeowners' association is not making necessary repairs to the roadways or facilities (amenities) or is not making assessments necessary to cover the cost of said repairs, it may after notice of hearing published as provided in this chapter, and notice provided to each lot owner within the subdivision, as shown on the tax scrolls of the county as of January 1 of the prior year, require the homeowners' association to provide a maintenance bond as required in § 155.057 of this chapter. This maintenance bond may be eliminated or reinstated at the discretion of the Village Council upon notice as set out above.

(6) The subdivider and homeowners' association shall guarantee access to all private streets by emergency and law enforcement vehicles. Access procedures must ensure immediate access through the entry gates for emergency and law enforcement vehicles responding to emergencies. Approach and departure areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area. The subdivider shall provide documentation from the county's Emergency Management and Sheriff's Departments that proposed entry gates and access procedures meet all county standards for access by emergency and law enforcement vehicles.

(7) The subdivider and homeowners' association shall guarantee access to all private streets in gated residential developments by the village, county agencies, state agencies and all public utility companies. Village, county and state officials and staff shall be permitted entry to the gated residential development to perform zoning, inspections and other governmental regulatory activities. Public utility company vehicles and personnel shall be permitted entry to the gated residential development to perform installation and maintenance activities of public utility infrastructure. A statement to this effect shall appear on or accompany the final plat.

(8) If the homeowners' association fails to maintain reliable access for the provision of emergency or other public services, the village may enter the gated residential development and open, disable or remove any gate or device, which is a barrier to access, at the sole expense of the homeowners' association. The declaration of covenants, conditions and restrictions and any other relevant documents of the homeowners' association shall include this provision.

(Ord. passed 8-21-2000, § 410; Ord. passed 9-13-2004; Ord. passed 1-10-2005; Ord. passed 11-10-2014)

§ 155.094 HOMEOWNERS' ASSOCIATIONS REQUIRED.

(A) New major subdivisions, consisting of 25 houses or more, which include facilities requiring maintenance, such as private roads, pools, tennis courts, parks, facility parking, storm water facilities beyond curb and gutter, and clubhouses shall establish a homeowner's association for the maintenance of those facilities. Subdivisions providing only amenities, such as sidewalks, fountains, monument signs, street lighting, walls, gates, planting areas, flower beds and sculpture, are not required to be maintained through a homeowners' association and, therefore, a homeowners' association is not required, as long as no common open space is proposed.

(B) (1) The homeowners' association shall be organized and established as a legal entity prior to or as a part of the final plat approval and recording process. Membership in the homeowners' association shall be mandatory for each original purchaser of a residential lot within the subdivision.

(2) The homeowners' association shall be organized so that it has clear legal authority to maintain and exercise control over the required improvements, common areas and facilities, as specified in division (A) above, and not dedicated to and accepted by a public authority for the purposes of maintenance.

(a) As a part of the final plat approval process, the developer shall submit to the village the following documents, should an association be required, for review:

1. Proposed articles of incorporation for the association. Such articles of incorporation shall provide for homeowners' control when over 50% of the lots are sold;
2. Proposed bylaws of the association. Such bylaws shall provide for annual meetings of the association, election of officers and distribution of an annual financial accounting to members;
3. Proposed annual budget of the association showing monthly assessments. The monthly assessments must be set at a sufficient level to ensure success of the association and necessary capital expenses; and
4. Proposed restrictions and covenants for the common areas.

(b) All proposed common areas shall be designated on the subdivision plat as common areas to be held in separate ownership for the use and benefit of residents occupying residential lots in the subdivision. Should these common areas contain facilities which require maintenance, approval of these common areas by the Village Council as part of the final plat approval process requires submission by the developer of restrictions and covenants that will govern the ownership, management and maintenance of the facilities within those common areas. The Village Council reserves the right to conditionally deny approval of final subdivision plats if it finds that the restrictions and covenants do not properly address issues of ownership, management and maintenance of common areas. There shall be

full disclosure that potential homebuyers understand the obligations and requirements of homeowners' associations.

(Ord. passed 8-21-2000, § 411; Ord. passed 10-18-2011)

§ 155.095 PLANT SPECIES.

(A) Large maturing trees.

| <i>Botanical Name</i> | <i>Common Name</i> |
|-------------------------------|-----------------------|
| Abies firma | Japanese fir |
| Acer rubrum | Red Maple |
| Acer saccharinum | Norway Maple |
| Acer saccharinum | Silver Maple |
| Saccharum | Sugar Maple |
| Altis laevigata | Sugar Hackberry |
| Amelanchier Canadensis | Serviceberry |
| Betula negra | River Birch |
| Carya illinoensis | Pecan |
| Carya glabra | Shagbark hickory |
| Carya cordiformis | Pignut hickory |
| Cedrus deodara | Deodar cedar |
| Celtis occidentalis | Hackberry |
| Cryptoeria j aponica | Japanese cryptomeria |
| Cupressocyparis leylandii | Leyland cypress |
| Diospyros virginiana | Persimmon |
| Fagus grandiflora | American beech |
| Fraxinus americana | White ash |
| Fraxinus pennsylvanica | Green ash |
| Ginkgo biloba | Ginkgo |
| Gleditsia triacanthos inermis | Thornless honeylocust |
| Gymnocladus dioicus | Kentucky coffee tree |
| Juniperus virginiana | Eastern red cedar |
| Liquidambar styraciflua | Sweetgum |

Wesley Chapel - Land Usage

| <i>Botanical Name</i> | <i>Common Name</i> |
|-------------------------|---------------------|
| Liriodendron tulipifera | Tulip poplar |
| Magnolia acuminata | Cucumber tree |
| Magnolia grandiflora | Southern Magnolia |
| Nyssa sylvatica | Black gum |
| Picea abies | Norway spruce |
| Picea orientalis | Oriental spruce |
| Picea pungens | Colorado spruce |
| Pinus bungeana | Lacebark pine |
| Pinus echinata | Short leaf pine |
| Pinus nigra | Austrian pine |
| Pinus sylvestris | Scotch pine |
| Pinus thunbergi | Japanese black pine |
| Pinus taeda | Loblolly pine |
| Pinus virginiana | Virginia pine |
| Platanus acerifolia | London planetree |
| Platanus occidentalis | Sycamore |
| Pseudotsuga menziesii | Douglas Fir |
| Quercus acutissima | Sawtooth oak |
| Quercus alba | White oak |
| Quercus bicolor | Swamp white oak |
| Quercus borealis | Northern red oak |
| Quercus coccinea | Scarlet oak |
| Quercus falcata | Southern red oak |
| Quercus laurifolia | Laurel oak |
| Quercus macrocarpa | Bur oak |
| Quercus nigra | Water oak |
| Quercus phellos | Willow oak |
| Quercus rubra maxima | Eastern red oak |
| Quercus shumardi | Shumard oak |
| Quercus velutina | Black oak |

Subdivisions

| <i>Botanical Name</i> | <i>Common Name</i> |
|-------------------------|----------------------|
| Quercus virginiana | Live oak |
| Salix babylonica | Weeping willow |
| Sophora japonica regent | Japanese pagoda tree |
| Taxodium distichum | Bald cypress |
| Tilia cordata | Littleleaf linden |
| Tsuga caroliniana | Carolina hemlock |
| Tsuga canadensis | Eastern hemlock |
| Ulmus alata | Winged elm |
| Ulmus americana | American elm |
| Ulmus parvifolia | Lacebark elm |
| Zelkova serrata | Japanese zelkova |

(B) *Small maturing trees.*

| <i>Botanical Name</i> | <i>Common Name</i> |
|-----------------------------|--------------------------|
| Acer buergeranum | Trident maple |
| Acer campestre | Hedge maple |
| Acer griseum | Paperbark maple |
| Amelanchier arborea | Service berry |
| Betula platyphylla japonica | Japanese white birch |
| Carpinus betulus | European hornbeam |
| Carpinus carolinana | American hornbeam |
| Catalpa bignonioides | Southern catalpa |
| Cornus florida | Flowering dogwood |
| Comus Kousa | Kousa dogwood |
| Cornus mas | Cornelian-cherry dogwood |
| Cercis candensis | Eastern redbud |
| Crataegus phaenopyrum | Washington hawthorne |
| Cupressus arizonica | Arizona cypress |
| Eriobotrya japonica | Loquat |

Wesley Chapel - Land Usage

| <i>Botanical Name</i> | <i>Common Name</i> |
|----------------------------------|--------------------------|
| Halesia Carolina | Carolina silver bell |
| Hammamelis mollis | Chinese witch-hazel Ilex |
| Fagus sylvatica | European beech |
| Fosteri | Foster holly |
| Ilex opaca | American holly |
| Ilex opaca hume | Hume holly |
| Ilex x attenuata 'Fosteri' | Foster hybrid holly |
| Ilex x attenuata savannah | Savannah holly |
| Kowlrwuteria bipinnata | Chinese flame tree |
| Koelreutraria paniculata | Golden raintree |
| Lagerstroemia indica | Crape myrtle |
| Magnolia soulangeana | Saucer magnolia |
| Magnolia stellata | Star magnolia |
| Malus floribunda | Flowering crabapple |
| Malus hybrida | Flowering crab apple |
| Morus alba 'Pendula5 | Weeping white mulberry |
| Osmanthus americanus | Devilwood |
| Ostrya virginiana | Ironwood |
| Oxydendrum arboreum | Sourwood |
| Prunus carolinana | Carolina cherry laurel |
| Prunus cerasifera 'Atropurpurea' | Pissard plum |
| Prunus cerasifera pissardii | Purpleleaf plum |
| Primus cerasus | Sour cherry |
| Prunus serrulata kwanzan | Kwanzan cherry |
| Prunus subhirtella pendula | Weeping cherry |
| Prunus yedoensis | Yoshino cherry |
| Pyrus calleryana | Callery pear |
| Pyrus calleryana Bradfordi | Bradford pear |
| Pyrus calleryana 'Redspire' | Redspire pear |
| Pyrus calleryana 'Capital' | Capital pear |

Subdivisions

| <i>Botanical Name</i> | <i>Common Name</i> |
|-----------------------|------------------------|
| Quercus acuta | Japanese evergreen oak |
| Quercus glauca | Ring cupped oak |
| Ulmus parvifolia | Chinese elm |
| Viburnum rufidulum | Southern Blackhaw |

(C) *Shrubs.*

| <i>Botanical Name</i> | <i>Common Name</i> |
|----------------------------|-----------------------|
| Abelia grandiflora | Glossy Abelia |
| Aucubaj aponica | Japanese Aucuba |
| Azalea hybrida | Glendale azalea |
| Azalea Indica | Indian azalea |
| Azalea Obtusum Kaempferi | Kaempferi azalea |
| Berberisjulianae | Wintergreen barberry |
| Camellia j aponica | Camellia |
| Camellia sasanqua | Sasanqua camellia |
| Chaenomeles speciosa | Flowering quince |
| Cleyeraj aponica | Cleyera |
| Euonymus japonicus | Evergreen euonymus |
| Forsythia intermedia | Forsythia |
| Hammamelis virginiana | Witch-hazel |
| Hydrangea quercifolia | Oakleaf hydrangea |
| Ilex aquifolium | English holly |
| Ilex cornuta | Chinese holly |
| Ilex cornuta burfordi | Burford holly |
| Ilex cornuta burfordi nana | Dwarf burford holly |
| Ilex crenata 'convexa' | Convex Japanese holly |
| Ilex crenata 'hetzi' | Hetzi Japanese holly |

Wesley Chapel - Land Usage

| <i>Botanical Name</i> | <i>Common Name</i> |
|---|----------------------------|
| <i>Ilex crenata</i> 'roundifolia' | Roundleaf Japanese holly |
| <i>Ilex</i> 'Emily Brunner' | Emily brunner holly |
| <i>Ilex glabra</i> | Inkberry holly |
| <i>Ilex latifolia</i> | Lusterleaf holly |
| <i>Ilex pernyi</i> | Perny holly |
| <i>Ilex vomitoria</i> | Yaupon holly |
| <i>Jumperus chinensis</i> pfitzeriana | Pfitzer jumper |
| <i>Jumperus chinensis</i> hetzi | Hetzi jumper |
| <i>Laurus nobilis</i> | Laurel |
| <i>Ligustrum lucidum</i> | Glossy privet |
| <i>Ligustrum vicaryi</i> | Vicary goldern privet |
| <i>Loropetalum chinense</i> | Loropetalum |
| <i>Myrica cerifera</i> | Wax myrtle |
| <i>Nandina domestica</i> | Nandina |
| <i>Osmanthus fortunei</i> | Fortune tea olive |
| <i>Osmanthus fragrans</i> | Fragrant tea olive |
| <i>Osmanthus heterophyllus</i> | Holly osmanthus |
| <i>Osmanthus heterophyllus</i> roundifolius | Curly leaf tea olive |
| <i>Photinia fraseri</i> | Fraser photinia |
| <i>Photinia serrulata</i> | Chinese photmia |
| <i>Pieris floribunda</i> | Mountain andromeda |
| <i>Pieris japonica</i> | Japanese andromeda |
| <i>Pittosporum tobira</i> | Pittosporum |
| <i>Prunus laurocerasus</i> | English laurel |
| <i>Prunus laurocerasus</i> angustifolia | Narrow leaf english laurel |
| <i>Podocarpus macrophyllus</i> maki | Podocarpus |
| <i>Pyracantha coccinea</i> | Scarlet firethorn |
| <i>Raphiolepis umbellata</i> | Yeddo-hawthorn |

| <i>Botanical Name</i> | <i>Common Name</i> |
|-------------------------|----------------------|
| Spirea cantoniensis | Reves spirea |
| Spirea thunbergi | Thunberg spirea |
| Spirea prunifolia plena | Bridalwreath spirea |
| Spirea vanhouttei | Vanhoutte spirea |
| Taxus cuspidata | Japanese yew |
| Viburnum prunifolium | Blackhaw viburnum |
| Viburnum rhytidophyllum | Leatherleaf viburnum |
| Viburnum tinus | Laurestinus viburnum |

(Ord. passed 8-21-2000; Ord. 2017-09, passed 9-11-2017)

PARK, RECREATION AND OPEN SPACE PURPOSES

§ 155.110 DEDICATION OF LAND.

(A) *General provisions.* Every subdivider who proposes a subdivision of land for residential purposes shall dedicate a portion of land or pay a fee in lieu thereof, in accordance with this subchapter, for public park, greenway, recreation and open space sites to serve the recreational needs of the residents of the subdivision or development.

(B) *Amount of land to be dedicated.*

(1) At least one-thirty-fifth of an acre shall be dedicated for each dwelling unit or proposed in the subdivision plat or development.

(2) The minimum amount of land which shall be dedicated for a public park, recreation or open space site shall be no less than two acres in size. When the area to be provided is less than two acres, the subdivider shall be required to make payment in lieu of the dedication to be used for the acquisition or development of recreation, park or open space sites which would serve the needs of the residents of the subdivision.

(C) *Nature of land to be dedicated.* Except as otherwise required by the Village Council at the time of preliminary plat approval, all dedications of land shall meet the following criteria.

(1) *Unity.* The dedicated land shall form a single parcel of land, except where the Village Council determines that two or more parcels would be in the best interest of the public, given the type

and distribution of open spaces needed to adequately serve the proposed development. In such cases, the Village Council may require that such parcels be connected by a dedicated strip of land at least 30 feet in width.

(2) *Usability.* Two-thirds of the dedicated land shall be useable for active recreation. Furthermore, lakes and other bodies of water may not be included in computing any of the dedicated land area. Land dedicated only for greenways need not follow the requirements of the section.

(3) *Shape.* The shape of the portion of dedicated land which is deemed suitable for active recreation shall be sufficiently square or round to be usable for any or all recreational facilities and activities, such as athletic fields and tennis courts, when a sufficient amount of land is dedicated to accommodate such facilities. Land dedicated only for greenways need not follow the requirements of this section.

(4) *Location.* The dedicated land shall be located so as to reasonably serve the recreation and open space needs of residents of the subdivision.

(5) *Access.* Public access to the dedicated land shall be provided either by adjoining public street frontage or by a dedicated public easement, at least 30 feet wide, which connects the dedicated land to a public street or right-of-way. Gradients adjacent to existing and proposed streets shall allow for reasonable access to the dedicated land. Where the dedicated land is located adjacent to a street, the developer or subdivider shall remain responsible for the installation of utilities, sidewalks and other improvements required along that street segment. Public access or dedicated walkways to greenway dedications only shall be at least 20 feet wide.

(6) *Topography.* The average slope of the portion of dedicated land deemed usable for active recreation shall not exceed the average slope of the entire subdivision to be developed. In no case shall a slope on the usable portion of dedicated land exceed 15%.

(7) *Landscaping.* Dedicated parks, recreation and open space areas shall have a sufficient natural or human-made buffer or screen to minimize any negative impacts on adjacent residents. (Ord. passed 8-21-2000, § 408; Ord. passed 11-12-2001; Ord. passed 9-9-2002)

§ 155.111 PAYMENTS OF FEES IN LIEU OF LAND DEDICATION.

(A) *General.*

(1) The payment of fees, in lieu of the dedication of land under § 155.110 of this chapter, may occur at the request of the subdivider or developer. However, the decision to require the dedication of land for recreational purposes, or a payment of a fee in lieu, shall be made by the Village Council after having received a recommendation from the Planning Board and having evaluated the proposed dedication and the relationship such dedication would have with the village's overall recreational needs.

(2) The preliminary plat approval and the decision to either accept land for recreational purposes or fee in lieu of shall rest with the Village Council.

(B) *Time of payment.* The fees in lieu of dedication shall be paid prior to final plat approval by the Village Council.

(C) *Amount of payment.* The amount of the payment shall be the product of the number of acres to be dedicated, as required by § 155.110 of this chapter, multiplied by the per acre assessed value; assessed value of the land being subdivided as assigned by the county's Tax Appraiser.

(Ord. passed 8-21-2000, § 408; Ord. passed 11-10-2014)

§ 155.112 PROCEDURES.

(A) At the time of filing a preliminary plat, the subdivider shall designate thereon the area or areas to be dedicated pursuant to this subchapter. If the subdivider desires to make a payment in lieu of the dedication of land, a letter to that effect shall be submitted with the preliminary plat. The Village Council reserves the right to refuse to accept dedication of parcels for public park, recreation or open space.

(B) Where a dedication of land is required, such dedication shall be shown on the final plat when submitted and such plat shall be accompanied by an executed general warranty deed conveying the dedicated land to the village. Where a payment in lieu of dedication is approved by the Village Council, such payment will be made before the final plat is signed and recorded.

(Ord. passed 8-21-2000, § 408)

§ 155.113 AUTHORITY TO SELL.

The Village Council shall have the authority to sell land dedicated pursuant to this subchapter. The proceeds of such sale shall be used for the acquisition and/or development of other recreation, park or open space sites.

(Ord. passed 8-21-2000, § 408)

§ 155.114 EQUIVALENT FACILITIES UNDER NEIGHBORHOOD OR COMMUNITY HOMEOWNERS' ASSOCIATION OF MANAGEMENT.

The village encourages neighborhood or homeowners' associations or management to construct, operate and maintain private parks and recreation. The construction, operation or maintenance of such private facilities shall not, however, diminish or eliminate the responsibility and obligations of the subdivider under this subchapter.

(Ord. passed 8-21-2000, § 408)

§ 155.115 GREENWAYS.

Greenways may be credited against the requirements of this subchapter; provided that, such greenways are part of the village's greenway plan and dedicated to public use.
(Ord. passed 8-21-2000, § 408)

§ 155.999 PENALTY.

(A) After the effective date of this chapter, any person who, being the owner or authorized agent of the owner of any land located within the territorial jurisdiction of this chapter, thereafter subdivides his or her land in violation of this chapter or transfers or sells land by reference to, exhibition of or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this chapter and recorded in the county's Register of Deeds office, shall be guilty of a misdemeanor. Violators of this chapter shall be subject, upon conviction, to a fine of not more than \$50 or imprisonment of not more than 30 calendar days, as provided by G.S. § 14-4.

(B) The violation of any provision of this chapter shall subject the offender to a civil penalty in the amount of \$50 per day for each calendar day a violation exists, which may be recovered by the village in a civil action in the nature of a debt if the offender does not pay the penalty within five days after he or she has been cited for violation of this chapter.

(C) Any provision of this chapter may also 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 an acceptable defense to the application of the village for equitable relief that there is an adequate remedy at law.

(D) (1) Any provision of this chapter 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 provision occurs, the village may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of 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.

(2) 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 improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with this chapter. 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 or she may be cited for contempt, and the village may execute the order of abatement.

(3) The village shall have a lien on the property for the cost of executing the 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 appropriate 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 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.

(E) The provisions of this chapter may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section.

(F) Except as otherwise specifically provided, each and every calendar day of continuing violation of any provision of this chapter shall be a separate and distinct offense.

(G) The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this section.

(H) The Zoning Administrator shall not issue zoning permits for property in violation of this chapter. (Ord. passed 8-21-2000, § 204)

CHAPTER 156: ZONING

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GENERAL PROVISIONS

§ 156.001 AUTHORITY AND ENACTMENT.

These regulations shall take effect and be enforced as of the effective date recorded herein.
(Ord. passed 8-21-2000, § 1.1)

§ 156.002 SHORT TITLE.

These regulations shall be known and may be cited as the “Zoning Ordinance of the Village of Wesley Chapel, North Carolina”.
(Ord. passed 8-21-2000, § 1.2)

§ 156.003 JURISDICTION.

These regulations shall govern the use of all land and the development thereof within all of the incorporated area of the village and the extraterritorial jurisdiction area.
(Ord. passed 8-21-2000, § 1.3; Ord. passed 2-12-2007)

§ 156.004 PURPOSES.

(A) The purpose of these regulations shall be to regulate the height, number of stories and size of buildings and other structures; the percentage of lot that may be occupied; the location and use of buildings; structures and land for trade and residence, and other purposes, so as to lessen congestion in the streets, to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent overcrowding of land; to protect floodplains and wetlands; to promote economy in governmental expenditures; and to encourage the most appropriate use of land, buildings and other structures within the area of jurisdiction of this chapter. The zoning districts and maps have been made with due consideration of future growth, development and change in land development according to objectives expressed in the land development plan for the development of the community, as well as with due consideration of existing development and uses of land within the village and prior zoning under the auspices of the county.

(B) These regulations and districts represent reasonable consideration of the character of the districts and their peculiar suitability for particular uses of land and have been made with a view to preserving the existing environment, and assuring the development of a future environment that realizes the most appropriate use and enjoyment of land throughout the village. This is balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties and with the objective of promoting and protecting the public welfare through the regulation of land use and the process of land development.

(Ord. passed 8-21-2000, § 1.4)

§ 156.005 DEFINITIONS.

(A) *General.* For the purpose of interpreting this chapter, certain specific words or terms are herein defined. Except as defined herein, all other words used in this chapter shall have their customary dictionary definition; excepting, should any word or term be further or differently defined in any section of this chapter, that definition shall be considered superior to the definition found in this section.

(B) *Interpretation of terms and words.* All words not specifically defined herein under shall be assigned their customary definitions.

(1) Words used in the present tense include the future tense.

(2) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context of the particular usage clearly indicates otherwise.

(3) The word "person" includes a firm, association, organization, partnership, corporation, trust, and company as well as individual.

(4) The word "lot" includes "plot" or "parcel".

(5) The word “building” includes the word “structure”.

(6) The words “shall”, “will” and “must” are always mandatory and not merely directory.

(7) The words “used” or “occupied” as applied to any land or building shall be construed to include the words “intended, arranged or designed to be used or occupied”.

(8) The word “Map”, “zoning map” or “Village of Wesley Chapel Zoning Map” shall mean the official zoning map of the village.

(9) Any word denoting gender includes the female and the male.

(10) The word “may” is directory and not mandatory.

(11) The word “day” shall mean a normal business day unless otherwise specified.

(12) The words “town”, “village” and the like shall denote the “incorporated Village of Wesley Chapel”.

(Ord. passed 8-21-2000, § 2.1)

(C) Definitions of specific terms and words.

ABANDONMENT. The intentional or unintentional cessation of use when one or more of the following conditions exists:

(a) The use is discontinued for a consecutive period of 180 days;

(b) The premises are devoted to another use;

(c) When the characteristic equipment and furnishings of the non-conforming use have been removed from the premises and have not been replaced by the same or similar equipment within 30 days;
or

(d) Failure to take all positive action to resume the non-conforming use with reasonable dispatch, including the failure to advertise the property for sale or lease.

ACCESSORY USE OR STRUCTURE. A use or structure that exists on the same lot with the principal use or structure and is customarily subordinate to or incidental to the principal use. Porches, patios and decks shall be considered **ACCESSORY STRUCTURES** unless they are to be considered an increase in heated space of the attached structure. An increase in heated space shall be considered an addition. Separate **ACCESSORY STRUCTURES** shall not have heated space, kitchens and bathroom facilities as part of the same building, these are to be considered separate dwelling units. In-ground pools shall be considered **ACCESSORY STRUCTURES**.

ACTIVITIES OF DAILY LIVING. Bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting and eating.

ADJACENT. Property abutting directly on the boundary of, touching or sharing a common point.

ADULT ESTABLISHMENT. Any structure, business or use of land which meets the definition of adult establishment as outlined in G.S. § 14-202.10, and including adult video stores, adult hotel/motels and adult lingerie modeling stores. This definition includes adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult live entertainment businesses or massage businesses. These uses are further defined in G.S. § 14-202.10 and the definitions are adopted by reference. However, certain massage businesses are exempt from this definition where the employees associated with massage meet the ethical and educational requirements specified by the American Massage Therapy Association or equivalent national or state standards.

AGENCY. A sales or service establishment dealing in services or intangible commodities, or commodities not on site, such as a broker’s office, travel agency, temporary employee agency and the like.

AGRICULTURAL EQUIPMENT. Specialized vehicles and/or mechanical equipment used in the conduct of agricultural uses, not including simple non-motorized hand tools.

AGRICULTURAL PLANT PRODUCTS. Goods or products produced from industries classified within the following “NAICS”, North American Industrial Classification System, codes, as set forth in the 2007 NAICS Manual published by the United States of America, Executive Office of the President, Office of Management and Budget. Goods produced in other NAICS codes shall not be considered **AGRICULTURAL PLANT PRODUCTS** for purposes of this chapter.

| | |
|--------|---|
| 111110 | Soybean farming |
| 111120 | Oilseed (except soybean) farming |
| 111130 | Dry pea and bean farming |
| 111140 | Wheat farming |
| 111150 | Corn farming |
| 111160 | Rice farming |
| 111191 | Oilseed and grain combination farming |
| 111199 | All other grain farming |
| 111211 | Potato farming |
| 111219 | Other vegetable (except potato) and melon farming |
| 111310 | Orange groves |

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| | |
|--------|---|
| 111320 | Citrus (except orange) groves |
| 111331 | Apple orchards |
| 111332 | Grape vineyards |
| 111333 | Strawberry farming |
| 111334 | Berry (except strawberry) farming |
| 111335 | Tree nut farming |
| 111336 | Fruit and tree nut combination farming |
| 111339 | Other non-citrus fruit farming |
| 111411 | Mushroom production |
| 111419 | Other food crops grown under cover |
| 111421 | Nursery and tree production |
| 111422 | Floriculture production |
| 111930 | Sugarcane farming |
| 111940 | Hay farming |
| 111991 | Sugar beet farming |
| 111992 | Peanut farming |
| 111998 | All other miscellaneous crop farming |
| 113210 | Forest nurseries and gathering of forest products |
| 115113 | Crop harvesting, primarily by machine |
| 115114 | Postharvest crop activities (except cotton ginning) |

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AGRICULTURAL USES.

(a) The production, keeping or maintenance, for sale or personal use, of plants and animals useful to humans, including, but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules or goats or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including nuts; vegetables; nursery, floral and ornamental products; or lands devoted to a soil conservation or forestry management program; and land used as pasture or in the commercial production of fish hatcheries or aquaculture.

(b) Also included in this definition of ***AGRICULTURAL USES*** are agricultural accessory buildings, and sales of agricultural products grown or raised on the premises. Not included in this

definition are the commercial slaughtering of animals for marketing and farm tenant dwellings. Uses which shall not be deemed as *AGRICULTURAL USES* include:

1. Zoos;
2. Kennels;
3. Riding stables and academies;
4. Non-domesticated animals; and
5. Animals commonly perceived to be a threat to humans.

AIRPORT. An area of land or water that is designed or used on a recurring basis for the landing and take-off of aircraft, ultra lights, other mechanical aircraft or other flying apparatus whether or not so designated by the Federal Aviation Authority (FAA), excluding hot air balloons.

AIRSTRIP. Same as *AIRPORT*; except that:

(a) *AIR STRIPS* may be used only by the owner of the land on which the same is located; provided, however, if the *AIRSTRIP* is located on a bona fide farm, any airplanes engaged in crop dusting may use such *AIRSTRIP* in connection therewith;

(b) No flying lessons shall be conducted in airplanes flying from or to the *AIRSTRIP*;

(c) No commercial sales of airplanes, parts or fuel shall be conducted at the *AIRSTRIP*;
and

(d) The *AIRSTRIP* shall have been approved by the appropriate state and federal agencies.

ALL-TERRAIN VEHICLE. A motorized off-highway vehicle designed to travel on three or four low-pressure tires, having a seat designed to be straddled by the operator and handlebars for steering control.

ALTERATION. A change in the size, configuration or location of a structure; or a change in the use of a structure or lot from a previously approved or legally existing size, configuration, location or use.

ANIMAL GROOMING FACILITY. An indoor facility where household pets, primarily dogs and cats, are bathed, clipped and styled. No overnight care is given and no outside runs or kennels are permitted.

ANIMAL HOSPITAL (INDOOR). A place where animals are given medical or surgical treatment and the boarding of animals is incidental to the hospital use. All facilities associated with an ***ANIMAL HOSPITAL*** shall be located indoors.

ANIMAL HOSPITAL (WITH OUTDOOR RUNS). A place where animals are given medical or surgical treatment and the boarding of animals is incidental to the hospital use. Outdoor runs are permitted.

ANIMAL KENNEL. A commercial enterprise where more than six dogs or other domesticated animals are groomed, bred, boarded, trained or sold. Occasional breeding and offering the resultant litter(s) for sale shall not constitute the operation of a ***KENNEL***.

ANIMAL SHELTER. A public, non-profit or not-for-profit facility at which dogs, cats and other domesticated animals are kept (primarily outdoors) for purposes of distribution to the general public.

ANIMAL SUPPLY STORE. A retail establishment whose business is limited to the sale of supplies (e.g., feeds and pharmaceutical) and equipment (e.g., bridles, barbed wire) related to the keeping of horses and farm animals.

ANTENNA. A device used to receive or transmit electromagnetic waves, including, but not limited to, directional antennas, such as panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.

AUTOMOBILE BODY SHOP. Any building, premises and land in which or upon which a business is conducted that primarily involves the painting of vehicles or external repairing of damaged vehicles.

AUTOMOBILE DETAILING SHOP. An establishment primarily engaged in the hand-cleaning and waxing of automobiles. Such activities may take place both indoors and outdoors. Such facilities are distinguished from “auto washes” in that there is typically no automated equipment involved with the cleaning and waxing of vehicles.

AUTOMOBILE PARTS SUPPLY STORE. An establishment which sells new and/or rebuilt automobile parts and accessories, but does not include junk yards, used auto parts sales or the installation of such parts.

AUTOMOBILE REPAIR SHOP. Any building, premises and land in which or upon which the primary use of land is a business which involves the maintenance or servicing of vehicles.

AUTOMOBILE SERVICE STATION. Any building, structure or land used for the dispensing, selling or offering for retail sale of any automotive fuels, oils or accessories. ***SERVICE STATIONS*** may perform general automotive servicing and minor repair work, which does not involve major motor

repair, drive train work or other major mechanical repair and bodywork. Convenience stores and/or fast food restaurants may be co-located with *AUTOMOBILE SERVICE STATIONS*, where specifically permitted.

AUTOMOBILE TOWING AND WRECKING SERVICE. An establishment primarily engaged in the towing of motor vehicles and vehicular storage associated with vehicle accidents and violations. This shall not include vehicular salvaging operations nor the sale of salvaged vehicular parts. This use is not to be construed as a junk yard or as an automobile salvage yard, as otherwise defined hereinafter.

AUTOMOBILE WASH, CLASS 1 (SELF-SERVICE CAR WASH). A commercial establishment primarily engaged in the washing of automobiles, motorcycles, and pick-up and panel trucks. Such washing shall be done manually by the customer or by fully automated machines (i.e., the use of chain conveyors or other devices which move the vehicle through a washing device shall not be permitted). Accessory self-vacuuming facilities shall be allowed.

AUTOMOBILE WASH, CLASS 2 (AUTOMATIC CAR WASH). A commercial establishment primarily engaged in the washing of automobiles, motorcycles and pick-up and panel trucks using a combination of personnel and automated systems to wash the vehicle. The retail sale of fuels and related automotive goods may also be provided on-premises on accessory basis.

AWNING. A structure made of cloth, metal or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not to include a canopy.

BAKERY (RETAIL). The use of a structure or building for the production of bakery products including, but not limited to, breads, cakes, pastries and doughnuts. When identified in this chapter as a retail use, the bakery products produced are for the direct sale to the consumer with no wholesale production or sales.

BANK. A financial business, chartered by the state or federal government, which provides financial services including, but not limited to, deposit and withdrawal of money, loan approvals and payments and cashing and issuing checks.

BANK TELLER MACHINE. A machine which dispenses cash and allows the user to make bank transactions without personal contact and without entering a bank or other financial institution. Use of machines is generally not limited to specific hours of operation. The unit may be associated with a financial institution or freestanding either outdoors or within a building.

BANNER. A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentation applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, religious, educational or corporate organizations.

BAR. See *LOUNGE*.

BARN. A structure associated with an agricultural use that is used for the housing and/or care of permitted livestock; or for the storage of feed, hay and other crops; or for the storage of farm equipment. A **BARN** can be used as either a principal or accessory structure.

BED AND BREAKFAST INN. A use that:

- (a) Takes place within a building that, prior to such establishment, was designed and used as a single-family residence;
- (b) That consists of renting one or more dwelling rooms on a daily basis to tourists, vacationers and similar transients;
- (c) Where the provision of meals, if provision of meals is made, is limited to the breakfast meal, available only to guests; and
- (d) Where the bed and breakfast operation is conducted primarily by persons who reside in the dwelling unit, with the assistance of not more than the equivalent of one full-time employee.

BIG BOX STORE. A retail establishment of 60,000 square feet or greater in ground floor area. The term shall not include the terms “food store”, “grocery store” or “supermarket”.

BOOK STORE. A commercial establishment where books are the primary item sold. An establishment which sells books and meets the definition of “adult use”, as herein defined, shall not be considered a **BOOK STORE**.

BUFFER. A strip of land with natural or planted vegetation located between a structure and a side or rear property line intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. A **BUFFER** area may include any required screening for the site.

BUILDING. A temporary or permanent structure having a roof supported by exterior walls or constructed columns and which can be used for residence, business, industry or other public or private purposes or accessory thereto. The term **BUILDING** shall be construed as if followed by the words or parts thereof.

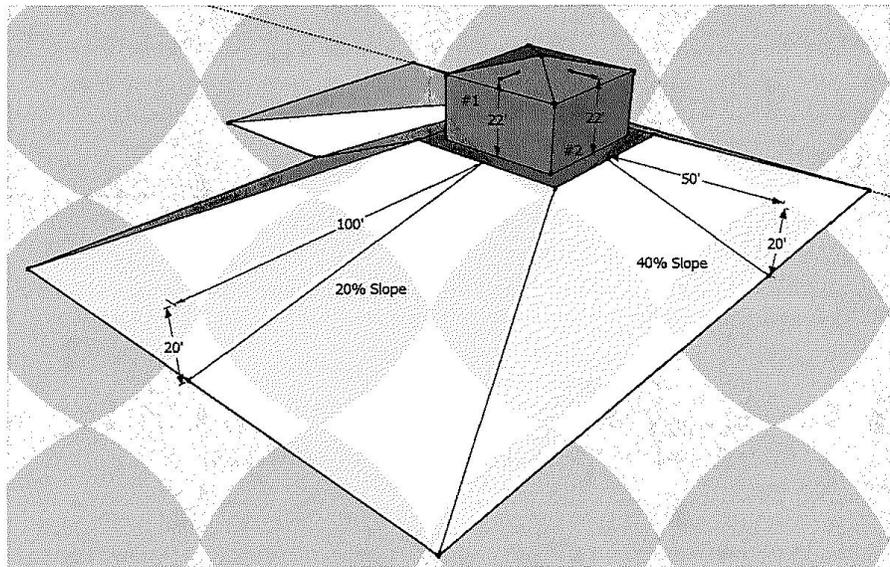
BUILDING, ACCESSORY. A structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. In no event shall **ACCESSORY STRUCTURE** be construed to authorize a principal use or structure not otherwise permitted in the district in which the use is located.

BUILDING FRONT. The side of the building closest to and most nearly parallel with the street which provides access to the lot. In the case of a corner lot or through lot, the street line forming the least frontage shall be deemed the front of the lot, except where the two street lines are equal. When the two street lines are of equal length, the final plat shall be reviewed to determine which side was

designated as the “front” by the original subdivider. If the plat does not provide this information, then the property owner shall be required to specify which is the front when requesting a zoning permit and the setbacks shall be set accordingly.

BUILDING HEIGHT.

(a) The vertical distance of each facade shall be measured as the distance from the lowest point of the finished grade of the facade to the highest point of a flat roof, or to the deck line of a mansard roof, or to the mean height level between eaves and uppermost point for gable, hip, round or arch-type roof, or to the ridge for gambrel roofs, or to a point on the roof directly above the highest wall of a shed or saltbox roof, or eave of a butterfly roof. For non-residential buildings not used for agricultural purposes, **BUILDING HEIGHT** shall include any additional distance greater than a 20% downward slope of the land, as measured perpendicular from the lowest point of the finished grade of the facade to the nearest neighboring property line. The greatest combined vertical facade distance shall be considered the **BUILDING HEIGHT**.



(b) Non-residential example:

| | |
|-------------------------------|---|
| Building height for facade #1 | 22' from ground plane of facade to halfway between eaves and top of roof. No extra height is added because 20' of elevation over 100' feet is only a 20% slope |
| Building height for facade #2 | 22', plus any extra feet above and beyond the 20% slope on that side. A 20% slope for 50' of property would be 10' of elevation. As that side of the building has 20' of elevation, any elevation beyond 10' (in this case 10' extra) would be added to the building height. Therefore, the building height is 22' plus 10', which equals 32' |

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BUILDING, PRINCIPAL. A building in which is conducted the principal use on the lot on which said building is situated. In any Residential (R) Zoning District, any structure containing a dwelling unit shall be deemed to be the **PRINCIPAL BUILDING** on the lot where it is located.

BUILDING SETBACK LINE. A line establishing the minimum allowable distance between the nearest portion of any building (or any attached appurtenance thereof), including eaves and overhangs, and the nearest edge of the street right-of-way when measured perpendicular thereto.

BUILT-UPON AREA. Those 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) and the like. Wooden slatted decks and the water area of a swimming pool shall be considered pervious.

BULLETIN BOARD.

(a) A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center or similar non-commercial places of public assembly. **BULLETIN BOARD** signs may be luminous.

(b) **BULLETIN BOARD** is a sign on the premises of a church, school, auditorium, library, museum, park, community recreation center or similar non-commercial places of public assembly, which is used to announce meetings or programs or give general user/attendee information.

BUS TERMINAL, PASSENGER. Any premises for the transient housing or parking of motor-driven buses and the loading and unloading of passengers going on inter-city bus trips.

BUSINESS IDENTIFICATION SIGN. A sign that directs attention to a business, profession or industry located upon the premises where the sign is displayed; to the type of products sold, manufactured or assembled; and/or to services or entertainment offered on said premises, but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

BUSINESS PARK. A development on a tract of land which contains two or more separate office buildings, constructed and managed in an integrated and coordinated basis. A **BUSINESS PARK** may also be cited as an **OFFICE PARK**.

BUSINESS SERVICES. Establishments primarily engaged in rendering services (which are not listed or defined elsewhere in this chapter) to business establishments on a contract or fee basis. These services include, but are not limited to: advertising; claims adjusters; and computer software development.

CAMPING AND RECREATIONAL VEHICLE PARK. Land containing two or more campsites which are located, established or maintained for occupancy by people in temporary living quarters, such

as tents, recreation vehicles or travel trailers which are solely used for recreation or vacation purposes. Manufactured homes shall not be permitted in any **CAMPING AND RECREATIONAL VEHICLE PARK**.

CANOPY. A permanent structure other than an awning, either detached from or attached to and extending from the enclosed portion of a building, and used principally to provide shelter in connection with activities conducted in the principal building. The **CANOPY** definition excludes temporary structures or structures utilizing cloth or other flexible materials.

CAREGIVER. An individual 18 years of age or older who:

- (a) Provides care for a mentally or physically impaired person; and
- (b) Is a first or second degree relative of the mentally or physically impaired person for whom the individual is caring.

CEMETERY. Property used for the interment of the dead, which use may include the commercial sale and location of burial lots, crypts or vaults for use exclusively on the subject property. A **CEMETERY** shall not be used for the preparation or embalming of bodies or the cremation of bodies. Setbacks for **CEMETERIES** shall be measured from the nearest structure or gravesite. This definition shall be construed to also include bona fide pet cemeteries.

CENTERLINE. The centerline of a street right-of-way, as defined or surveyed by the state's Department of Transportation.

CERTIFICATE OF COMPLIANCE. A statement, signed by an administrative officer, setting forth that a building, structure or use complies with this chapter and Building Codes and that the same may be used for the purposes stated on the permit.

CERTIFICATE OF OCCUPANCY. A certificate allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with this chapter and all other applicable regulations.

CHARITABLE ORGANIZATIONS. Non-profit organizations which are supported primarily by charity and whose principal function is the performance of charitable works or religious activities. This definition shall include, but not be limited to: churches, mosques, synagogues or other religious institutions. Not included in this definition are social organizations and clubs.

CHURCH (or OTHER HOUSE OF WORSHIP). A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services whose site may include an accessory area for the interment of the dead. Day care centers which have enrollment capacities in excess of 25 enrollees and/or schools operated by the **CHURCH** on the facilities of the **CHURCH** shall be considered separate principal uses.

COLUMBARIUM. A structure or building substantially exposed above ground intended to be used for the interment of the cremated remains of a deceased person or animal.

COMMON OPEN SPACE. Land and/or water areas within the site designated for development, not individually owned or dedicated for public use, which are designed and intended for the common use or enjoyment of the residents of the development but not including any lands occupied by streets, street rights-of-way or off-street parking.

COMMON OPEN SPACE, IMPROVED. Common open space which has been improved with recreational areas and amenities such as, but not limited to, ball fields, tennis courts, swimming pools, nature trails, clubhouses and the like.

COMMUNITY CENTER. A building used for recreational, social, educational and cultural activities, usually owned and operated by a public or non-profit group or agency.

CONDITIONAL USE PERMIT (CUP). A special authorization for a specific use - other than a permitted use within the zoning district - which is subject to any special restrictions or conditions on its location, size, extent, character of use as determined by the Village Council in order to ensure consistency with the intent and character of the zoning district in which the use is located. (See §§ 156.080 through 156.092 of this chapter.)

CONSERVATION EASEMENT. A right conveyed by deed or other appropriate recorded instrument which gives the grantee a nonpossessory interest in the real property of the grantor, and which permanently and perpetually restricts the use of the real property to the uses set forth in § 156.089.

CONSERVATION LAND. That portion of a conservation subdivision that is set aside for permanent and perpetual protection.

CONSERVATION ORGANIZATION. A nonprofit corporation or trust, or any private corporation or business entity authorized to do business in the state, intended to exist indefinitely, and whose ongoing purpose includes the following:

(a) The permanent and perpetual preservation of land areas for outdoor recreation by, or for the education of, the general public;

(b) The permanent and perpetual protection of the natural habitat of fish, wildlife, or plants, or similar ecosystem; or

(c) The permanent and perpetual preservation of open space (including farmland and forestland) where such preservation is for the scenic enjoyment of the general public, or pursuant to a clearly delineated federal, state or local governmental conservation policy, and that will yield a significant public benefit.

CONSERVATION SUBDIVISION. A residential subdivision 15 acres or greater in area that is developed pursuant to § 156.089.

CONSTRUCTION TRAILER. A structure standing on wheels towed or hauled by another vehicle and used for neither overnight nor year-round occupancy at the construction site on a temporary basis for office purposes.

CONTIGUOUS. Next to, abutting or touching and having a boundary, or portion thereof, which is contiguous including properties traversed or separated by a road, stream, right-of-way or similar human-made or natural configuration. The term **CONTIGUOUS** shall also mean “abutting” or “adjacent”.

CONTINUING CARE FACILITY. A residential complex which contains a variety of living facilities which may include independent living units (i.e., apartments, condominiums, cottages), assisted living (domiciliary care) facilities and/or nursing home beds. Residents of such a facility may either pay rent or purchase their living quarters. If the unit is occupant-owned, the unit normally reverts to the development owner upon the death of the resident or to a surviving spouse.

CONTRACTORS. General contractors and builders or specialized contractors who engage in the construction or remodeling of buildings, either residences or commercial structures including but not limited to heating, air conditioning, painting, plumbing and roofing. Also included are heavy construction contractors engaged in activities such as paving, highway construction and utility construction.

CONVALESCENT CENTER or NURSING HOME. A facility that provides nursing services and custodial care on a 24-hour basis for three or more unrelated individuals who for reasons of illness, physical infirmity or advanced age require such services.

CONVENIENCE STORE. A one story, retail store operating anytime between the hours of 6:00 a.m. and midnight containing a principal structure of less than 3,500 square feet of gross floor area, that is designed and stocked to sell primarily fuel, food (packaged and/or prepared), beverages and other household supplies to customers who purchase a relatively few items (in contrast to a “food store”). It is designed to attract and depends upon a large volume of stop-and-go traffic. **CONVENIENCE STORES** may be co-located with automobile service stations, where specifically permitted.

CORNER LOT. A lot located at the intersection of two platted public or private streets and/or platted private drives acting as access to multiple lots. A lot abutting a curved street or street(s) shall be considered a **CORNER LOT** if the intersection or curve interior angle is less than 135 degrees. Lots divided by platted public or private streets, and/or platted private drives, shall have all lot setback and yard restrictions, excluding zoning use, applied to each individual plot of land as divided.

COUNTRY CLUB. A land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open to members and their guests which is privately operated. Uses at a **COUNTRY CLUB** frequently include golf courses, swimming pools (outdoors) and club-houses. Meal

service may be available, but is generally limited to members and their guests. A **COUNTRY CLUB** may be developed as a freestanding entity or as part of a residential community or planned residential development. Reference G.S. § 18B-1000, "Residential Private Club".

CRAFT STUDIO. An establishment where works of art are individually crated on-premises by no more than five artisans and which are sold at the same location to the general public. Artisans shall include sculptors, potters, wood and leather craftsmen, glass blowers, weavers, silversmiths, designers of ornamental and precious jewelry, screen printers and air brushes.

CUL-DE-SAC. The turn around at the end of a dead-end street.

CUSTOMARY HOME OCCUPATION. Any use conducted for gain entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and subordinate to the residential use and which does not change the character thereof and in connection with which there is no display. When observed from beyond the lot on which it is located, the **HOME OCCUPATION** does not give visual, audible, sensory or physical evidence that the property is used for any non-residential purpose.

DANCE, GYMNASTICS OR MARTIAL ARTS STUDIO. An establishment operated for the primary purpose of providing dance, gymnastics or martial arts instruction. **DANCE, GYMNASTICS OR MARTIAL ARTS STUDIOS** do not include establishments which generate more than a simple majority of their income through sales of merchandise, food and/or drink.

DAY CARE CENTER. A place where daytime care is provided to six or more children, handicapped persons or senior citizens unrelated by blood or marriage to, and not the legal wards or foster children of, the attendant adult within an occupied residence. Persons who are related by blood or marriage to the attendant adult shall not be counted as patrons of the **DAY CARE CENTER**.

DAY CARE CENTER ASSOCIATED WITH PLACE OF WORSHIP OR SCHOOL. A day care center run by a church or school where day time care is provided to children, handicapped persons or senior citizens. The **DAY CARE CENTER** may be located on the grounds of the church or school; located on a piece of property owned by the church or school which lies within 500 linear feet of the lot containing the church or school; or, on a lot owned by the church or school where religious or educational activities are regularly conducted.

DAY CARE, SMALL GROUP. A place where daytime care is provided to five or fewer children, handicapped persons or senior citizens unrelated by blood or marriage to, and not the legal wards or foster children of, the attendant adult within an occupied residence. Persons who are related by blood or marriage to the attendant adult shall not be counted as patrons of the **DAY CARE CENTER**.

DAY SPA. An establishment operated for the primary purpose of providing cosmetic and relaxation services, including tanning salons, but not including adult establishments or health clubs. **DAY SPAS** do not include establishments which generate more than a simple majority of their income through sales of merchandise, food and/or drink.

DEPARTMENT STORE. A business which is conducted under a single owner's name wherein a variety of related or unrelated merchandise and non-automotive services are housed, enclosed, exhibited and sold directly to the customer for whom the goods or services are furnished or sold. Notwithstanding the foregoing, any such business may have various departments, services or uses that are identified by separate names and/or are owned or operated independently of the business for which the **DEPARTMENT STORE** is named. **DEPARTMENT STORES** shall close for a minimum period of six continuous hours during every day or 24-hour period. Business hours may be extended during the period from November 15 through January 2.

DEVELOPER. A person who is responsible for any undertaking that requires a zoning permit, a special use permit or a conditional use permit.

DEVELOPMENT. As used in this chapter, the construction of any new building, or other structures, or impervious surface on a lot; the relocation of any existing building on a lot; or the use of a lot or tract of land for any new uses.

DEVELOPMENT PLAN. A type of plan which becomes part of the zoning for a property. The plan depicts site characteristics and development information as specified in this chapter. The **DEVELOPMENT PLAN** provides guidance for site plans.

DISCOUNT DEPARTMENT STORE. A business which is conducted under a single business name wherein a variety of related or unrelated merchandise and non-automotive services are advertised and sold primarily at discounted prices and are housed, enclosed, exhibited and sold directly to the customer for whom the goods or services are furnished or sold. Notwithstanding the foregoing, any such business may have various departments, services or uses that are identified by separate names and/or are owned or operated independently of the business for which the **DISCOUNT DEPARTMENT STORE** is named. **DISCOUNT DEPARTMENT STORES** shall close for a minimum period of six continuous hours during every day or 24-hour period. Business hours may be extended during the period from November 15 through January 2. **DISCOUNT DEPARTMENT STORE** shall not include the terms "food store", "supermarket" or "supercenter store". **DISCOUNT DEPARTMENT STORES** that sell canned and packaged food items, but not fresh produce, meats and frozen foods shall not be considered "food stores", "supermarkets" or "supercenter stores".

DOCTOR'S OFFICE. An office facility containing space for patient waiting rooms and laboratory space for medical doctors (M.D.s), osteopaths, chiropractors, dentists, podiatrists, acupuncturists or psychologists, licensed nurse/midwife, licensed physical therapist, licensed respiratory therapist or optometrist.

DONATION BIN. Any container or receptacle containing an opening through which new or used clothing, books or other household items can be deposited and stored until pickup by the bin's owner or his, her or their authorized agent. **DONATION BINS** shall not be allowed as a principal or accessory use within the village.

DRIVE THRU OR DRIVE UP WINDOW ESTABLISHMENT. A window or other opening in the wall of a principal or accessory building through which goods or services are provided directly to customers in motor vehicles by means that eliminate the need for such customers to exit their motor vehicles.

DRUGSTORE. See ***PHARMACY.***

DRY CLEANING AND LAUNDRY PLANT. A commercial facility at which clothes are brought to be dry cleaned and/or laundered from individual dry cleaning services. Such a facility may be freestanding or combined with a dry cleaning service facility.

DRY CLEANING SERVICES OUTLET. An establishment engaged in providing laundry, dry cleaning, and other related services on a pick up and drop off basis to individual customers. The actual laundering and/or dry cleaning of clothes may only take place at a “dry cleaning and laundry plant”.

DWELLING, SINGLE-FAMILY. A detached building designed for or occupied exclusively by one family, but not to include manufactured homes as defined by this chapter. Modular housing, as defined hereinafter, is included in this definition.

ELEMENTARY AND SECONDARY SCHOOLS. A privately-owned or publicly-owned pre-school, elementary school, middle school, junior high school or high school.

ESSENTIAL SERVICES.

(a) Publicly- or privately-owned facilities or systems for the distribution of gas, electricity, steam or water; the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public utilities. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not ***ESSENTIAL SERVICES***; provided, no transmitter or antenna tower exceeds 100 feet in height.

(b) ***ESSENTIAL SERVICES*** are divided into the following classes.

1. ***CLASS I.*** Transmission and distribution lines (whether, subterranean or overhead) including electrical (to the extent located on monopole structures), water lines (two inches or less); sewer gravity lines and pressure mains (less than six inches); individual home/commercial tenant underground septic tanks and drain fields, cable television and telephone lines; individual home/commercial tenant natural gas service lines; or similar utility lines.

2. ***CLASS II.*** Booster stations, pumping stations, switching facilities, substations, lift stations or other similarly required facilities in connection with telephone, wireless communications, electricity, steam, water, water storage, sewer or other similar utilities. This classification is not intended to govern apparatus and functions set out in essential services Class IV more particularly defined below. Transmission and distribution lines (whether subterranean or overhead) including electrical (to the extent

located on non-monopole structures, such as steel lattice towers), multi-home/commercial tenant natural gas service lines, and water lines (greater than two inches and less than six inches); sewer gravity lines and pressure mains (greater or equal to six inches and less than eight inches); or multi-home/commercial tenant underground septic tanks and drain fields.

3. **CLASS III.** Generation, production or treatment facilities such as power plants, sewage treatment plants or similar utilities. Transmission and distribution lines (whether subterranean or overhead) including natural gas mains and water lines (six inches or greater); sewer gravity lines and pressure mains (eight inches or greater), but not including electrical transmission or distribution lines.

4. **CLASS IV.** Subterranean neighborhood or cabinet style switching facilities designed to handle telephone transmissions within the immediate vicinity of the village.

5. **CLASS V.** Solar power generation facility including associated substation, transmission and distribution systems, battery/energy storage containers, for connection to the electric grid system. The designation would apply to a facility generating electric power in excess of 500kw or 0.5mw.

(c) Setbacks that this chapter may impose on **ESSENTIAL SERVICES** shall not apply to electrical transmission or distribution lines.

EXTRATERRITORIAL JURISDICTION. The legal ability of a government to exercise authority beyond the incorporated municipal limit.

EXTRATERRITORIAL JURISDICTION AREA. The area outside the municipal limits, but within the extraterritorial jurisdiction of the village, as may from time to time be adopted by the village.

FAMILY. An individual, or two or more persons related by blood, marriage or adoption living together as a single housekeeping unit, exclusive of household servants; or a group of not more than six persons who need not be related by blood, marriage or adoption living together as a single housekeeping unit.

FAMILY CARE HOME. A home with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident persons, who because of age, illness, handicap or specialized program, require personalized services or a supervised living arrangement in order to assure their safety and comfort, as defined by G.S. § 168-21(2). All **FAMILY CARE HOME** facilities shall be regulated by the state.

FARM. See **AGRICULTURAL USES**.

FARM SUPPLY STORE. An establishment where feed, seed, animal and agricultural supplies are primarily sold in bulk quantities.

FARMER'S MARKET. An outdoor market open to no greater than 25 vendors at which locally grown fruits and vegetables, bakery items, condiments, flowers, plants and craft goods are sold on a retail basis. Vehicles used to transport the products to be sold shall be limited to cars, vans, sport utility vehicles and trucks of no greater than three-quarter ton in weight capacity.

FENCE. A device made of chainlinks, posts, wires or boards designed to serve as a barrier or otherwise to mark off the boundaries of a piece of property, or portion thereof. A **FENCE** is not a structure. A **FENCE** may constitute screening, in whole or in part, when it satisfies the requirements of § 156.126 of this chapter.

FINANCIAL INSTITUTION. Any building in which the principal use is a business which provides financial service involving the management of money, funds, securities and other financial assets. **FINANCIAL INSTITUTIONS** include banks; savings and loan associations; agricultural, business and personal credit services and credit unions; security and commodity brokerages, exchanges and services; and other investment firms, lending companies and credit services; any of which shall be licensed, insured or chartered by the United States of America or the state.

FLAG. A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature.

FLEA MARKET. A market held on pre-established dates in an open area or structure where individual sellers offer goods for sale to the public. Such sellers may set up temporary stalls or tables for the sale of their products. Such sales may involve new and/or used items and may include the sale of fruits, vegetables and other eatable items. The individual sellers at the **FLEA MARKET** need not be the same each time the market is in operation.

FLOOD, FLOODING, FLOODPLAIN, FLOODWAY and the like. See specific definitions contained in §§ 156.215 through 156.224 of this chapter.

FLORIST RETAIL. A retail commercial establishment where flowers or ornamental plants are sold indoors.

FOOD STORE or **GROCERY STORE.** An establishment which may sell a wide variety of fresh produce, canned and packaged food items, small household goods and similar items which are consumed and used off premises. In addition, the store may contain a delicatessen section in which prepared foods are sold and may be consumed on premises in a specially designed sit-down area. Sales of grocery items are highly dependent on comparison shopping.

FORESTLAND. A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater and includes areas that have at least 100 trees per acre with at least 50% of those trees having at least a two-inch or greater diameter at four and one-half feet above the ground

FRATERNAL LODGES. See **NON-PROFIT CLUB OR LODGE.**

FUNERAL CHAPEL/HOME. A building used for the display of the deceased and ceremonies connected therewith before burial. The preparation or embalming of bodies; or the cremation of bodies may take place at a **FUNERAL CHAPEL/HOME**. Also, a facility where funeral services may be held, funeral vehicles stored and caskets and other funeral supplies may be sold.

GARAGE SALE. See **YARD SALE.**

GARDEN SUPPLY AND SEED STORE. A retail establishment at which animal feed, crop seeds and related products are sold. The milling, grinding and storage of feed or flour at such establishments shall be prohibited. The sale of agricultural chemicals shall be limited to prepackaged items for general retail use (as distinguished from an “animal supply store” where large quantities of agricultural chemicals are sold for agricultural purposes).

GATED RESIDENTIAL DEVELOPMENT. A residential subdivision with a gate placed across the entrance street(s) at the outer periphery of the development in order to restrict access. Internal streets of such a development shall be private streets maintained by the homeowners’ association.

GOLF COURSE. A tract of land for playing golf, improved with tees, fairways, hazards and which may include clubhouses and shelters. Miniature golf shall not be included within this definition.

GRADE OF STREET. The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the side of the street at which grade is being measured.

GREENHOUSE. A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants.

GREENHOUSE, COMMERCIAL. An establishment whose primary business is the growing of plants through the use of one or more on-premises greenhouses.

GROSS FLOOR AREA. The sum of the gross horizontal areas of each floor of the principal building, measured from the exterior walls or from the centerline of the party walls, including the floor area of accessory structures. The term does not include any area used exclusively for the parking of motor vehicles or for building or equipment access such as stairs, elevator shafts and maintenance crawlspaces or unused attics. This term also excludes pedestrian walkways and common areas within enclosed shopping areas.

GROUND COVERS. Low growing plants such as grasses, ivies, creeping bushes and similar decorative plantings. Where required by this chapter, **GROUND COVERS** shall have the capability of soil stabilization and erosion control.

GYMNASIUM. See **RECREATIONAL FACILITY, INDOOR.**

HAIR AND NAIL SALONS. Establishments operated for the primary purpose of providing hair or nail services and which do not generate more than a simple majority of their income through sales of merchandise, food and/or drink.

HANDICAPPED PERSON. A person with a temporary or permanent physical, emotional or mental disability including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism,

hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others as defined in G.S. § 122C-3(11)b.

HARDWARE STORE. A retail establishment which may sell various household goods, paints, building and hardware products, household animal supplies, nursery and yard goods, and durable goods (e.g., lawn mowers, appliances and the like). Such an establishment shall be a gross floor area of no greater than 15,000 square feet. All retail stock (except plant materials) which is stored outside must be screened in accordance with the requirements of § 156.126 of this chapter.

HAZARDOUS SUBSTANCE. Any substance which may pose a danger to the public health or safety if contained in the public water supply. All substances included in the United States Environmental Protection Agency's listing of hazardous substances and priority pollutants (developed pursuant to the Clean Water Act of 1977, 33 U.S.C. §§ 1251 et seq.) shall be deemed **HAZARDOUS SUBSTANCES**. Other substances may be included as the Zoning Administrator, in his or her informed judgment, deems necessary.

HEALTH CLUB.

(a) Permanent public or private health or exercise clubs where all associated principal uses are conducted within enclosed buildings, are primarily operated for the purpose of individual fitness, do not generate more than a simple majority of their income through sales of merchandise, food and/or drink, primarily provide services in exchange for membership fees and do not host spectator events or sports.

(b) **HEALTH CLUBS** do not include facilities operated by homeowners' associations for the exclusive use of homeowners' association members and their guests. **HEALTH CLUBS** also do not include adult establishments, country clubs, dance, gymnastics and martial arts studios, day spas, gymnasiums, indoor firing ranges, indoor recreation facilities, martial arts studios, hair and nail salons, tanning salons or theatrical/musical venues.

HOME IMPROVEMENT CENTER. An establishment with a gross floor area over 15,000 square feet, which may sell various household goods, tools and building materials, durable household goods (e.g., refrigerators, lawn care equipment, washing machines), electronic equipment, household animal supplies, nursery products and the like. Retail stock (e.g., nursery items, lumber goods) may be kept outdoors where the screening requirements of § 156.126 of this chapter are fully satisfied. At least 75% of all indoor floor good space shall be for retail sales.

HOME DECORATING CENTER. A commercial establishment which sells decorating items (e.g., paint, wallpaper, carpet, linoleum, tile and the like) and may also supply in-house professional home decorating assistance.

HOME SCHOOL. A home school in which one or more children of not more than two families or households receive academic instruction from parents or legal guardians or from a member of either household. A **HOME SCHOOL** shall be considered a customary home occupation.

HORSE STABLE. An establishment where more than two horses are housed, bred, boarded, trained or sold for financial remuneration.

HOSPITAL. An institution providing physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, central service facilities, emergency services and staff offices.

HOTEL. A facility offering transient lodging accommodations to the general public and which may provide additional services such as restaurants, meeting rooms and recreation facilities.

HOUSEHOLD. A family living together in a single dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities for the preparation and serving of food within the dwelling unit.

IMPERVIOUS SURFACE. Any material which reduces and prevents absorption of storm water into previously undeveloped land.

INDEPENDENT LIVING CENTER. An establishment which provides living facilities to seven or more persons with physical or mental disabilities (irrespective of age). Congregate meals may be provided at such facilities. However, residents are expected to provide other basic living services.

INDUSTRIAL DEVELOPMENT. Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

INOPERABLE. The state in which a mechanical object that for a period of more than 90 days is substantially disassembled, is mechanically unfit or unsafe to be operated or moved, yet is more than 50% intact. Mechanical objects less than 50% intact are to be considered junk or scrap materials for purposes of meeting the "junk yard" definition in this chapter.

INTERIOR DECORATOR. A commercial establishment from where professional home interior decorating services are provided. The on-site retail sale of furniture and other home furnishings to the general public shall not be offered, however, cloth, wallpaper and paint samples may be provided.

JUNK YARD and/or **AUTOMOBILE SALVAGE YARD.** The use of more than 600 square feet of the area of any lot for the outdoor storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles, vehicles or machinery or parts thereof.

KENNEL, ANIMAL. See **ANIMAL KENNEL.**

LARGE MATURING TREE. A tree whose height is greater than 35 feet at maturity and has a minimum caliper of two and one-half inches at the time of planting and meets the specifications of *American Standards for Nursery Stock*, published by the American Association of Nurseryman.

LAUNDROMAT. A commercial facility open to the general public where coin-operated washing and drying machines are available for use.

LEARNING CENTER. A private entity that provides general education tutoring and college-preparatory assistance to registrants.

LIBRARY. A municipal facility in which literary, musical, artistic, or referenced materials (as books, manuscripts, recordings or films) are kept primarily for on-site use or off-site loan.

LOADING SPACE, OFF-STREET. An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

LOT. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. Also, a parcel or tract of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same.

(a) **LOT AREA (SIZE).** The horizontal area within the legal lot lines of a lot, exclusive of the portions of the lot which lie within the street rights-of-way and any buffer required by § 155.080 of this code of ordinances.

(b) **LOT CORNER.** A lot which occupies the interior angle at the intersection of two street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. See § 156.237(A) and (B) of this chapter.

(c) **LOT DEPTH.** The average horizontal distance between the front and rear lot lines.

(d) **LOT, INTERIOR.** A lot other than a corner lot.

(e) **LOT LINE.** A line of record bounding a lot which separates one lot from another lot or separates that lot from a public or private street, or any other public space.

(f) **LOT LINE FRONT.** The lot line separating a lot from a street right-of-way.

(g) **LOT LINE, INTERIOR.** A lot line which does not have road frontage.

(h) **LOT LINE (PROPERTY LINE).** The lines bounding a lot.

(i) **LOT LINE REAR.** The lot line opposite and most distant from a front lot line.

(j) **LOT OF RECORD.** A lot which is a part of a subdivision, a plat of which has been recorded at the Register of Deeds of the county, or a lot described by metes and bounds, the description of which has been so recorded.

(k) **LOT LINE, SIDE.** Any lot line abutting another lot which is neither the front, nor the rear lot line.

(l) **LOT, THROUGH.** A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

(m) **LOT, WIDTH.** The distance between side lot lines measured at the building setback line.

LOUNGE.

(a) An establishment (e.g., bar, tavern) used primarily for the serving of alcoholic beverages to patrons and where the sale of prepared food if provided, is accessory to the primary use.

(b) Please note that state law, per G.S. § 18B-1000, does not draw a distinction between bars and restaurants for the purpose of alcoholic beverage sales. Like a restaurant, a **LOUNGE'S** total gross receipts from food and non-alcoholic beverages shall be not less than 30% of the total gross receipts from food, non-alcoholic beverages and alcoholic beverages.

(c) Any **LOUNGE** which provides facilities or services which satisfy any portion of the definition of "adult establishment", per G.S. § 14.202.10, shall be considered an "adult establishment".

MACHINE SHOP. A workshop in which work is machined to size and assembled.

MAJOR THOROUGHFARE. A thoroughfare so designated by the county's thoroughfare plan and adopted by the village, as amended from time to time. Additionally, any other routes as designated by the village.

MANUFACTURED GOODS, CLASS 1.

(a) Manufacturing or assembly of goods or products subject to the following limitations: The term "SIC" shall refer to the Standard Industrial Classification System as set forth in the *SIC Manual*, published by the United States of America, Executive Office of the President, Office of Management and Budget and unless a use is defined in this chapter, the *SIC Manual* shall be used to define, clarify or more specifically identify the uses and groups of uses listed. While the *SIC Manual* uses the term "establishments primarily engaged in" in defining types of manufacturing operations, this chapter shall be construed to mean that if any activity is conducted at all within the use and that activity is listed as being conditional, then the entire use shall be deemed a "conditional use" as opposed to a "permitted use".

(b) All manufacturing industries not listed in Manufactured Goods, Class 2 (as identified by their SIC Group Number, Division or Industry Number(s)) are considered to be Class 1 uses. Please refer to the definition of **MANUFACTURED GOODS, CLASS 2**.

MANUFACTURED GOODS, CLASS 2.

(a) Manufacturing, refining, processing or assembly of goods or products subject to the following limitations: the term “SIC” shall refer to the Standard Industrial Classification System as set forth in the *SIC Manual* published by the United States of America, Executive Office of the President, Office of Management and Budget and unless a use is defined in this chapter, the *SIC Manual* shall be used to define, clarify or more specifically identify the uses and groups of uses listed. While the *SIC Manual* uses the term “establishments primarily engaged in” in defining types of manufacturing operations, this chapter shall be construed to mean that if any activity is conducted at all within the use and that activity is listed as being a Class 2 use, then the entire establishment will be considered to be Class 2. **CLASS 2 MANUFACTURED GOODS** uses are not allowed in the village.

(b) The following uses are considered **CLASS 2 MANUFACTURED GOODS** uses, and shall not be permitted in the village:

1. Meat packing plants and poultry dressing plants (SIC #2011, 2015);
2. Pickled fruits and vegetables (SIC #2035);
3. Flour and other grain mill products, sugar refining (SIC #2041, 2061, 2062, 2063);
4. Animal feeds and pet foods (SIC #2047, 2048);
5. Fats and oils (SIC Group #207);
6. Beer/malt beverages, wines, brandy, distilled and blended liquor, roasted coffee (SIC #2082, 2083, 2084, 2085, 2095);
7. Processing and packing of canned, cured, fresh, or frozen fish and seafood (SIC #2091,2092);
8. The following manufacturing listed under SIC #2099:
 - a. Yeast;
 - b. Molasses and sweetening syrups; and
 - c. Vinegar.

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9. Tobacco products (SIC Major Group #21);
10. Dying and finishing textiles, except wool fabrics and knit goods (SIC Group #226) and under SIC #2231, 2253, 2252, 2251, the dying and finishing of wool and similar animal fibers;
11. Coated fabrics, rubberized and not rubberized; canvas and related products (SIC #2295, 2394,3069);
12. Sawmills and planing mills, general (SIC #2421);
13. Wood building and manufactured homes (SIC Group #245);
14. Wood preserving; reconstituted wood products; pulp mills; paper mills; paperboard mills (SIC #2491,2493; SIC Group #261; SIC Group 262; SIC Group 263);
15. Industrial inorganic chemicals; Plastic materials, synthetic resins and rubber, cellulose and other human-made fibers, except glass (SIC Group #281; SIC Group #282);
16. Soaps, detergents and cleaning preparations; perfumes, cosmetics, and other toilet preparations (SIC Group #284);
17. Paints, varnishes, lacquers, enamels and allied products (SIC Group #285);
18. Industrial organic chemicals; agricultural chemicals (fertilizers, pesticides and the like) (SIC Group #281; SIC Group #287);
19. Miscellaneous chemical products (all products listed under SIC Group #289) (e.g., adhesives, sealants, explosives, printing ink, carbon black, and “other chemical and chemical preparations” listed in SIC #2899);
20. Petroleum refining (SIC Group #291);
21. Asphalt paving and roofing materials (SIC Group #295);
22. Lubricating oils and greases (SIC #2992);
23. Products of petroleum and coal classified under SIC #2999;
24. Tires and innertubes (SIC Group #301);
25. Plastic products found under SIC Group #308 when resins are made at the same facility;
26. Leather tanning and finishing (SIC Group #311);

27. Flat glass; glass and glassware; (SIC Group #321; SIC Group #322);
28. Cement, hydraulic (SIC Group #324);
29. Structural clay products (SIC Group #325);
30. Pottery and related products (SIC Group #326), except handmade pottery and arts and crafts operations involving no more than 1,000 cubic feet of kiln space;
31. Concrete gypsum and plastic products; cut stone and stone products (SIC Group #327; SIC Group #328);
32. Abrasive products; asbestos products; mineral wool; (SIC #3291; SIC #3292; SIC #3296);
33. Minerals and earths, ground or otherwise treated (SIC #3295);
34. Non-clay refractories (SIC #3297);
35. Miscellaneous non-metallic mineral products listed under SIC Code #3299;
36. Steel works, blast furnaces and rolling and finishing mills; iron and steel foundries; primary and secondary smelting and refining of non-ferrous metals; rolling, drawing and extruding of non-ferrous metals; non-ferrous foundries; (SIC Group #331; SIC Group #332; SIC Group #333 and 334; SIC Group #335; SIC Group #336);
37. Metal heat treating; metal forging-iron, steel and non-ferrous; coating and engraving of metals and allied services (SIC #3398, SIC #3462 and #3463; SIC Group #347);
38. Manufacture of other primary metal products listed under SIC #3399;
39. Manufacture of ordnance (arms, ammunition and the like) and accessories except vehicles and guided missiles (SIC Group #348);
40. Power, distribution and specialty transformers (SIC #3612);
41. Electrical industrial carbon and graphic products (SIC #3624);
42. Storage batteries; primary batteries, dry and wet (SIC #3691; SIC #3692);
43. Motor vehicles; truck, bus and passenger car bodies; truck trailers; motor homes (SIC #3711, 3713; SIC #3715; SIC #3716), except the manufacture of components for, and the assembly of sanctioned racing vehicles (i.e., stock cars);

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44. Railroad equipment (SIC #3743);
45. Motorcycles (SIC #3751), except bicycles and bicycle parts;
46. Aircraft; guided missiles and space vehicles and parts (SIC #3721; SIC Group #376);
47. Under SIC #3792 - camping trailers;
48. (Military) tanks (and related armored vehicles) (SIC #3795) but not tank components;
49. Under SIC #3861, all photographic supplies, but not photographic equipment;
50. Under SIC #3952 all inks, paints, oils, enamels and crayons;
51. Carbon paper and inked ribbons (SIC #3955);
52. Linoleum, asphalt, felt-base and other hard surface floor covering listed under SIC #3996); and
53. Mining (all of SIC Division B).

MANUFACTURED HOME.

(a) 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, complies with the standards established under the Act, and built on or after 6-15-1976.

(b) The term ***MANUFACTURED HOME*** does not include park trailers, travel trailers and other similar vehicles. Within the text of this chapter, when the term single-family dwelling is used it

shall not include a **MANUFACTURED HOME**. A structure that would otherwise be characterized as a manufactured home except that it is not used or held ready for use as a dwelling unit (e.g., is used as an office or some other business use) shall not be regarded as a **MANUFACTURED HOME**.

(c) **MANUFACTURED HOMES** are distinguished from modular homes because a modular home meets the standards set forth in the state's Building Code.

MANUFACTURED HOME, CLASS A.

(a) A manufactured home constructed after 7-1-1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following criteria.

1. The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
2. The manufactured home has a minimum of 960 square feet of enclosed and heated living area per dwelling area.
3. The pitch of the roof of the manufactured home has a minimum vertical rise of three feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.
4. All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.
5. The exterior siding consists predominantly of vinyl or aluminum horizontal siding whose reflectivity does not exceed that of gloss white paint, wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
6. The manufactured home is set up in accordance with the standards set by the state's Department of Insurance. Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall which is in accordance with the state's Building Code and Minimum Housing Code regulations, unbroken except for required ventilation and access, and which is installed under the perimeter of the manufactured home.
7. Stalls, porches, entrance platforms, ramps and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the state's Building Code, freestanding or attached firmly to the primary structure and anchored securely to the ground.
8. The moving hitch, wheels and axles, and transporting lights have been removed.

(b) It is the intent of these criteria to ensure that a **CLASS A MANUFACTURED HOME**, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling. All criteria shall be satisfied before occupancy.

MANUFACTURED HOME, CLASS B. A manufactured home that meets all of the criteria of a Class A manufactured home, except the limiting width criteria.

MASSAGE PARLOR. See **DAY SPA** for massage businesses which do not meet the definition of **ADULT ESTABLISHMENT**; otherwise, see **ADULT ESTABLISHMENT**.

MEDICAL CENTER. A facility housing the offices of three or more doctors where out-patient medical services are routinely provided to the general public. Overnight stays of patients at such facilities shall not be permitted.

MEMORIAL SIGN OR PLAQUE. A sign designating names of buildings and/or date of erection and other items such as architect, contractor or others involved in a building's creation, cut into or attached to a building surface.

MENU BOARD FOR DRIVE-THROUGH RESTAURANT SIGN. A sign associated with drive-through windows, which must be internally illuminated, oriented toward drive-through traffic and indicates information that is essential for the efficient intake of orders from customers.

MINI-MART, EXPRESS FUEL. A one-story retail store containing less than 3,000 square feet gross floor area that is designed and stocked to sell primarily fuel, food, beverages and other household supplies to customers who purchase only a relatively few items in contrast to a "food store". A **MINI-MART** is different from a "convenience store" in that it may be open 24 hours. A convenience store may not be open between the hours of midnight and 6:00 a.m.

MINI-WAREHOUSE, CLASS 1. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis. Access to storage areas is typically provided to lessees on a self-service basis. No outdoor storage shall be allowed in conjunction with the facility. Storage shall be limited to dead storage. Dead storage excludes on-site retail, manufacturing or service operation. Dead storage also excludes operations with employees on site or operation with material handling on site. A single caretaker's office may be included and may provide packaging and storage related materials. No car or truck rental shall be allowed on site.

MINI-WAREHOUSE, CLASS 2. A structure containing separate storage spaces of varying sizes leased or rented on an individual basis. Access to storage areas is typically provided to lessees on a self-service basis. Outdoor storage shall be allowed in conjunction with the facility. Storage shall be limited to dead storage. Dead storage excludes on-site retail, manufacturing or service operation. Dead storage also excludes operations with employees on site or operations with material handling on site. A single caretaker's office may be included and may provide packaging and storage related materials. No car or truck rental shall be allowed on site.

MINOR THOROUGHFARE. A thoroughfare so designated by the county's Thoroughfare Plan and adopted by the village, as amended from time to time. Additionally, any other routes as designated by the village.

MOBILE HOME. Portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation and built before 6-15-1976. This term shall also include park trailers.

MOBILE VENDOR. A person who sells retail merchandise, food or beverages, to the public from any vehicle, which is designed to be readily movable and located within the boundaries of the village. **MOBILE VENDOR** vehicles may include pushcarts, mobile kitchens, hot dog carts, pretzel wagons or similar vehicles. Foods are limited to prepackaged food unless the unit is equipped and approved to handle food preparation. All vendors shall comply with all applicable State and County Health Department requirements.

MODULAR HOME. A dwelling unit constructed in accordance with the state's Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent, completely enclosed foundation. This unit may consist of two or more sections transported to the site in a manner similar to a manufactured home (except that, a modular home meets the state's Building Code) or a series of panels or room sections transported on a truck and erected or joined together on the site.

MOTEL. An establishment providing transient accommodations containing six or more rooms with at least 25% of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

MOTORCYCLE. A vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including motor scooters, mopeds and motor-driven bicycles.

NET FLOOR AREA. Floor area of all floors, as measured from the inside surfaces of the walls enclosing the part of a building occupied by a single occupant or shared by a distinct group of occupants, excluding therefrom common halls, stairwells, sanitary facilities and storage and other areas to which patrons do not have regular access.

NET TRACT AREA or **NET ACREAGE.** The residual acreage of a project after the amount of rights-of-way, open space and public property have been deducted from the "gross tract area".

NIGHTCLUB. See **LOUNGE**.

NON-CONFORMING LOT. Any lot of record which does not meet the minimum yard or area requirements established in these regulations on the effective date of this chapter.

NON-CONFORMING PROJECT. Any structure, development or undertaking that is incomplete on the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

NON-CONFORMING SIGN. A sign that, on the effective date of this chapter or the date of any subsequent amendment thereto, does not conform to one or more of the regulations set forth in this chapter.

NON-CONFORMING STRUCTURE. Any structure lawfully existing on the effective date of this chapter, which does not comply with all of the standards and regulations of these regulations or any amendment thereto.

NON-CONFORMING USE. Any use of a building or land which does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments which may be incorporated into this chapter.

NON-PROFIT CLUB OR LODGE. A building or site used by a non-profit or not-for-profit membership organization for recreational or social purposes. Includes service organization meeting facilities (e.g., Union Hall, Boy Scout Hut, Elks Lodge, Masonic Lodge).

NURSERY. A commercial enterprise conducted on land where flowers, shrubs and similar horticultural products are raised and sold to general public. **NURSERIES** may include the use of greenhouses for growing purposes.

NURSING HOME. See **REST HOME.**

OFFICE TRAILER. See **CONSTRUCTION TRAILER.**

OPEN AIR STORAGE. An unroofed area for the storage of bulk materials or discarded items whether fenced or not but not including items and non-bulk materials openly displayed for the purpose of retail sale.

OPEN SPACE. Land area open to the sky and unoccupied by a principal or accessory building. **OPEN SPACE** may be used for vegetation, landscaping, roads, sidewalks, recreation - including roofed, open air facilities - or the preservation of historic, cultural or natural features or amenities. Common areas so designated on plats shall be considered as **OPEN SPACE** and subject to the limitations thereof. **PRIVATE OPEN SPACE** is open space that is owned by a corporation, individual or homeowner's association. **PUBLIC OPEN SPACE** is open space owned by a governmental jurisdiction.

OPEN STORAGE. A unroofed storage area, whether fenced or not.

OPERABLE. The state in which a mechanical object that is mechanically fit and safe to be operated or moved or for a period of more than 90 days is substantially disassembled, is mechanically unfit or unsafe to be operated or moved, yet is more than 50% intact.

OUTPARCEL. A parcel of land associated with and located within a shopping center or multi-tenant non-residential development, which is designated on an approved site plan as a location for a structure with an intended use such as, but not limited to, banks, savings and loans, dry cleaners, service stations, vehicle repair garages, offices, restaurants, retail establishments or combination of uses thereof.

OWNERS. See *PROPERTY OWNERS*.

PAINTBALL, AIRSOFT OR LASER GUN FACILITY. See *RECREATION FACILITY, INDOOR* and *RECREATIONAL FACILITY, OUTDOOR*.

PARAPET. The portion of a building wall or false front that extends above the roof line.

PARKING BAY. A parking module consisting of one or more sets of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave.

PARKING, OFF-STREET. An area located outside of any street right-of-way which is designed to accommodate the parking of vehicles which meets all area requirements contained in this chapter.

PARKING SPACE. A storage space of not less than nine feet and 20 feet for one automobile and having access to a road, but not located within a road right-of-way.

PERMIT, BUILDING. Written permission issued for the construction, repair, alteration or addition to a structure.

PERSON, MENTALLY OR PHYSICALLY IMPAIRED. A person who is a resident of the state and who requires assistance with two or more activities of daily living as certified in writing by a physician licensed to practice in the state.

PERSONAL SERVICE ESTABLISHMENTS. An establishment where the primary purpose is providing for the care of physical components of a person or personal apparel. Examples are: beauty shops; cleaners; and shoe repair shops.

PHARMACY. A retail store which sells prescription drugs and which may also sell other items at the retail level. A *PHARMACY* may have a maximum gross floor area of 15,000 square feet. Prescription drugs may also be sold in department stores, variety stores and food stores, but such stores shall not be deemed to be *PHARMACIES*.

PLACE OF WORSHIP. A building primarily used by a non-profit organization for organized religious services and supporting uses.

PLAT. A map or drawing depicting the division of land into blocks, parcels, tracts, sites or other divisions.

POST OFFICE. A local branch of the U.S. Postal Service handling the mail for the local area.

PREMISES. A parcel of real property with a separate and distinct number or designation shown on a survey, parcel map or subdivision map. When a lot is used together with one or more contiguous lots for a single use or planned development, all of the lots so used, including any lots used for off-street parking, shall be considered a single **PREMISES** for purposes of these regulations.

PRE-SCHOOL FACILITY. An educational facility for pre-school children aged two to six years whose major purpose is to provide educationally-oriented classes and activities, as opposed to child care. Such classes shall be limited in time to five hours or less per day.

PRINCIPAL USE. The primary or predominant use on any lot.

PRIVATE CLUB. As outlined in G.S. § 18B-1000, an establishment authorized by the ABC Board to serve up to 100% alcohol that is organized and operated solely for a social, recreational, patriotic or fraternal purpose and that is not open to the general public, but is open only to the members of the organization and their bona fide guests. This definition does not include country clubs, non-profit clubs or lodges.

PRIVATE ROAD. See **ROAD, PRIVATE.**

PRODUCE STAND. The sale of any form of agricultural or horticultural products at an individual retail stand on the property under the same ownership as the lot upon which the produce is grown.

PROPERTY OWNERS. Those individuals, corporations, associations and the like listed as owner(s) of land within the village on the records of the County Assessor's office.

PUBLIC SAFETY STATION. A facility operated by a public agency, a private contractor thereof or by a private non-profit volunteer organization and used for the base of operations and/or housing of equipment or personnel for the provision of dispatched public safety services including law enforcement, fire protection, rescue services and/or emergency medical services. Such a facility may contain living quarters for on-duty personnel. It may also contain up to four holding cells for the temporary custody of persons under arrest. Facilities for the maintenance of equipment housed at the operation site are also permitted.

RECREATION, ACTIVE. Recreation which is not passive recreation.

RECREATION, PASSIVE. Passive recreation is non-motorized activity which makes use of open space and natural amenities yet does not significantly impact the natural, cultural, scientific or agricultural qualities of a site and requires only minimal visitor facilities and services directly related to safety. **PASSIVE RECREATION** does not include organized/sponsored sporting activities, firearm-based activities or motorized uses.

RECREATION FACILITY, INDOOR. Permanent public or private establishments operated for the primary purpose of providing individual and team sporting facilities, where 50% or more of associated principal use square footage is conducted within enclosed buildings, and which may conduct organized competition, sponsored competition and/or spectator events. **INDOOR RECREATION FACILITIES** do not include facilities operated by homeowners' associations for the exclusive use of homeowners' association members and their guests. **INDOOR RECREATION FACILITIES** also do not include country clubs, dance and gymnastics studios, day spas, indoor firing ranges, theatrical/musical venues or indoor sporting facilities which generate a simple majority of their income through sales of merchandise, food and/or drink.

RECREATIONAL FACILITY, OUTDOOR. Public or private outdoor recreation facilities used for active and/or passive recreation, where 50% or more of associated principal use square footage is conducted outdoors. The term shall not include the terms "racetrack", "outdoor firing range", "stadiums", "amusement park", "country club" or "golf course".

RECREATIONAL USES, ACCESSORY. A recreational facility (e.g., swimming pool, tennis court) accessory to a principal use such as a hotel, multi-family development, single-family residence, country club and the like.

RECREATION VEHICLE. A vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. The basic entities are camping trailer, fifth-wheel travel trailer, motor home, travel trailer and truck camper. A **RECREATION VEHICLE** shall not be considered as being a single-family dwelling.

(a) **CAMPING TRAILER.** A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping or travel use.

(b) **FIFTH-WHEEL TRAILER.** A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping or travel use, of a size and weight that does not require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

(c) **MOTOR HOME.** A vehicular unit, designed to provide temporary living quarters, built into as an integral part, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must provide at least four of the following facilities: cooking; refrigeration or icebox; self-contained toilet; heating or air electrical power supply; or an LP gas supply.

(d) **TRAVEL TRAILER.** A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

(e) **TRUCK CAMPER.** A portable unit that is constructed to provide temporary living quarters for recreational, camping or travel use, consisting of a roof, floor and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck.

RECYCLING STATION. A center located either within or outside a principal structure at which household goods such as newspapers, glass, aluminum cans or clothing are deposited. All such deposited goods shall be stored within the principal building or accessory structure. No outside storage of such goods shall be allowed.

RELATIVE, FIRST OR SECOND DEGREE. A spouse, lineal ascendant, lineal descendant, sibling, uncle, aunt, nephew, or niece and includes half, step and in-law relationships.

RENTAL CENTER. A commercial establishment whose primary use is the rental of household items and goods (as distinguished from an establishment which deals in goods primarily for use by industrial establishments) are offered for rent (and eventual sale) to the general public, this shall include the rental of prosthetics and medical supplies. Storage and display of all items shall be indoors.

RESIDENTIAL DEVELOPMENT. Buildings on individual plats within a planned subdivision for use as detached single-family dwellings, including associated outbuildings such as garages, storage buildings, gazebos and the like and customary home occupations.

REST HOME (HOME FOR THE AGED). A licensed facility that provides basic living needs to seven or more elderly or disabled in-house residents who need assistance in meeting their day to day basic needs. Congregate meals are served on site to residents and 24-hour in-house services are provided. May also be referred to as **NURSING HOMES** or **CONTINUING CARE FACILITIES**.

RESTAURANT. An establishment substantially engaged in the business of preparing and serving meals. To qualify as a **RESTAURANT**, an establishment's gross receipts from food and non-alcoholic beverages shall be not less than 30% of the total gross receipts from food, non-alcoholic beverages and alcoholic beverages.

RESTAURANT, DRIVE-IN/DRIVE-THROUGH. An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption on the restaurant premises or off-premises or for delivery. Unlike a fast food restaurant, a **DRIVE-IN/DRIVE-THROUGH RESTAURANT** does not contain any indoor customer dining areas. **DRIVE-IN/DRIVE-THROUGH RESTAURANTS** can have orders taken from customers from centrally located drive-in windows, from an individual outdoor calling station or pre-orders taken by electronic means and shall be associated with a principal building.

RESTAURANT, FAST FOOD. An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on the restaurant premises or off-premises. Orders for food may

be placed either within the restaurant building or from a centrally-located outdoors calling station. **FAST FOOD RESTAURANTS** may be co-located with automotive service stations, where specifically permitted.

RIDING ACADEMY. An establishment where horses are boarded and cared for and where instruction in riding, jumping and showing is offered and the general public may, for a fee, hire horses for riding.

ROAD, FRONTAGE. A road which is in close proximity to and parallels a limited access road and is designed to provide access to roads which abut said limited access road.

ROAD, PRIVATE. Any right-of-way having a width of 40 feet or greater used for purposes of motor vehicle travel which has not been accepted for maintenance or ownership purposes by a public entity.

ROAD, PUBLIC. A public right-of-way not less than 30 feet in width set aside for public travel and either which has been accepted for maintenance by the state, has been established as a public road prior to the effective date of this chapter, or which has been dedicated to the state for public travel by the recording of a plat of a subdivision with the county's Register of Deeds office.

ROAD RIGHT-OF-WAY. An area of land occupied or intended to be occupied by a road, including areas offered for dedication for such purposes, areas claimed by the state for such purposes or actually used for such purposes.

ROOF LINE. The highest point of the main roof structure, which shall not include cupolas, chimneys, pylons, steeples, parapets or other minor projections.

RURAL HOME OCCUPATION. A rural home occupation is a non-residential use conducted in an accessory structure by the owners of the lot upon which it is located. The principal building shall be the residence of the owners of the lot.

SALES TRAILER. A structure standing on wheels towed or hauled by another vehicle and used for neither overnight nor year-round occupancy at the construction site of a residential subdivision on a temporary basis for the purpose of selling homes constructed within the subdivision.

SATELLITE DISH. A device incorporating a reflective surface that is solid, open mesh or bar-configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device shall be used to transmit and/or receive radio or electronic waves between terrestrially and/or orbitally based uses. This definition is meant to include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

SCHOOLS. See **ELEMENTARY AND SECONDARY SCHOOLS.**

SCHOOLS, VOCATIONAL. A secondary or higher education facility primarily teaching usable skills that prepares students for jobs in a specific trade or vocation upon graduation.

SCHOOLS FOR ARTS AND THE LIKE. A school where classes in the various arts (e.g., dance, painting, sculpting, singing) are taught. As differentiated from a “vocational school”, such schools are usually attended by persons of all ages where professional placement after graduation is not necessarily of primary importance.

SCREENING. A fence, wall, hedge, landscaping, earth berm, buffer area or any combination of these provided to create a visual and/or physical separation between certain land uses. **SCREENING** may be located on the property line or elsewhere on the site. (See § 156.126 of this chapter.)

SECOND-HAND SHOP. A retail establishment where clothes, furniture and other household goods are sold to the general public on a consignment, retail or not-for-profit basis. A “pawn shop” shall not be considered as being a **SECOND-HAND SHOP**.

SEPTIC TANK DISPOSAL OPERATING SERVICE. A base of operations for a septic tank cleaning service, but shall not include the disposal of septic tank waste.

SERVICE STATIONS. See **AUTOMOBILE SERVICE STATIONS**.

SETBACK. A distance measured inward from a property line which shall remain unoccupied and unobstructed upward except as may be permitted elsewhere in this chapter. **SETBACKS** shall be measured from edge of pavement of a NCDOT maintained street, NCDOT maintained right-of-way, NCDOT proposed right-of-way or platted right-of-way, whichever is farthest from the centerline of a public or platted private street. **SETBACKS** along unplatted private roads and drives shall be measured from property lines. **SETBACK** distances shall be established in §§ 156.060 through 156.068 of this chapter or from recorded final subdivision plats with deed-restricted setbacks, whichever is lesser.

(a) **SETBACK, FRONT.** The portion of the front yard which shall remain unoccupied and unobstructed from the ground upward, except as may be permitted elsewhere in this chapter.

(b) **SETBACK, REAR.** The portion of the rear yard which shall remain unoccupied and unobstructed from the ground upward, except as may be permitted elsewhere in this chapter.

(c) **SETBACK, SIDE.** The portion of the side yard which shall remain unoccupied and unobstructed from the ground upward, except as may be permitted in this chapter.

(d) **SETBACK, SIGN.** The shortest horizontal distance from the nearest point (leading edge) of the sign or its supporting member to the nearest property line, edge of pavement of a NCDOT maintained street, NCDOT maintained right-of-way, NCDOT proposed right-of-way or platted right-of-way, whichever is farthest from the centerline of a public or private platted street. Setbacks along unplatted private roads and drives shall be measured from property lines.

SHOPPING CENTER. A group of two or more retail establishments constructed and developed in one or more phases with customer and employee parking and merchandise and other loading facilities provided on-site. A **SHOPPING CENTER** may be located and developed on one or more lots and may include one or more principal buildings.

SHRUB. An ornamental plant that is at least two feet tall above the highest root at the time of planting which can be expected to grow to a height of five to six feet within a three-year period after planting. If **SHRUBS** are to be planted as part of a required screen, such **SHRUBS** will be limited to the following varieties:

- (a) Nelly R. Stevens Holly;
- (b) Burford Holly;
- (c) Wax Myrtle;
- (d) East Palatka Holly;
- (e) Tea Olives;
- (f) Eleagnus;
- (g) Ligustrums;
- (h) Japanese Black Pines;
- (i) Savannah Holly;
- (j) Junipers; and

(k) Any other variety of shrub, listed in § 156.140 of this chapter, which has the capacity to provide an equivalent amount of growth and opacity.

SIDEWALK/SPECIAL SALES EVENTS. A temporary event where a commercial business, religious institution, non-profit organization, charitable organization or public entity engages in the sponsoring of a promotion or activity for the purpose of selling or offering merchandise, food and/or entertainment beyond the normal retail or display space of the sponsoring entity.

SIGHT DISTANCE TRIANGLE. The triangular area formed by a diagonal line connecting two points located on intersecting property lines (or a property line and the curb or a driveway), each point being 15 and 75 feet from the point of intersection as shown on the following figures for a four-way intersection and a tee intersection.

SIGN. Any object, display or structure, or part thereof, situated outdoors, that is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by words, letters, figures, design, symbols, fixtures, colors, illumination or projected images. The term **SIGN** does not include: the flag or emblem of any nation,

organization of nations, state or political subdivision thereof; works of art which promote or identify a product, business or organization; scoreboards located on athletic fields; and religious symbols used by tax-exempt religious organizations.

(a) **SIGN, ANIMATED.** A sign depicting action, motion, light or color changes through electrical or mechanical means. Although technologically similar to flashing signs, the **ANIMATED SIGN** emphasizes graphics and artistic display.

(b) **SIGN, AREA.** The entire face of a sign including the advertising surface, but not including framing, trim, molding or supporting structure. In computing **AREA**, the side of a double-faced sign with the largest advertising surface shall be considered.

(c) **SIGN, ATTACHED.** An on-premises sign affixed by permanent mount or mechanism or painted on the wall of any building and affixed to the building throughout its entire dimension. Painted signs are limited to lettering, graphics and/or logos indicating goods, identity or services specific to the business or enterprise conducted within the structure or building. A painted work of art or mural that is not associated with or identifies a product, business or organization and is not considered an **ATTACHED SIGN**. A window sign is not considered an **ATTACHED SIGN**. A projecting sign is not considered an **ATTACHED SIGN**.

(d) **SIGN, AWNING.** A sign attached to or painted or printed onto an awning.

(e) **SIGN, BANNER.** A temporary sign made of a flexible material.

(f) **SIGN, BILLBOARD.** A large outdoor sign typically found in high traffic areas and presenting large advertisements primarily oriented towards passing vehicular traffic.

(g) **SIGN, CAMPAIGN OR ELECTION.** A sign that advertises a candidate or issue to be voted upon on an upcoming, defined, election day.

(h) **SIGN, CANOPY.** A sign attached to or painted or printed onto a canopy. For the purposes of this chapter, the advertising portion of the **CANOPY** will, for measuring purposes, be considered an attached sign.

(i) **SIGN, CHANGEABLE COPY.** A sign or portion of a sign that is devoted to and designed for manually or automatically changeable copy text and graphics. **CHANGEABLE COPY SIGNS** do not include time, date and/or temperature signs and electronic message board signs as hereinafter defined. **CHANGEABLE COPY SIGNS** shall be monument signs.

(j) **SIGN, CONSTRUCTION ANNOUNCEMENT.** A sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier or others involved in the development of the project.

(k) **SIGN, DIRECTIONAL.** A temporary sign fronting on a road containing only directional arrow/description and/or mileage to related circumstances.

(l) **SIGN, ELECTRONIC MESSAGE BOARD.** A sign, or portion of a sign, electronic reader boards, electronic message center signs, tri-panel message systems, or commercial electronic-variable message signs (CEVMS) that displays an electronic image, time, date, temperature, moving or changeable text, and/or video, and uses light emitting diode (LED), liquid crystal display (LCD) or cathode-ray technology. Variable display signs utilizing incandescent or florescent backlit illumination or any type of externally lit illumination shall be considered changeable copy signs. **ELECTRONIC MESSAGE SIGNS** are not considered flashing signs.

(m) **SIGN, FLASHING.** A sign that uses an intermittent or flashing light source or windblown and/or mechanically moved reflective material to attract attention.

(n) **SIGN, GROUND.** An advertising sign made of permanent material, not including canvas, cardboard or plastic sheeting, and permanently affixed to the ground.

(o) **SIGN, HANDWRITTEN.** Any sign that is prepared by non-mechanical means and without the use of a printing device.

(p) **SIGN, HISTORICAL FEDERAL OR STATE.** A sign describing a historical building, event, landscape or person and developed as part of a federal or state historical preservation/identification effort.

(q) **SIGN, HISTORICAL LOCAL.** A sign describing a historical building, event, landscape or person and developed as part of a local historical preservation/identification effort recognized by federal, state or local government or non-profit (as designed by the Internal Revenue Service) entity.

(r) **SIGN, HEIGHT.** The height of an on-premises freestanding sign shall be measured from the average grade of the site where the sign is located to the top of the highest attached component of the sign, the sign face, sign structure and any other appurtenance. Any change in a site's grade specifically designed to increase a sign's height shall be included as part of the sign's **HEIGHT**.

(s) **SIGN, IDENTIFICATION.** A sign that displays only the occupant family name and/or address, associated with a property.

(t) **SIGN, ILLUMINATED - EXTERNAL.** A sign that features artificial illumination from a light source and provides light directly onto the sign face, or portions of the sign face, where light is then reflected back to the viewer.

(u) **SIGN, ILLUMINATED - INTERNAL.** A sign that features artificial illumination from a light source located behind the sign face and transmits light through the sign face or portions of the

sign face to the viewer. Also known as **BACKLIT ILLUMINATION**. Exposed neon tubing, incandescent lighting and non-changing light emitting diode lighting shall not be considered an **INTERNALLY ILLUMINATED SIGN**.

(v) **SIGN, INCIDENTAL**. A permanent on-premises sign that is intended to provide information or direction for the convenience and necessity of the public or a permanent sign affixed to permanent outdoor product storage enclosures. Entrance, parking and one-way signs, building numbers, addresses, private parking signs, no trespassing signs, dangerous animal, identification, event, instructional and seasonal signs are considered **INCIDENTAL**. Signs used in conjunction with equipment or other functional elements for a use or operation, including, non-restaurant drive-through window menu boards, and signs on automatic teller machines and gas pumps are considered **INCIDENTAL**. **INCIDENTAL SIGNS** shall not provide advertising of products, businesses or organizations beyond identification of the primary associated business or organization. Product storage enclosure signs are permitted to provide commercial identification or advertising for products, businesses or organizations associated with enclosure content only.

(w) **SIGN, INFLATABLE**. A sign that is fully or partially inflated through the use of a mechanical device.

(x) **SIGN, INTERNAL**. A temporary sign providing advertising for products and services provided on-premises of outparcels developed as B-1 zoning or part of a B-2 conditional use permit and not visible from any public roadway.

(y) **SIGN, MENU BOARD**. A sign displaying the bill of fare of a drive-in or drive-through restaurant.

(z) **SIGN, MONUMENT**. A free-standing ground sign with a sign (support) structure that completely surrounds the sign face and is constructed of masonry material other than cinderblock. **MONUMENT SIGN** faces shall be surfaced with stucco, painted wood or masonry material other than cinderblock. **MONUMENT SIGNS** may be backlit or externally illuminated and must comply with § 156.134 of this chapter.

(aa) **SIGN, NEON**. An illuminated sign containing glass tubes filled with neon gas that form letters, symbols or other shapes.

(bb) **SIGN, OFF-PREMISES**. A sign not located on the premises where a business, service, commodity or product or that exists or is conducted, sold, offered, maintained and/or provided.

(cc) **SIGN, ON-PREMISES**. A sign that references information pertaining only to a business, industry, activity or profession located on the premises where the sign is displayed, and pertaining only to the name of the business, type of product sold, manufactured or assembled, and/or service, activity or entertainment offered on said premises, including business identification and occupancy signs.

(dd) **SIGN, OFFICIAL GOVERNMENT, EMERGENCY AND SAFETY.** Any temporary or permanent sign erected and maintained for any government, public safety or division of government, for purposes other than signs placed on the premises of a publicly-owned building or structure or other land use designed to identify to the land use to the public. Speed limit signs, city limit and welcome signs, street name signs and traffic signs are considered **OFFICIAL SIGNS**. Conversely, a sign placed on public buildings, libraries, schools or public safety buildings which identifies said buildings, shall not be considered an **OFFICIAL SIGN**.

(ee) **SIGN, PERMIT.** A permit issued by the Zoning Administrator that authorizes the recipient to erect, move, enlarge or substantially alter a sign.

(ff) **SIGN, POLE.** A ground sign erected and maintained on a free-standing frame, mast, post or pole and not attached to any building, but not including monument signs.

(gg) **SIGN, POLITICAL.** A temporary sign used in connection with a local, state or national election or referendum.

(hh) **SIGN, PORTABLE.** Any sign not permanently attached to the ground or other permanent structure or a sign designed to be transported by means of wheels; signs converted to A- or T-frames; or umbrellas used for advertising. A sandwich board sign, as defined by and in conformance with this chapter, is not considered a **PORTABLE SIGN**.

(ii) **SIGN, PROFESSIONAL NAME PLATE.** A sign that displays only the name and/or crest, or insignia, trademark, occupation or profession of an occupant or the name of any building on the premises.

(jj) **SIGN, PROJECTING.** Any sign other than an attached, awning, canopy or window sign, which is permanently affixed to a building, extending beyond the facade plane and oriented towards any direction other than flush with the building facade.

(kk) **SIGN, REAL ESTATE.** A sign that is used to offer for sale, lease or rent the premises upon which such sign is placed.

(ll) **SIGN, ROOF.** A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

(mm) **SIGN, SANDWICH BOARD.** A single or double-faced moveable sign that is intended to be used on a sidewalk or pedestrian way in front of the business for which the commercial message is intended.

(nn) **SIGN, TEMPORARY.** Any sign erected and maintained for a specific and limited period of time. Any sign not permanently affixed to a building or footings as well as banners and any sign made of flexible materials shall be considered a **TEMPORARY SIGN**.

(oo) **SIGN, UNDER CANOPY.** A fixed sign mounted underneath a canopy and attached to canopy structure or fixed product storage enclosures underneath canopy.

(pp) **SIGN, VEHICULAR.** Signs painted onto motorized vehicles and attached accessory vehicular equipment, magnetic signs or attached consumables delivery signs, where the primary purpose is to advertise a product or used to direct people to a business or activity. **VEHICULAR SIGNS** shall not include banners or other signs not permanently affixed to the vehicle, such signs shall be prohibited.

(qq) **SIGN, WINDOW.** A sign, other than a projecting sign, to include design elements placed inside or outside the window, used to advertise, announce or identify a person or entity, or communicate information of any kind, or to draw attention to the business or use.

SOLAR POWER GENERATING FACILITY. Utilizes ground mounted solar panels with associated substation, battery storage, transmission and distribution system for electricity generation.

STEALTH TOWER. Human-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers, as permitted under §§ 156.190 through 156.204 of this chapter. Typically, the telecommunications equipment is incorporated into the supporting structure and assumes the color, texture and appearance of the supporting structure.

STEEP SLOPES. An area having a slope greater than 15%.

STORAGE, OPEN-AIR. The storage of goods, bulk materials or discarded items in the open or under a structure containing a roof, but no wall and screened in accordance with the requirements of § 156.126 of this chapter.

STREAM. A body of water flowing in a natural surface channel. Flow may be continuous or may only occur during wet periods.

STREET. A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means or access to abutting properties.

STREET PROPERTY LINE. The line which separates a lot or parcel of land from a street right-of-way created by dedication resulting from the recording of the lot.

STREET RIGHT-OF-WAY. An area of land occupied or intended to be occupied by a public street, for such purpose, areas claimed by a municipality or the state for such purposes, or actually used for such purposes.

STRUCTURE. A combination of materials to form a construction for use, occupancy or ornamentation whether installed on, above or below the surface of land or water. Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having a more or less permanent location on the ground.

STRUCTURE, PRINCIPAL. A structure containing the principal use which takes place on the lot. A ***PRINCIPAL STRUCTURE*** may also be referred to as a ***PRINCIPAL BUILDING***.

SUBDIVISION. The division of a tract of land into two or more lots, building sites or other divisions when any one or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition, nor be subject to the regulations of this chapter:

(a) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this chapter;

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

(c) The public acquisition by purchase of strips of land for widening or opening streets;
or

(d) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards of the village as shown in Ch. 156 of this code of ordinances and this chapter.

SUBDIVISION, MAJOR. Any subdivision other than a minor subdivision.

SUBDIVISION, MINOR. Any subdivision that does not result in the creation of more than three lots out of a single tract since the effective date of this chapter, and does not involve an area larger than six acres as well as any subdivision (regardless of the number of lots) which does not include any floodplains or wetlands, nor require the construction of new streets, roads, public water or sewer facilities, sidewalks or similar facilities.

SUPERCENTER STORE. A retail establishment of 60,000 square feet or greater in ground floor area that contains both a discount department store and a complete food store or supermarket (i.e., containing the variety and amounts of fresh produce, meats, frozen foods, canned and packaged foods and other products typically found in food stores and supermarkets). The term shall not include discount department stores that sell canned and packaged food items, but not fresh produce, meats and frozen foods.

SUPERMARKETS. An establishment which may sell a wide variety of fresh produce, canned and packaged food items, small household goods and similar items which are consumed and used off premises. In addition, the store may contain a delicatessen section in which prepared foods are sold and may be consumed on premises in a specially designed sit-down area. Unlike convenience stores, gasoline sales are not permitted.

TELECOMMUNICATION TOWERS AND FACILITIES. A telecommunications facility consists of the equipment and structure(s) (including any accessory structures required to house

transmitting or maintenance equipment) designed to support antennas used for transmitting or receiving communications and data transmissions. Towers, antennas or similar structures installed in or attached to tops of buildings, water tanks or similar facilities as “stealth” locations, may be included in this definition. This definition also includes accessory buildings and related equipment required for the **TELECOMMUNICATIONS FACILITY**. This definition does not include ham radio operations, radio broadcast towers or television broadcast towers. Examples of **TELECOMMUNICATIONS TOWERS** include monopoles and lattice construction steel structures.

TEMPORARY FAMILY HEALTH CARE STRUCTURE.

(a) A transportable residential structure, providing an environment facilitating a caregiver’s provision of care for a mentally or physically impaired person, that:

1. Is primarily assembled at a location other than its site of installation;
2. Is limited to one occupant who shall be the mentally or physically impaired person;
3. Has no more than 300 gross square feet; and
4. Complies with applicable provisions of the state’s Building Code and G.S. § 143-139.1(b).

(b) Placing the temporary family health care structure on a permanent foundation shall not be required or permitted.

TENANT. Any occupant of a habitable structure.

TENANT, IN-LINE. An occupant of a separately-metered space located within a non-residential multi-tenant building.

TOXIC SUBSTANCE. Any substance or combination of substances (including disease causing agents), or assimilation into any organism, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

TRACT. The term ***TRACT*** is used interchangeably with the term ***LOT***, particularly in the context of subdivisions, where one ***TRACT*** is subdivided into several “lots”.

TRAILER. Vehicles used for the transportation of property or persons, and not considered recreational vehicles, without motive power and designed for being drawn by a motor vehicle, and so constructed that either none or only part of their weight or their load rests upon or is carried by the pulling vehicle.

TREE, LARGE MATURING. A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least eight feet and is of a species which, at maturity, can be expected to reach a height of more than 35 feet under normal growing conditions in the local climate. If the tree is single-stemmed, it shall have a caliper of at least two and one-half inches at the time of planting measured six inches up from the highest root of the tree.

TREE, SMALL MATURING. A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least eight feet and is of a species which at maturity, can be expected to reach a height less than 35 feet under normal growing conditions in the local climate. If the tree is single-stemmed, it shall have a caliper at the time of planting of at least two and one-half inches measured six inches up from the highest root of the tree.

TRUCK STOP. A facility typically offering multiple services to the traveling public which are particularly designed to serve the need of freight trucks and their drivers. Such facilities typically include fuel stations (dispensing fuel for trucks and, perhaps, for automobiles), one or more eating establishments and/or sale of prepared food, sales of convenience and sundry items and overnight lodging facilities. Not all such facilities are provided at all **TRUCK STOPS**.

TRUCK TERMINAL. A facility where cargo is stored and where trucks load and unload cargo on a regular basis.

USE. The specific purpose for which land, a building, or a portion of a building is designed, arranged, intended, occupied or maintained. The term **PERMITTED USE** or its equivalent shall not be deemed to include a non-conforming use.

USE, PRINCIPAL. The primary or predominant use of any lot.

VARIANCE. A grant of permission by the Board of Adjustment that authorizes the recipient to do that which, according to the strict letter of this chapter, he or she could not otherwise legally do.

VARIETY STORE. A business engaged in the retail sale of a variety of personal, family and household need merchandise in the low and popular price ranges. Sales usually are made on a purchase-and-carry basis. A **VARIETY STORE** generally does not carry a complete line of merchandise, is not departmentalized, does not sell used or second-hand items, building materials or expensive items such as furniture and major appliances, does not carry its own charge services, and does not deliver merchandise. Outdoor storage and displays of merchandise are not allowed. This definition excludes adult establishments, flea and craft markets, department stores, discount department stores and big box stores.

VEHICLE ACCOMMODATION AREA. The portion of a lot that is used by vehicles for access, circulation, parking and loading and unloading. It comprises the total of circulation areas, loading and unloading areas and parking areas (including all spaces and aisles).

VEHICLE, COMMERCIAL. A truck of any type used or maintained primarily to transport material or to operate a power attachment or tool. Any vehicle with advertising or business designation affixed to it shall be considered a **COMMERCIAL VEHICLE**, except for passenger vehicles having such affixations.

VEHICLE, INOPERABLE. A vehicle that for a period of more than 90 days is substantially disassembled and for any reason is mechanically unfit or unsafe to be operated or moved upon a public street, highway or public vehicular area, yet is more than 50% intact. Vehicles less than 50% intact are to be considered junk or scrap materials for purposes of meeting the “junk yard” definition in this chapter.

VEHICLE, MOTOR. Any operable commercial or passenger vehicle. Does not include recreational vehicles, farm equipment, motorcycles or all-terrain vehicles.

VEHICLE, OPERABLE. A vehicle that is mechanically fit and safe to be operated or moved upon a public street, highway or public vehicular area or has not for a period of more than 90 days been substantially disassembled or for any reason mechanically unfit or unsafe to be operated or moved upon a public street, highway or public vehicular area, yet was more than 50% intact.

VEHICLE, PASSENGER. An automobile, van, sports utility vehicle or pick-up truck used exclusively as a passenger vehicle and/or for hauling property of the owner. Pick-up trucks may qualify as **PASSENGER VEHICLES** only when used exclusively as passenger vehicles or for hauling property of the owner and not equipped as a camper or a commercial vehicle.

VIEWSHED BUFFER. A forested and/or landscaped area that provides a visual buffer of the interior of a conservation subdivision from adjacent roadway(s) and is (1) is a minimum of 100 feet in depth and (2) lies adjacent and parallel to any road that forms the exterior boundary of the conservation subdivision.

WALL, BUILDING. The entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this chapter, the area of a **WALL** will be calculated for a maximum of 50 feet in height of a building.

WALL, FREESTANDING. A constructed solid barrier of concrete, stone, brick, tile, wood or similar type of material that stands free of attachment or support and encloses or borders a yard or lot.

WALL, RETAINING. A vertical structure designed to restrain soil to a slope that it would not naturally adhere to (typically a steep, near-vertical or vertical slope). **RETAINING WALLS** are used to provide separation between different elevations often in terrain where the landscape needs to be engineered for more specific purposes.

WAREHOUSE. A building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one or more lessees of space in the facility or both, with access to contents only through management personnel.

WATER, PUBLIC. Any water system defined as such by the state's Division of Health Services which complies with the regulations of the state's Division of Health Services.

WHOLESALE SALES OPERATION. A place of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers. The majority of all sales of such businesses shall be for resale purposes. The Zoning Administrator may require proof of this through sales tax reports. Wholesale clubs and similar membership warehouses, where membership is easily available to the consuming public, and similar businesses shall not be deemed **WHOLESALE SALES OPERATIONS**.

WOODED AREA. An area of contiguous wooded vegetation where trees are at a density of at least one six-inch or greater caliper tree per each 325 square feet of land and where the branches and leaves form a contiguous canopy.

YARD. An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward.

YARD, FRONT. The area measured from the front property line, to the front facades of the principal building, projected to the side lot lines. On corner lots, the **FRONT YARD** shall be determined by the property owner and shall be surveyed and recorded at the property owner's expense. On corner lots, the property owner shall also have the option to designate two front yards, which shall be surveyed at the property owner's expense. Should the property owner choose not, or be unable, to designate and survey front yard preference, the **FRONT YARD** shall be designated by the Zoning Administrator in response to any zoning permit application, although shall not be surveyed or recorded.

YARD, REAR.

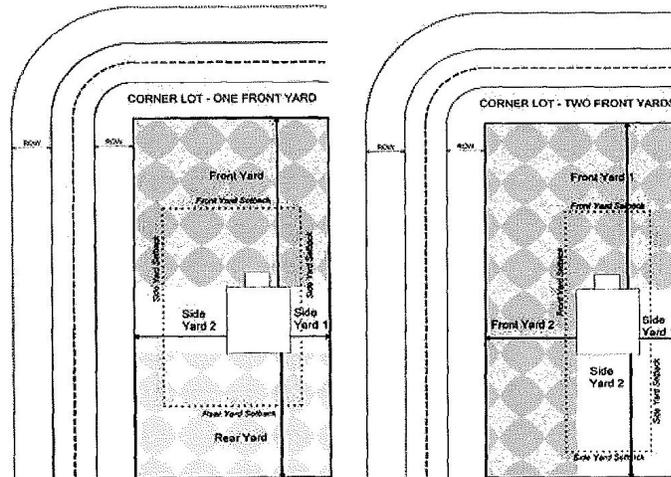
(a) The area measured from the rear property line, to the rear facade of the principal building, projected to the side lot lines. On corner lots where the property owner has designated two front yards, only side yards shall be designated adjacent to the front yards.

(b) **REAR YARDS** shall not be designated adjacent to any front yard(s).

YARD, SIDE. The area measured from the side property line, to the side facade of the principal building, projected to the rear and front yard lines or projected from front yard line to other side lot line, in the case of corner lots designated to have two front yards.

[Illustration follows on next page]

Wesley Chapel - Land Usage

***YARD SALE.***

(a) An outdoor sale of merchandise conducted entirely upon a residentially or institutionally developed lot by one or more households or civic groups where goods sold are limited primarily to used merchandise donated by the ***YARD SALE*** participants.

(b) For purposes of this chapter, attic and garage sales and the like shall be considered ***YARD SALES***.

YIELD PLAN. A plan that shows the number of developable lots in a proposed conservation subdivision if such subdivision were to be built as a conventional subdivision in the underlying zoning district.

ZONING PERMIT. A permit issued by the Zoning Administrator or his or her designee that authorizes the recipient to make use of property in accordance with the requirements of this chapter.

(Ord. passed 8-21-2000, § 2.2)

(Ord. passed 12-9-2002; Ord. passed 3-31-2003; Ord. passed 12-8-2003; Ord. passed 5-10-2004; Ord. passed 9-13-2004; Ord. passed 10-17-2005; Ord. passed 1-5-2006; Ord. passed 2-12-2007; Ord. passed 5-21-2007; Ord. passed 5-12-2008; Ord. passed 2-8-2010; Ord. passed 6-14-2010; Ord. passed 12-13-2010; Ord. passed 3-14-2011; Ord. passed 5-17-2011; Ord. passed 10-18-2011; Ord. 2012-01, passed 1-9-2012; Ord. 2012-10, passed 6-11-2012; Ord. passed 8-21-2012; Ord. passed 9-18-2012; Ord. 2013-01, passed 2-19-2013; Ord. passed 8-11-2014; Ord. passed 11-10-2014; Ord. 2016-05, passed 5-9-2016; Ord. 2016-07, passed 5-12-2016; Ord. 2016-13, passed 11-14-2016; Ord. 2016-15, passed 12-12-2016; Ord. 2017-02, passed 2-13-2017; 2017-07, passed 9-11-2017; Ord. 2017-05, passed 10-12-2017; Ord. 2018-08, passed 8-13-2018; Ord. 2018-11, passed 11-12-2018; Ord. 2018-12, passed 12-17-2018)

§ 156.006 CONFLICT WITH OTHER LAWS.

All previous zoning ordinances of the village are hereby repealed. All other ordinances or parts of ordinances not specifically in conflict herewith are hereby continued in force and effect, but all such ordinances or parts of ordinances in conflict herewith are hereby repealed.

(Ord. passed 8-21-2000, § 16.1)

§ 156.007 SEPARABILITY.

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. passed 8-21-2000, § 16.2)

§ 156.008 EFFECTIVE DATE.

This chapter shall take effect and be enforced as of 8-22-2000.

(Ord. passed 8-21-2000, § 16.3)

ZONING DISTRICTS GENERALLY**§ 156.020 GENERAL ZONING DISTRICTS.**

In order to achieve the purpose of this chapter, the following general zoning districts based on the concepts and proposals of the land development plan of the village are hereby established. In addition to the primary uses which are permitted by right or through the issuance of a conditional use permit, other uses including accessory uses, off-street parking and signs are permitted as listed in this chapter.

(Ord. passed 8-21-2000, § 3.1; Ord. passed 3-8-2004; Ord. passed 10-17-2005)

§ 156.021 R, RESIDENTIAL DISTRICTS.

(A) *General.* These districts are established to encourage the retention of existing farms and low-density residential areas, which are compatible with the land development plan concept of retaining the suburban, rural character of the community. Residential development must be restricted to a sufficiently low density where there is no public water supply and development is dependent upon septic tanks on individual lots for sewage disposal. In order to provide for a healthful, rural environment, residential development must continue in a low-density fashion.

(B) *R-80, Single-Family and Agricultural.* The R-80 District is established to accommodate agricultural uses and areas of very low-density residential development which is compatible with the land development plan's concept of retaining the rural character of the community. Densities need to be low due to the suitability of land, a general lack of public water and sewer and the compatibility of surrounding development. Therefore, the minimum lot size is 80,000 square feet.

(C) *R-60, Single-Family and Agricultural.* The R-60 District is established to accommodate agricultural uses and areas of very low-density residential development which is compatible with the land development plan's concept of retaining the rural character of the community. Densities need to be low due to the suitability of the land, lack of public water and sewer and the compatibility of surrounding development. Therefore, the minimum lot size is 60,000 square feet.

(D) *R-40, Single-Family and Agricultural.* The R-40 District is established to accommodate agricultural uses and low-density single-family residential development at low densities consistent with suitability of the land and the rural character of the village. The minimum lot size is 40,000 square feet.

(E) *R-20 Single-Family and Agricultural.* The R-20 District is established to accommodate low-density single-family residential development at low densities consistent with suitability of the land and the rural character of the village. The minimum lot size is 20,000 square feet. The R-20 district should be limited only to those areas that were zoned R-20 by the county prior to the adoption of the village's Zoning Ordinance or that were platted with lots smaller than 40,000 square feet under the jurisdiction of the county prior to incorporation/annexation into the village.

(F) *R-A40, Single-Family District.* The R-A40 District is established to encourage the perpetuation of existing agricultural uses and to accommodate low-density single-family residential development (including most classes of manufactured homes) at low densities consistent with suitability of the land and the rural character of the village. The minimum lot size is 40,000 square feet.

(G) *R-A20 Single-Family District.* The R-A20 District is established to encourage the perpetuation of existing agricultural uses and to accommodate low-density single-family residential development at low densities consistent with suitability of the land and the rural character of the village. The minimum lot size is 20,000 square feet. The RA-20 by the county prior to the adoption of the village's Zoning Ordinance or that were platted with lots smaller than 40,000 square feet under the jurisdiction of the county prior to incorporation/annexation into the village.

(H) *RUC Residential Union County District.*

(1) The RUC District is established to accommodate the construction of proposed principal and accessory structures and the expansion and renovation of existing structures on parcels that were approved for development under the county zoning regulations and have been subsequently annexed into the village. The intent of this district is to allow for and to maintain the established setbacks as noted on the final plat of record of only those parcels previously approved for development in the unincorporated county for principal structures and to allow for the village's accessory use provisions. If no land subdivision, combination, conditional use or zoning changes have occurred on the property since

establishment of this district, setbacks for residential structures on RUC properties will conform to setbacks as indicated on the final plat of record. Accessory structures, with the exception of detached garages, for RUC will conform to setbacks as indicated on the final plat of record or those allowable in § 156.133 of this chapter, whichever is less. Detached garages will conform to the principal structure setbacks as indicated on the final plat of record.

(2) For purposes of this division (H), the term *FINAL PLAT OF RECORD* shall mean the final plat for the subject property that sets forth setbacks for the subject property, that contains the approvals required by the county at the time such plat was recorded, and which was recorded in the county's Public Registry prior to annexation into the village.

(3) Allowable uses in the RUC District shall be the same as those allowed in the R-40 District, if lot size is 40,000 square feet or greater, or those allowable uses in the R-20 District, if lot size is less than 40,000 square feet.

(4) Subdivisions of land, combinations of land, proposed conditional use permits and rezonings of RUC property shall require applicant to re-zone the property from RUC to another allowable village zoning district and to conform to all zoning and setback requirements as required for that district, under the village.

(Ord. passed 8-21-2000, § 3.1.1; Ord. passed 5-12-2001; Ord. passed 10-17-2005; Ord. passed 11-9-2009; Ord. passed 12-8-2014)

§ 156.022 B, BUSINESS DISTRICTS.

(A) *B-1 General Business District.* The B-1 District is established to provide an area for neighborhood business without undue conflict with, detriment to, or disruption from nearby land uses or zoning districts. This district is designed primarily for retailing of merchandise such as convenience grocery sales, drugs and household items and for furnishing certain personal, business and professional services for the convenience of residents of local neighborhoods. This district is located at an accessible location with respect to traffic circulation in order to conveniently serve the resident population. The standards established for these business areas are designed to protect abutting or surrounding residential areas from undesirable aspects of nearby business development. Any permitted individual use locating in the B-1 Zoning District shall have a maximum gross floor area of 2,000 square feet. Individual uses exceeding a gross floor area of 2,000 square feet will be permitted on a conditional use basis only.

(B) *B-2 Local Shopping Center District.* This district is established to provide for the controlled development of more intense retail and service uses designed to serve the immediate village area. This district is designed to provide an orderly arrangement of convenience and comparison-shopping outlets, along with adequate off-street parking and other amenities. The Shopping Center District shall be located adjacent to major thoroughfares. A shopping center, as defined in this chapter, will only be permitted on a conditional use basis. Certain uses will be permitted only on an individual basis. Any permitted

individual use locating in the B-2 Zoning District shall have a maximum gross floor area of 2,000 square feet. Individual uses exceeding a gross floor area of 2,000 square feet will be permitted on a conditional use basis.

(C) *L-1 Light Industrial District.* This district is established to provide for general industrial and warehousing operations, including manufacturing, processing and assembling of goods, product distribution facilities and a broad variety of specialized commercial and industrial operations. These uses shall be operated indoors in a relatively clean and quiet manner, which will not be obnoxious to adjacent residential and business districts. Outdoor storage may be utilized, when specifically permitted and screened in accordance with the requirements of § 156.067(B) and (D) of this chapter.

(D) *O-I Office-Institutional District.* The O-I District is established to allow areas with limited types of office and institutional development that produce low traffic volumes and have limited impacts on neighboring properties. The district accommodates uses such as governmental and professional offices while prohibiting retail and industrial uses. The limitations on the uses allowed and the standards established for them are designed to protect abutting or surrounding residential areas from potentially undesirable impacts. Any permitted individual use locating in the O-I Zoning District shall have a maximum gross floor area of 2,000 square feet. Individual uses exceeding a gross floor area of 2,000 square feet will be permitted on a conditional use basis only.
(Ord. passed 8-21-2000, § 3.1; Ord. passed 10-17-2005)

§ 156.023 CU, PARALLEL CONDITIONAL USE DISTRICTS.

(A) Parallel conditional use districts are established to consider situations where a particular use may be acceptable on a lot or tract of land, but the other uses permitted in a general zoning district would not be acceptable. In such instances, the Village Council may elect to rezone the lot(s) in question to a parallel conditional use district. Such rezonings may be made contingent upon the property owner meeting fair and reasonable conditions which assure the compatibility of the use with surrounding properties and promote the general welfare of the community. Zoning to a CU District shall be a voluntary procedure on the part of the property owner or his or her agent and is intended for firm development proposals. It is not intended for securing early zoning for tentative proposals.

(B) The following CU Districts are hereby established:

- (1) CU-R-80;
- (2) CU-R-60;
- (3) CU-R-40;
- (4) CU-R-20;
- (5) CU-RA-40;

- (6) CU-R-A20;
- (7) CU-B-1;
- (8) CU-B-2;
- (9) CU-L-1; and

(10) CU-O-I.

(Ord. passed 8-21-2000, § 3.2; Ord. passed 3-8-2004; Ord. passed 10-17-2005)

§ 156.024 ZONING MAP INTERPRETATION.

(A) The map entitled “Official Zoning Map of the Village of Wesley Chapel, North Carolina”, as certified as such by the Village Clerk, is hereby adopted by reference and declared to be a part of this chapter. The zoning of the districts on said map is hereby declared to be in the proper zoning for said districts as of the effective date of this chapter.

(B) For the purposes of interpretation of district boundaries as shown on the zoning map, the following rules shall apply.

(1) Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerlines.

(2) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.

(3) Boundaries indicated as approximately following corporate limits shall be construed as following such corporate limits.

(4) Boundaries indicated as parallel to or extensions of features indicated in this section shall be construed as such. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.

(5) Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in other circumstances not covered by this section the Board of Adjustment shall interpret the district boundaries.

(Ord. passed 8-21-2000, § 3.3; Ord. passed 3-8-2004; Ord. passed 6-14-2004)

§ 156.025 CONDITIONAL ZONING DISTRICTS.

(A) *General.* Conditional rezoning is established to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional rezoning affords a degree of certainty in land use decisions not possible when rezoning to a general district. The procedures for approving a conditional rezoning request are set forth in § 156.244(C) of this chapter. Guidelines for the establishment of a Conditional Zoning District are as follows.

(1) Each Conditional Zoning District (CD) will have a corresponding general zoning district (i.e., an applicant can request to have their property rezoned to a CD only for the specific general zoning districts which have been identified as allowable in § 156.020 of this chapter).

(2) Conditional zoning districts will be designated only in accordance with the procedures and requirements set forth in § 156.244(C) of this chapter.

(3) Any Conditional Zoning District approved by the Village Council shall not contain conditions which are less restrictive than found in this chapter or other applicable state and/or federal laws. Any such Conditional Zoning District shall be noted on the zoning map with the prefix “CD”.

(4) No use will be permitted within a Conditional Zoning District that is not allowed within the corresponding general zoning district. Thus, for instance, any request for CD B-2 rezoning may only be allowed to contain uses that are allowed in the B-2 general zoning district.

(5) All standards and requirements that apply to the corresponding general zoning district will apply to the Conditional Zoning District. Fair and reasonable conditions and requirements that are mutually agreed to by the applicant and the Village Council can be added to any conditional rezoning request.

(6) A property may be considered for rezoning to a Conditional Zoning District only in response to and consistent with a petition submitted by the owners of record for all the property in its entirety, included in the rezoning petition. A petition for conditional rezoning must include a site plan, detailed information and consistent text describing the purpose for the project, the intended uses of the property, the benefit of the proposed project and detailed rules, regulations and conditions that in addition to the general district use conditions, will apply to the proposed project.

(B) *Application procedures.* All applications must include a conceptual plan, drawn to scale, and consistent supporting text that, if approved, will become a part of that conditional rezoning. The conceptual plan, drawn by an architect, landscape architect, professional surveyor and/or engineer licensed to practice in the state, shall include any details of architectural and landscape features and materials, along with any added benefit or detriment those materials or plantings may have to the community or environment, if applicable, supporting information and consistent text that specifies the

actual use or uses intended for the property and any rules, regulations and conditions that are in addition to all of this chapter and Ch. 155 of this code of ordinances, that will govern the development and use of the property.

(1) *Application requirements.* The applicant shall, at a minimum, include as part of the application, each of the items listed below:

(a) A boundary survey showing the total acreage, present zoning classifications, date and north arrow;

(b) Legal description of the property(ies) included in the petition;

(c) The owners' names, mailing addresses and the tax parcel numbers of all properties within a 1,320-foot (i.e., one-quarter mile) radius. The information shall be provided in a digital format as well as in printed labels. This information shall be used for public hearing notification purposes. The applicant shall reimburse the village for all expenses incurred to provide public hearing mail notifications. This fee shall be paid irrespective of whether the rezoning petition is approved by the Village Council. Additional information for providing notice for the required community meetings, as called for in division (B)(4)(b) below, shall also be provided by the applicant;

(d) All existing or proposed easements, reservations and rights-of-way on the property(ies) to be rezoned;

(e) Existing location of buildings on the parcel(s) included in the petition;

(f) Lot sizes for residential uses and proposed out parcels, if applicable;

(g) Proposed principal uses for the parcel(s) included in the petition. For residential uses, this shall include the number of units and an outline of the area(s) where the structures will be located. For non-residential uses, designate the area(s) within the parcel where particular types of uses will occur with reference made to the list of uses found in the corresponding general zoning district;

(h) A traffic impact analysis (TIA) for the proposed service area as required by § 156.092 of this chapter. Prior to submitting an application for a conditional rezoning, the applicant/property owner shall consult with the village's consulting transportation engineer (CTE). The TIA shall receive preliminary approval from the village's CTE prior to the first community meeting being scheduled. If modifications to the proposed project are made after the first community meeting, the village's consulting transportation engineer shall be authorized to require any necessary revisions to the preliminary approved concept plan prior to the Planning Board's review of the application. The applicant shall bear all costs associated with the CTE review;

(i) Detailed information on the number, height, size and location of structures;

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(j) All proposed setbacks, buffers, screening and landscaping required by these regulations or otherwise proposed by the applicant shall be delineated on a conceptual plan. Actual approval of landscaping plans shall be part of the site plan review process;

(k) Generalized traffic, parking and circulation plans;

(l) All existing and proposed points of access to public streets;

(m) A detailed description of all proposed phasing of development for the project;

(n) Number, location, type and size of all signs proposed to be erected by the developer at entrances to the site. Additionally, a general description of other proposed signs including number, location, type and size of all commercial signs. Actual approval of signs shall be part of the site plan review process;

(o) Conceptual renderings of the proposed development delineating the exterior treatments of the structures including proposed materials and general architectural design. Actual approval of all proposed buildings shall be part of the site plan review process;

(p) Approximately identify all environment constraints on the subject property including, but not limited to, the following: floodplains; ponds; streams; wetlands; and Carolina Thread Trail. Approximately delineate areas within the regulatory floodplain as shown on the official Flood Insurance Rate Maps (FIRM) published by the Federal Emergency Management Agency (FEMA);

(q) Existing and proposed topography at two-foot contour intervals or less;

(r) Scale and physical relationship of buildings relative to abutting properties. This may be accomplished by providing existing and proposed topographic elevation cross-sections of the site showing proposed structures relative to existing adjacent properties;

(s) Letter of water and sewer availability from County Public Works;

(t) A storm water management concept plan showing all information contained in § 156.220(E)(1), (E)(2), (E)(3), (E)(6), (E)(7), (E)(8) and (E)(9) of this chapter. In addition, the applicant shall provide engineering analysis in sufficient detail to support the preliminary selection and location of all proposed storm water management practices to be installed and to show that the proposed storm water management measures are capable of controlling runoff in compliance with the village's Storm Water Management Ordinance and specifications of the *Storm Water Design Manual*. Prior to submitting an application for a conditional rezoning, the applicant/property owner shall consult with the village's consulting storm water engineer. The storm water concept plan shall receive preliminary approval by the town's consulting storm water engineer prior to the first community meeting being scheduled. If modifications to the proposed project are made after the first community meeting, the village's consulting storm water engineer shall be authorized to require any necessary revisions to the

preliminary approved concept plan prior to the Planning Board's review of the application. The identified revisions, if applicable, will be provided to the Village Council and Planning Board members. The applicant shall bear all costs associated with the consultant storm water engineer's review; and

(u) Conceptual plans, including all additional information shown on it, shall constitute part of the petition for rezoning to a Conditional Zoning District. No application shall be deemed complete unless accompanied by a fee in accordance with the village's most recently adopted fee schedule.

(v) Areas that may require retaining walls due to topographic constraints shall be identified on the plan. Provide proposed material and estimated height of the walls. Retaining wall materials shall have a decorative texture and an integrally tinted earth tone color.

(2) *Additional requirements.* When reviewing an application to rezone property to a Conditional Zoning District, the Planning Board and/or the Village Council may request additional information as they deem necessary.

(3) *Community meetings.*

(a) Once the conceptual plan and the required number of associated documents have been submitted to the village and the required fees have been paid, the applicant shall schedule and hold a minimum of two separate community meetings, in coordination with the village planning staff. All community meetings are understood to provide for the opportunity of every citizen to attend and thus will follow the required rules associated with posting notice of quorums for each body of the village government, including its committees and any sub-committees who have adopted a regular meeting schedule. Such meetings shall occur prior to the petition being scheduled on the Planning Board agenda. Community meetings are designed to provide a framework for creating a shared vision with community involvement inviting citizens to provide suggestions and/or changes to the applicant.

(b) The meetings will be directed by the applicant in accordance with the following requirements.

1. The applicant shall provide an agenda, schedule, location, an electronic version of the project summary including renderings and a list of participants such as landscape architects, engineers and the like to answer questions from citizens and service providers for the project. This information shall be provided to the village prior to the community meeting notification being mailed.

2. The purpose of the first community meeting is to introduce the project to the citizens with a presentation at the Village Hall. This meeting shall be a minimum of two hours and allow for sufficient time for all comments, questions and suggestions to be heard and recorded. During the community meeting, sufficient time will be allowed for service providers (such as NCDOT, utilities, NCDENR) to participate as needed. Citizens may arrive and depart at will, within the scheduled time frame.

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3. After requisite review of the proposals and suggestions by the citizens, the applicant shall hold another community meeting addressing the citizens and advising of any modifications to the proposal.

4. Notice of community meetings shall, at a minimum, be given as follows.

a. A notice shall be sent by first class mail by the village to the property owner(s) affected by the proposed conditional rezoning and to the owners of all properties that lie within 1,320 feet (one-quarter mile) radius as measured from the exterior boundaries of the proposed project. The applicant shall furnish the village with stamped and addressed envelopes (or postcards) along with information regarding the community meeting's time, date and location as well as a general description of the proposal.

b. Such notice shall be mailed by the village not less than ten days prior to the date of the first community meeting. A community meeting notification sign shall be prominently posted by the village in a conspicuous place at the property subject to rezoning not less than ten days prior to the first community meeting.

c. All conceptual plans submitted for review during the community meeting process shall conform to all current village ordinances. In addition, a disclaimer statement shall be added to all community meeting notifications indicating that the proposed application and the conceptual plan in no way has been endorsed or approved by the village.

(c) Village staff shall keep notes of citizen comments received during the community meetings. In addition, all input received at the meetings shall be recorded by the village.

(d) Following the first community meeting, the applicant shall have the opportunity to make changes to the application to take into account information and comments received. Revised copies of the conceptual plan shall be submitted to the Planning Director for review and shall be discussed at the second community meeting.

(4) *Planning Director review.*

(a) The applicant shall schedule a meeting with the Planning Director upon initial submittal of the conditional rezoning application. The purpose of this meeting is to familiarize the Planning Director with the rezoning process and timeline and for the Planning Director to give initial thoughts and comments on the submittal. The Planning Director will inform Council and Planning Board of any application and provide to them a brief, detailing the application, discussions and his or her initial comments. The Planning Director shall give comments to the applicant within 15 days of submittal.

(b) Following the second community meeting, the applicant will have an opportunity to finalize his or her application prior to its submittal to the Planning Board. The finalized application revised plan shall be submitted to the Planning Director no less than 18 days prior to the Planning Board meeting at which the conditional rezoning petition is to be heard.

(C) *Planning Board review and Village Council decision.* The procedures for Planning Board recommendation and the Village Council's decision on the rezoning petition shall be as provided in § 156.244(C)(2) and (C)(3) of this chapter.
(Ord. passed 8-21-2000, § 3.5; Ord. passed 4-13-2015; Ord. 2017-05, passed 10-12-2017)

AIRPORT OVERLAY (AO) DISTRICT

§ 156.040 PURPOSE.

The Airport Overlay (AO) District is intended to protect the airport environ from the encroachment of incompatible land uses which present hazards to users of the airport as well as to persons residing or working in the airport vicinity. It is the intent of this subchapter to restrain influences which are adverse to the airport property and safe conduct of aircraft in the vicinity of the Monroe Regional Airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in loss of life and property and to encourage development which is compatible with airport use characteristics within the intent and purpose of zoning. To this end, AO designation, when overlaid to a basic district classification, is intended to coordinate the purpose and intent of this subchapter with other regulations duly established by the village, whose primary intent is to further the purposes set out above.

(Ord. passed 8-21-2000, § 3.3.1; Ord. passed 6-10-2004)

§ 156.041 APPLICABILITY.

The Airport Overlay District is not intended to be utilized as a district classification, but as a designation which identifies areas subject to regulations which are supplementary to the regulations of the district to which such designation is attached, appended or overlaid. Regulations which apply to areas designated on the zoning map as being within such appended or overlaid designation must be determined by joint reference to the regulations of both the basic district classification and the overlay classification.

(Ord. passed 8-21-2000, § 3.3.2; Ord. passed 6-10-2004)

§ 156.042 DEFINITIONS.

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

AIRPORT. Monroe Regional Airport.

AIRPORT ELEVATION. The highest point of the airport's useable landing area measured in feet above mean sea level (679.0 feet).

APPROACH SURFACE. A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in §§ 156.060 through 156.068 of this chapter.

APPROACH, TRANSITIONAL, HORIZONTAL AND CONICAL ZONES. These zones are set forth in § 156.043 of this chapter.

CONICAL SURFACE. A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to one for a horizontal distance of 4,000 feet.

HAZARD TO NAVIGATION. An obstruction determined to have a substantial adverse effect on the safety and efficient utilization of the navigable airspace.

HEIGHT. For the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be a mean sea level elevation unless otherwise specified.

HORIZONTAL SURFACE. A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

LARGER THAN UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

NON-CONFORMING USE. Any pre-existing structure, object of natural growth or use of land, which is inconsistent with the provisions of this subchapter or an amendment thereto.

NON-PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved or planned.

OBSTRUCTION. Any structure, growth or other object, including a mobile object, which exceeds a limiting height set forth in § 156.044 of this chapter.

PERSON. An individual, firm, partnership, corporation, company, association, joint stock association or government entity; includes a trustee, a receiver, an assignee or a similar representative of any of them.

PRECISION INSTRUMENT RUNWAY. A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

PRIMARY SURFACE. A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the **PRIMARY SURFACE** extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the **PRIMARY SURFACE** ends at each end of that runway. The width of the **PRIMARY SURFACE** is set forth in § 156.043 of this chapter. The elevation of any point on the **PRIMARY SURFACE** is the same as the elevation of the nearest point on the runway centerline.

RUNWAY. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

STRUCTURE. An object, including a mobile object, constructed or installed by humans, including by without limitation, buildings, towers, cranes, smokestacks, earth formations and overhead transmission lines.

TRANSITIONAL SURFACES. These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the aides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. **TRANSITIONAL SURFACES** for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

TREE. Any object of natural growth.

UTILITY RUNWAY. A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

VISUAL RUNWAY. A runway intended solely for the operation of aircraft using visual approach procedures.

(Ord. passed 8-21-2000, § 3.3.3; Ord. passed 6-10-2004)

§ 156.043 AIRPORT ZONES ESTABLISHED.

(A) In order to carry out the provisions of this subchapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Monroe Regional Airport. Such zones are shown on the official zoning map of the village. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation.

(B) The various zones are hereby established and are defined as follows.

(1) *Precision Instrument Runway Approach Zone (AO-A).* The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(2) *Non-Precision Instrument Runway Approach Zone (AO-AN)*. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

(3) *Transitional Zones (AO-T)*. The Transitional Zones are the areas beneath the transitional surfaces.

(4) *Horizontal Zone (AO-H)*. The Horizontal Zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The Horizontal Zone does not include the approach and transitional zones.

(5) *Conical Zone (AO-C)*. The Conical Zone is established as the area that commences at the periphery of the Horizontal Zone and extends outward there, from a horizontal distance of 4,000 feet. (Ord. passed 8-21-2000, § 3.3.4; Ord. passed 6-10-2004)

§ 156.044 AIRPORT ZONE HEIGHT LIMITATIONS.

(A) Except as otherwise provided in this chapter, no structure shall be erected, altered or maintained, and no trees shall be allowed to grow in any zone created by this chapter to a height in excess of the applicable height limitations herein established for each zone in question as follows:

(1) *Precision Instrument Runway Approach Zone (AO-AP)*. Slopes 50 feet outward for each foot upward beginning at the end of, and at the same elevation as, the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence, slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline;

(2) *Non-Precision Instrument Runway Approach Zone (AO-AN)*. Slopes 34 feet outward for each foot upward beginning at the end of the horizontal distance of 10,000 feet along the extended runway centerline;

(3) *Transitional Zones (AO-T)*. Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface, and extending to a height of 150 feet above the airport elevation (or 829 feet above mean sea level). In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the Precision Instrument Runway Approach Zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the side of and the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline;

(4) *Horizontal Zone (AO-H)*. Established at 150 feet above the airport elevation or at a height of 829 feet above mean sea level; and

(5) *Conical Zone (AO-C)*. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation or at a height of 1,029 feet above mean sea level.

(B) Nothing in this subchapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 100 feet above the surface of the land. (Ord. passed 8-21-2000, § 3.3.5; Ord. passed 6-10-2004)

§ 156.045 USE RESTRICTIONS.

Notwithstanding any other provisions of this subchapter, no use may be made of land or water within any zone established by this subchapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

(Ord. passed 8-21-2000, § 3.3.6; Ord. passed 6-10-2004)

§ 156.046 NON-CONFORMING USES.

(A) *Regulations not retroactive*. The regulations prescribed by this subchapter shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this chapter, or otherwise interfere with the continuance of a non-conforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this subchapter and is diligently prosecuted.

(B) *Marking and lighting*. Notwithstanding division (A) above, the owner of any existing non-conforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Monroe Regional Airport Authority to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Monroe Regional Airport Authority.

(Ord. passed 8-21-2000, § 3.3.7; Ord. passed 6-10-2004)

§ 156.047 PERMITS.*(A) Future uses.*

(1) Except as specifically provided in divisions (A)(1)(a) through (A)(1)(c) below, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no tree shall be planted in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it, to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this chapter shall be granted unless a variance has been approved in accordance with division (D) below.

(a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree or structure would extend above the height limits prescribed for such zones.

(b) In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree or structure less than 100 feet of vertical height above the ground, except when such tree or structure would extend above the height limits prescribed for such approach zones.

(c) In areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree or structure less than 100 feet above the ground, except when, such tree or structure, because of terrain, land contour or topographic features, would extend above the height limits prescribed for such transition zones.

(2) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, alteration of any structure or growth of any tree in excess of any of the height limits established by this subchapter.

(B) Existing uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a non-conforming use, structure or tree to become greater hazard to air navigation than it was on the effective date of this subchapter, or any amendments thereto, or than it is when the application for a permit is made. Except as indicated, all applications for such permit shall be granted.

(C) Non-conforming uses abandoned or destroyed. Whenever the Zoning Administrator determines that a non-conforming tree or structure has been abandoned or more than 60% torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the regulations of this chapter.

(D) Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in compliance with the regulations prescribed in this subchapter

may apply to the Board of Adjustment for a variance from such regulations. The application for a variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief, if granted, will not be contrary to the public interest, will not create hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this subchapter. Additionally, no application for a variance to the requirements of this subchapter may be considered by the Board of Adjustment unless a copy of this application has been furnished to the Director of the Monroe Regional Airport for advice as to the aeronautical effects of the variance. If the Airport Director does not respond within 30 days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

(E) *Obstruction marking and lighting.* Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this chapter and be reasonable in circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit the Monroe Regional Airport Authority at its own expense, to install, operate and maintain the necessary markings and lights.

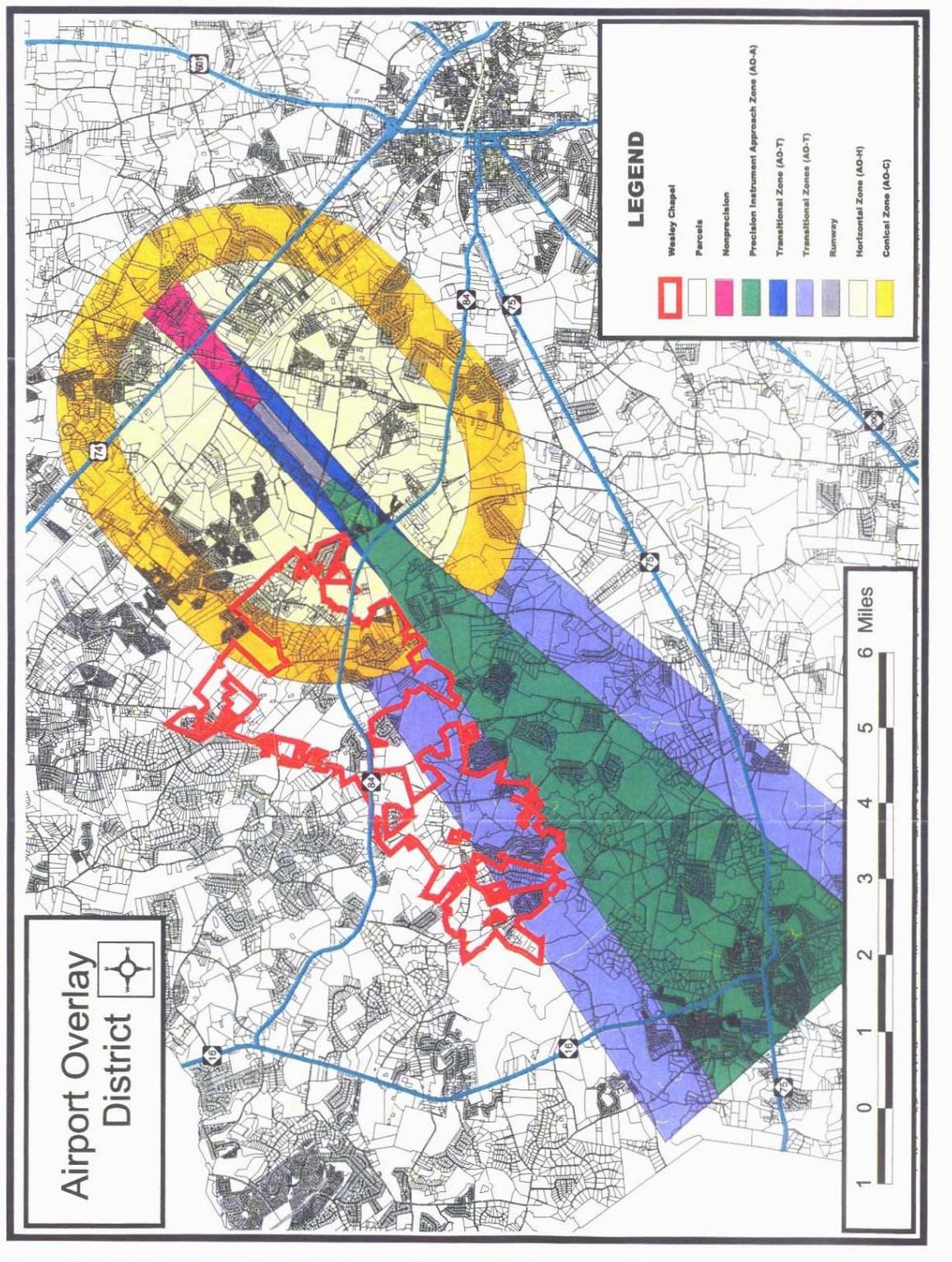
(Ord. passed 8-21-2000, § 3.3.8; Ord. passed 6-10-2004)

§ 156.048 ENFORCEMENT.

It shall be the duty of the Zoning Administrator to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Administrator upon a form published for that purpose. Applications required by this subchapter to be submitted to the Zoning Administrator shall be promptly considered and granted or denied. Applications for action by the Board of Adjustment shall be forthwith transmitted by the Zoning Administrator.

(Ord. passed 8-21-2000, § 3.3.9; Ord. passed 6-10-2004)

§ 156.049 AIRPORT OVERLAY DISTRICT MAP.



(Ord. passed 8-21-2000)

| Use | Supplemental Regulation Section Number | R-80 | R-60 | RA-40 | R-40 | RA-20 | R-20 | B-1 | B-2 | L-1 | O-1 |
|--|--|------|------|-------|------|-------|------|-----|-----|-----|-----|
| Convenience stores (with or without retail fuel sales) | § 156.005, 156.089 | | | | | | | Cs | Cs | | |
| Copying service (see "Photocopying service") | | | | | | | | | | | |
| Cosmetic store (see "Beauty supply and cosmetic store") | | | | | | | | | | | |
| Costume rental store (see "Formal wear and costume rental store") | | | | | | | | | | | |
| Country club | § 156.089 | Cs | Cs | Cs | Cs | Cs | Cs | | | | |
| Craft store (see "Hobby, toy and craft shop") | | | | | | | | | | | |
| Craft studio | | | | | | | | C | C | X | |
| Crematorium | | | | | | | | | | X | |
| Customary home occupation | § 156.125 | Xs | Xs | Xs | Xs | Xs | Xs | | | | |
| Dairy bars, ice cream stores and ice cream manufacturing for on-premises retail sales only | | | | | | | | X | X | X | |
| Dance, gymnastics and martial arts studio | | | | | | | | X | X | X | |
| Day care, small group | § 156.125 | Xs | Xs | Xs | Xs | Xs | Xs | | | | |
| Day care center | § 156.089 | Cs | Cs | Cs | Cs | Cs | Cs | | | | X |
| Day care center associated with church or school | | Cs | Cs | Cs | Cs | Cs | Cs | | | | Cs |
| Day spa and health club | | | | | | | | X | X | X | |
| Delicatessen | | | | | | | | X | X | X | |
| Department store | § 156.005 | | | | | | | | Xs | | |
| Department store, discount | § 156.005 | | | | | | | | Xs | | |
| Detective agency | | | | | | | | X | X | X | X |
| Distribution center, product (see "Wholesale sales and distribution facilities") | | | | | | | | | | | |
| Doctors', dentist's office (excluding animal hospital) | | | | | | | | X | X | X | X |
| Domestic shop (see "Drapery and linen shop") | | | | | | | | | | | |
| Donation bin | | | | | | | | | | | |
| Drapery and linen shop | | | | | | | | X | X | X | |
| Dry cleaning service outlets (principal use) drop off | | | | | | | | X | X | X | |
| Dwelling, manufactured (see "Manufactured home") | | | | | | | | | | | |
| Dwelling, modular home (one unit per lot) | | X | X | X | X | X | X | | | | |

Wesley Chapel - Land Usage

| <i>Use</i> | <i>Supplemental Regulation Section Number</i> | <i>R-80</i> | <i>R-60</i> | <i>RA-40</i> | <i>R-40</i> | <i>RA-20</i> | <i>R-20</i> | <i>B-1</i> | <i>B-2</i> | <i>L-1</i> | <i>O-1</i> |
|--|---|-------------|-------------|--------------|-------------|--------------|-------------|------------|------------|------------|------------|
| Dwelling, single-family detached (one unit per lot) | | X | X | X | X | X | X | | | | |
| Electric, heating, air conditioning, ventilating, plumbing supplies and equipment sales (no outside storage) | | | | | | | | | | X | |
| Electric, heating, air conditioning, ventilating, plumbing supplies and equipment sales (with outside storage) | | | | | | | | | | X | |
| Employment agency | | | | | | | | X | X | X | X |
| Engineering, architect or surveying service (principal use) | | | | | | | | X | X | X | C |
| Equipment repair (home appliance and computer only), no outside storage | | | | | | | | X | X | X | |
| Equipment repair, other, within an enclosed building (not auto, truck, boat, motorcycle, appliance, lawnmower, power saw equipment) | | | | | | | | | | X | |
| Equipment repair, other, with outside storage or repair (not auto, truck, boat, motorcycle, appliance, lawnmower, power saw equipment) | | | | | | | | | | X | |
| Essential services, Class I | | X | X | X | X | X | X | X | X | X | X |
| Essential services, Class II | § 156.089 | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Cs |
| Essential services, Class II; natural gas substation | § 156.089 | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Cs |
| Essential services, Class III | § 156.089 | | | | | | | Cs | Cs | Cs | Cs |
| Essential services, Class IV | | C | C | C | C | C | C | X | C | X | X |
| Essential services, Class V | § 156.089 | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Cs |
| Exterminators office | | | | | | | | | | C | |
| Fabric and/or notions store | | | | | | | | X | X | X | |
| Family care homes for up to 6 clients (provided such home is not located within 1/2 mile radius from an existing family care home) | § 156.005 | Xs | Xs | Xs | Xs | Xs | Xs | | | | |
| Farm equipment sales and service | | | | | | | | | | X | |
| Farm supply store (no outside storage) | | | | | | | | X | X | X | |
| Farm supply store (with outside storage) | | | | | | | | | | X | |
| Farmers' market | | | | | | | | X | X | X | X |
| Finance companies | | | | | | | | X | X | | X |
| Fire stations (see "Public safety station") | | | | | | | | | | | |
| Fish hatchery | | C | C | | | | | | | C | |

Zoning

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| <i>Use</i> | <i>Supplemental Regulation Section Number</i> | <i>R-80</i> | <i>R-60</i> | <i>RA-40</i> | <i>R-40</i> | <i>RA-20</i> | <i>R-20</i> | <i>B-1</i> | <i>B-2</i> | <i>L-1</i> | <i>O-1</i> |
|---|---|-------------|-------------|--------------|-------------|--------------|-------------|------------|------------|------------|------------|
| Fitness center (see "Day spa, health club and recreation facility, indoor") | | | | | | | | | | | |
| Flea market, craft market (indoor) | | | | | | | | X | X | X | |
| Flea market, craft market (outdoor) | | | | | | | | | | X | |

Wesley Chapel - Land Usage

| Use | Supplemental Regulation Section Number | R-80 | R-60 | RA-40 | R-40 | RA-20 | R-20 | B-1 | B-2 | L-1 | O-1 |
|--|--|------|------|-------|------|-------|------|-----|-----|-----|-----|
| Hardware store (excluding home improvement center) | § 156.005 | | | | | | | Xs | Xs | Xs | |
| Health and beauty store | | | | | | | | X | X | | |
| Heating and air conditioning supplies and sales (see "Electric, heating, air conditioning, ventilating") | | | | | | | | | | | |
| Hobby, toy and craft shop | | | | | | | | X | X | X | |
| Home decorating center retail | | | | | | | | X | X | X | |
| Home electronics, radio and television, VCR sales | | | | | | | | X | X | X | |
| Home for the aged/infirm (see "Rest home") | | | | | | | | | | | |
| Home improvement center | § 156.005 | | | | | | | | Xs | Xs | |
| Home occupation (see "Customary home occupation") | | | | | | | | | | | |
| Horses as accessory use | § 156.133 | Xs | Xs | Xs | Xs | Xs | Xs | | | | |
| Horse stable | | C | C | C | C | C | C | | | | |
| Ice and cold storage plants and freezer lockers (no outside storage) | | | | | | | | | | X | |
| Ice and cold storage plants and freezer lockers (with outside storage) | | | | | | | | | | X | |
| Independent living center (see "Rest home") | | | | | | | | | | | |
| Industrial equipment sales, supplies, repair | | | | | | | | | | X | |
| Insurance agency | | | | | | | | X | X | X | X |
| Interior decorating service | | | | | | | | X | X | X | X |
| Jewelry and jewelry repair store | | | | | | | | X | X | X | |
| Junk yard and/or automobile salvage yard | Not Allowed in Any Zoning District | | | | | | | | | | |
| Key shop | | | | | | | | X | X | X | |
| Laboratories - dental, medical, optical and research | | | | | | | | X | X | X | |
| Laundromat | | | | | | | | X | X | X | |
| Laundry plant | | | | | | | | | | X | |
| Lawn and garden care and/or landscaping service | | C | C | C | C | | | | | X | |
| Lawnmower, power saw sales and service | | | | | | | | C | C | X | |
| Learning center | | | | | | | | C | C | | C |
| Library | | C | C | C | C | | | X | X | X | X |
| Limousine/chauffeur service | | | | | | | | | | X | |
| Locksmith | | | | | | | | X | X | X | |

| <i>Use</i> | <i>Supplemental Regulation Section Number</i> | <i>R-80</i> | <i>R-60</i> | <i>RA-40</i> | <i>R-40</i> | <i>RA-20</i> | <i>R-20</i> | <i>B-1</i> | <i>B-2</i> | <i>L-1</i> | <i>O-1</i> |
|--|---|------------------------------------|-------------|--------------|-------------|--------------|-------------|------------|------------|------------|------------|
| Lodge (see "Non-profit club") | | | | | | | | | | | |
| Lounge/bar (principal use) | | | | | | | | C | X | X | |
| Luggage and leather goods shop | | | | | | | | X | X | X | |
| Lumber and saw mills | | C | C | | | | | | | X | |
| Machine shop (in enclosed building) | | | | | | | | | | X | |
| Machine shop (with outside storage or facilities) | | | | | | | | | | X | |
| Magazine, newspaper store | | | | | | | | X | X | X | |
| Mail/packaging and office services and supply stores | | | | | | | | | X | | |
| Maintenance service (see "Cleaning and maintenance service") | | | | | | | | | | | |
| Manufactured goods, Class 1 (no outside storage) | § 156.005 | | | | | | | | | Xs | |
| Manufactured goods, Class 1 (with outside storage) | § 156.005 | | | | | | | | | Cs | |
| Manufactured goods, Class 1 and the retail sales thereof (e.g., factory outlets, sales of irregular goods) | § 156.005 | | | | | | | | | Cs | |
| Manufactured goods, Class 2 (no outside storage) | § 156.005 | Not allowed in any zoning district | | | | | | | | | |
| Manufactured goods, Class 2 (with outside storage) | § 156.005 | Not allowed in any zoning district | | | | | | | | | |
| Manufactured home and recreational vehicle sales | | | | | | | | | | X | |
| Manufactured home | | | | X | | | | | | | |
| Manufactured home park | | Not allowed in any zoning district | | | | | | | | | |
| Medical center/clinic | | | | | | | | X | X | X | X |
| Medical supply shop | | | | | | | | X | X | X | |
| Message and errand service | | | | | | | | X | X | X | |
| Military reserve center | | | | | | | | X | X | X | |
| Mini-warehouse, Class 1 | § 156.005 | | | | | | | | | X | |
| Mini-warehouse, Class 2 | § 156.005 | | | | | | | | | C | |
| Mining/quarry operations, dirt farming | | Not allowed in any zoning district | | | | | | | | | |
| Mobile home | | Not allowed in any zoning district | | | | | | | | | |
| Modular home (see "Dwelling, modular home") | | | | | | | | | | | |
| Monument sales | | | | | | | | | | X | |
| Motion picture production (no outside facilities on lot) | | | | | | | | X | X | X | |

Wesley Chapel - Land Usage

| Use | Supplemental Regulation Section Number | R-80 | R-60 | RA-40 | R-40 | RA-20 | R-20 | B-1 | B-2 | L-1 | O-1 |
|--|--|------|------|-------|------|-------|------|-----|-----|-----|-----|
| Moving truck and associated equipment rental (no outside storage, except for trucks and trailers used in the business) | | | | | | | | | | X | |
| Museum | | C | C | C | C | | | X | X | X | X |
| Music store sales and service | | | | | | | | X | X | X | |
| Newspaper offices | | | | | | | | X | X | X | |
| Newsstand (principal use) | | | | | | | | X | X | X | |
| Nightclub (see "Lounge") | | | | | | | | | | | |
| Non-profit club, includes service organization meeting facilities (e.g., union hall, Boy Scout hut, VFW, Elks lodge, American Legion hut, Masonic lodge) non-profit and not-for-profit | § 156.089 | Cs | Cs | Cs | Cs | Cs | Cs | X | X | X | X |
| Nursery (see "Greenhouse, nursery, commercial") | | | | | | | | | | | |
| Nursery school (see "Day care center") | | | | | | | | | | | |
| Nursing home (see "Rest home") | | | | | | | | | | | |
| Office building(s) | | | | | | | | X | X | X | X |
| Office equipment and computer store | | | | | | | | X | X | X | |
| Optician and optical supply store | | | | | | | | X | X | X | |
| Orphanage | | | | | | | | | | | |
| Paintball, airsoft or laser gun facility | | | | | | | | C | C | C | |
| Park (see "Recreation facilities, outdoor") | | | | | | | | | | | |
| Party store | | | | | | | | X | X | | |
| Pet shop | | | | | | | | X | X | X | |
| Pharmacy | | | | | | | | X | X | X | |
| Philanthropic and eleemosynary institutions | | | | | | | | C | C | X | |
| Photocopying service | | | | | | | | X | X | X | |
| Photofinish laboratory | | | | | | | | X | X | X | |
| Photographic studio | | | | | | | | X | X | X | C |
| Picture frame shop | | | | | | | | X | X | X | |
| Planned industrial development | | | | | | | | | | X | |
| Post office (excluding contract stations) | | | | | | | | X | X | X | X |
| Postal store and contract station | | | | | | | | X | X | X | |
| Postal, parcel processing and bulk mail facility | | | | | | | | | | X | |
| Printing, publishing and reproducing establishments | | | | | | | | | | X | |
| Private club | | | | | | | | C | C | C | |

Wesley Chapel - Land Usage

| Use | Supplemental Regulation Section Number | R-80 | R-60 | RA-40 | R-40 | RA-20 | R-20 | B-1 | B-2 | L-1 | O-1 |
|---|--|---|------|-------|------|-------|------|-----|-----|-----|-----|
| Schools, sports instructional | § 156.089 | Cs | Cs | | | | | X | X | X | |
| Secondhand, swap and consignment stores | | | | | | | | C | C | X | |
| Service stations (see "Automobile service stations") | | | | | | | | | | | |
| Shoe store (see "Clothing, shoes and related accessory store") | | | | | | | | | | | |
| Shopping center | § 156.089 | | | | | | | | C | | |
| Signs | | Allowed in accordance with §§ 156.005, 156.155 through 156.165 for all zoning districts | | | | | | | | | |
| Sign and banner shop | | | | | | | | X | X | X | |
| Solid waste vehicle storage facility | | | | | | | | | | C | |
| Sporting goods and sporting apparel shop | | | | | | | | X | X | X | |
| Stationery store | | | | | | | | X | X | X | |
| Stock or security brokerage firm | | | | | | | | X | X | X | X |
| Stockyards, slaughterhouses, rendering plants | | | | | | | | | | C | |
| Supercenter store | | | | | | | | | | | |
| Supermarket (see "Grocery store") | | | | | | | | | | | |
| Swimming pool, hot tub sales, service and supplies (no outdoor storage) | | | | | | | | X | X | X | |
| Swimming pool, hot tub sales, service and supplies (with outdoor storage) | | | | | | | | | | C | |
| Tailor and alteration store | | | | | | | | X | X | X | C |
| Tanning and nail salon (principal use) | | | | | | | | X | X | X | |
| Tax preparation service | | | | | | | | X | X | X | X |
| Taxi cab company | | | | | | | | | | X | |
| Taxidermist | | | | | | | | | | X | |
| Telecommunications towers and facilities | §§ 156.190 - 156.204 | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Cs | Xs | |
| Temporary structures (other than residences) | § 156.131 | Xs | Xs | Xs | Xs | Xs | Xs | Xs | Xs | Xs | Xs |
| Textile machinery sales and service | | | | | | | | | | X | |
| Theater, indoor movie | | | | | | | | X | X | X | |
| Theater, outdoor movie | | | | | | | | C | C | C | |
| Tire recap or repair facility | | | | | | | | | | X | |
| Tobacco shops | | | | | | | | X | X | X | |
| Tourist information office | | | | | | | | X | X | X | X |
| Toy shop (see "Hobby, toy and craft shop") | | | | | | | | | | | |
| Travel agency | | | | | | | | X | X | X | X |

| Use | Supplemental Regulation Section Number | R-80 | R-60 | RA-40 | R-40 | RA-20 | R-20 | B-1 | B-2 | L-1 | O-1 |
|---|--|------|------|-------|------|-------|------|-----|-----|-----|-----|
| Trophy and plaque shop | | | | | | | | X | X | X | |
| Truck terminal or tractor trailer truck transfer companies/transfer lots | | | | | | | | | | C | |
| Truck and utility trailer rental facility | | | | | | | | | | X | |
| Truck driving school | | | | | | | | | | C | |
| Upholstery shop | | | | | | | | X | X | X | |
| Utility facilities (see "Essential services") | | | | | | | | | | | |
| Variety store | § 156.005 | | | | | | | X | X | X | |
| Vending companies | | | | | | | | | | X | |
| Veterinarian office (see "Animal hospital") | | | | | | | | | | | |
| Video rental and sales | | | | | | | | X | X | X | |
| Vocational workshop facility | | | | | | | | | | X | |
| Warehouse (excluding wholesales sales operations and mini-warehouses and excluding storage of dangerous and offensive items such as uncured hides and explosives) outside storage allowed | | | | | | | | | | X | |
| Warehouse (excluding wholesales sales operations and mini-warehouses and excluding storage of dangerous and offensive items such as uncured hides and explosives) no outside storage allowed | | | | | | | | | | X | |
| Water supply reservoirs | | C | C | C | C | C | C | C | C | C | |
| Welding shop | | | | | | | | | | X | |
| Wholesale sales operation, wholesale sales and distribution facilities | § 156.089 | | | | | | | Cs | Cs | X | |
| Yard sales, garage sales | | X | X | X | X | X | X | | | | |
| <p>NOTES TO TABLE: —Note: Any permitted individual use having a gross floor area in excess of 2,000 square feet shall require a conditional use permit in the B-1, B-2 and O-I Districts. —X - Permitted by right —C - Conditional use permit required —s - Supplemental regulations apply (see referenced section(s)) —CZ - Subject to conditional zoning approval</p> | | | | | | | | | | | |

(Ord. passed 8-21-2000, § 5; Ord. passed 10-17-2005; Ord. 2012-01, passed 1-9-2012; Ord. 2012-10, passed 6-11-2012; Ord. 2012-13, passed 10-8-2012; Ord. 2016-07, passed 5-12-2016; Ord. 2016-14, passed 12-12-2016; Ord. 2017-02, passed 2-13-2017; Ord. 2017-07, passed 9-11-2017; Ord. 2018-08, passed 8-13-2018; Ord. 2018-11, passed 11-12-2018; Ord. 2018-12, passed 12-17-2018; Ord. 2019-02, passed 5-13-2019)

§ 156.061 R-80 SINGLE-FAMILY DISTRICT; YARD REGULATIONS.*(A) Minimum lot area.*

| | |
|------------------------------------|--------------------|
| Agricultural uses | 5 acres |
| Barns | 3 acres |
| Cemeteries | 5 acres |
| Churches | 3 acres |
| Day care facilities | 3 acres |
| Essential services Class IV | none |
| Horse stables and riding academies | 5 acres |
| Libraries | 3 acres |
| Public and private schools | 10 acres |
| Single-family dwellings | 80,000 square feet |
| All other uses | 80,000 square feet |

(B) Minimum front yard setback. (Except as provided in §§ 156.105 through 156.113 of this chapter.)

| | |
|--|--|
| All essential services Class II uses | 300 feet |
| Barns (principle use) | See § 156.089 |
| Essential services Class IV | 10 feet |
| Essential services Class V (except as provided in § 156.105 through 156.113 of this chapter) | 100 feet from the edge of the existing pavement for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 75 feet from the edge of existing pavement to fence line |
| Single-family dwellings | 65 feet |
| Telephone repeater stations, transmitting facilities and public utility substations | 200 feet |
| All other uses | 75 feet |

(C) *Minimum lot width.*

| | |
|-----------------------------|--|
| Essential services Class IV | None |
| All other uses | 150 feet as measured at the front yard setback |

(D) *Minimum side yard setback.*

| | |
|---|---|
| All essential services Class II | 100 feet |
| Barns (principle use) | See § 156.089 |
| Churches, schools, governmental facilities, telephone repeater stations, libraries | 50 feet |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from property line for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 15 feet, and 75 feet on street side of corner lots |
| Single-family dwellings and modular homes | 25 feet (if a buffer is provided at the side of the lot pursuant to § 155.080 of this code of ordinances, the side yard setback shall be measured from the nearest edge of the buffer area) |
| Telephone repeater stations, transmitting facilities and public utility substations | 75 feet |
| All other uses | 25 feet |

(E) *Minimum rear yard setback.*

| | |
|---------------------------------------|--|
| All essential services, Class II uses | 100 feet |
| Barns (principle use) | See § 156.089 |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from property line for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |

Wesley Chapel - Land Usage

| | |
|---|---|
| Natural gas substation | 15 feet |
| Single-family dwellings and modular homes | 60 feet (if a buffer is provided at the rear of the lot pursuant to § 155.080 of this code of ordinances, the rear yard setback shall be measured from the nearest edge of the buffer area) |
| Telephone repeater stations, transmitting facilities and public utility substations | 75 feet |
| All other uses | 60 feet |

(F) *Maximum building height.* (Except as permitted in § 156.132 of this chapter.)

| | |
|-----------------------------|----------------------------|
| All uses | 35 feet (see § 156.005(C)) |
| Essential services Class IV | 10 feet |
| Essential services Class V | 20 feet |

(Ord. passed 8-21-2000, § 5.1; Ord. passed 3-12-2001; Ord. passed 10-17-2005; Ord. passed 1-14-2008; Ord. 2013-01, passed 2-19-2013; Ord. passed 5-12-2016; Ord. 2017-07, passed 9-11-2017; Ord. 2018-12, passed 12-17-2018)

§ 156.062 R-60, SINGLE-FAMILY DISTRICT; YARD REGULATIONS.

(A) *Minimum lot area.*

| | |
|------------------------------------|--------------------|
| Agricultural uses | 5 acres |
| Barns | 3 acres |
| Cemeteries | 5 acres |
| Churches | 3 acres |
| Day care facilities | 3 acres |
| Essential services Class IV | None |
| Horse stables and riding academies | 5 acres |
| Libraries | 3 acres |
| Public and private schools | 10 acres |
| Single-family dwellings | 60,000 square feet |
| All other uses | 60,000 square feet |

(B) *Minimum front yard setback.* (Except as provided in §§ 156.105 through 156.113 of this chapter.)

| | |
|--|--|
| All essential services Class II | 300 feet |
| Barns (principle use) | See § 156.089 |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from the edge of the existing pavement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 75 feet from the edge of existing pavement to fence line |
| Single-family dwellings and modular homes | 60 feet |
| Telephone repeater stations, transmitting facilities and public utility stations | 200 feet |
| All other uses | 75 feet |

(C) *Minimum lot width.*

| | |
|--|------|
| 125 feet as measured at the front yard setback | |
| Essential services Class IV | None |

(D) *Minimum side yard setback.*

| | |
|--|--|
| All essential services Class II | 100 feet |
| Barns (principle use) | See § 156.089 |
| Churches, schools, governmental facilities, telephone repeater stations, libraries | 50 feet |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from property line for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 15 feet and 75 feet on street side of corner lots |

| | |
|---|---|
| Single-family dwellings and modular homes | 25 feet (if a buffer is provided at the side of the lot pursuant to § 155.080 of this code of ordinances, the side yard setback shall be measured from the nearest edge of the buffer area) |
| Telephone repeater stations, transmitting facilities and public utility substations | 75 feet |
| All other uses | 25 feet |

(E) *Minimum rear yard setback.*

| | |
|---|---|
| All essential services Class II | 100 feet |
| Barns (principle use) | See § 156.089 |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from property line for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 15 feet |
| Single-family dwellings and modular homes | 60 feet (if a buffer is provided at the rear of the lot pursuant to § 155.080 of this code of ordinances, the rear yard setback shall be measured from the nearest edge of the buffer area) |
| Telephone repeater stations, transmitting facilities and public utility substations | 75 feet |
| All other uses | 60 feet |

(F) *Maximum building height.* (Except as permitted in § 156.132 of this chapter.)

| | |
|-----------------------------|-------------------------|
| All uses | 35 feet (see § 156.005) |
| Essential services Class IV | 10 feet |
| Essential services Class V | 20 feet |

(Ord. passed 8-21-2000, § 5.2; Ord. passed 3-12-2001; Ord. passed 10-17-2005; Ord. passed 1-14-2008; Ord. 2013-01, passed 2-19-2013; Ord. passed 5-12-2016; Ord. 2017-07, passed 9-11-2017; Ord. 2018-12, passed 12-17-2018)

§ 156.063 R-40, RA-40 SINGLE-FAMILY DISTRICTS; YARD REGULATIONS.

(A) Minimum lot area.

| | |
|------------------------------------|--------------------|
| Agricultural uses | 5 acres |
| Barns | 3 acres |
| Cemeteries | 5 acres |
| Churches | 3 acres |
| Day care facilities | 3 acres |
| Essential services Class IV | None |
| Horse stables and riding academies | 5 acres |
| Libraries | 3 acres |
| Public and private schools | 10 acres |
| Single-family dwellings | 40,000 square feet |
| All other uses | 40,000 square feet |

(B) Minimum front yard setback. (Except as provided in §§ 156.105 through 156.113 of this chapter.)

| | |
|--|--|
| All essential services Class II | 300 feet |
| Barns (principle use) | See § 156.089 |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from the edge of the existing pavement for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 75 feet from the edge of existing pavement to fence line |
| Single-family dwellings in the R-40 and RA-40 Districts; manufactured homes in the RA-40 Zoning District | 50 feet |
| Telephone repeater stations and transmitting facilities, public utility substations | 200 feet |
| All other uses | 75 feet |

Wesley Chapel - Land Usage

(C) *Minimum lot width.*

| | |
|-----------------------------|--|
| Essential services Class IV | None |
| All other uses | 120 feet as measured at the front yard setback |

(D) *Minimum side yard setback.*

| | |
|--|---|
| All essential services Class II | 100 feet |
| Barns (principle use) | See § 156.089 |
| Churches, schools, governmental facilities, libraries | 50 feet |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from property line for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 15 feet and 75 feet on street side of corner lots |
| Single-family dwellings, modular and manufactured homes in the RA-40 Zoning District | 15 feet (if a buffer is provided at the side of the lot pursuant to § 155.080 of this code of ordinances, the side yard setback shall be measured to the nearest edge of the buffer area) |
| Telephone repeater stations, transmitting facilities and public utility substation | 75 feet |
| All other uses | 15 feet |

(E) *Minimum rear yard setback.*

| | |
|--|--|
| All essential services, Class III uses | 100 feet |
| Barns (principle use) | See § 156.089 |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from property line for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |

| | |
|--|---|
| Natural gas substation | 15 feet |
| Single-family dwellings, modular and manufactured homes in the RA-40 Zoning District | 40 feet (if a buffer is provided at the rear of the lot pursuant to § 155.080 of this code of ordinances, the rear yard setback shall be measured from the nearest edge of the buffer area) |
| Telephone repeater stations, transmitting facilities and public utility substations | 75 feet |
| All other uses | 40 feet |

(F) *Maximum building height.* (Except as permitted in § 156.132 of this chapter.)

| | |
|-----------------------------|---|
| All uses | 35 feet (see § 156.005 of this chapter) |
| Essential services Class IV | 10 feet |
| Essential services Class V | 20 feet |

(G) *Conservation subdivisions.* Development standards for conservation subdivisions are found in § 156.089.

(Ord. passed 8-21-2000, § 5.3; Ord. passed 3-12-2001; Ord. passed 10-17-2005; Ord. passed 1-14-2008; Ord. 2013-01, passed 2-19-2013; Ord. passed 11-11-2013; Ord. passed 5-12-2016; Ord. 2017-07, passed 9-11-2017; Ord. 2018-08, passed 8-13-2018; Ord. 2018-12, passed 12-17-2018)

§ 156.064 R-20, RA-20 SINGLE-FAMILY DISTRICTS; YARD REGULATIONS.

(A) *Minimum lot area.*

| | |
|-----------------------------|---------|
| Cemeteries | 5 acres |
| Barns | 3 acres |
| Churches | 3 acres |
| Day care facilities | 3 acres |
| Essential services Class IV | None |

Wesley Chapel - Land Usage

| | |
|----------------------------|--|
| Essential services Class V | 100 feet from the edge of the existing pavement for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Libraries | 3 acres |
| Public and private schools | 10 acres |
| Single-family dwellings | 20,000 square feet |
| All other uses | 20,000 square feet |

(B) *Minimum front yard setback.* (Except as provided in §§ 156.105 through 156.113 of this chapter.)

| | |
|---|--|
| All essential services, Class II | 300 feet |
| Barns (principle use) | See § 156.089 |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from property line for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 75 feet from the edge of existing pavement to fence line |
| Single-family dwellings | 40 feet |
| Telephone repeater stations and transmitting facilities, public utility substations | 200 feet |
| All other uses | 75 feet |

(C) *Minimum lot width.*

| | |
|-----------------------------|--|
| Essential services Class IV | None |
| All other uses | 100 feet as measured at the front yard setback |

(D) *Minimum side yard setback.*

| | |
|--|--|
| All essential services Class II | 100 feet |
| Barns (principle use) | See § 156.089 |
| Churches, schools, governmental facilities, libraries | 50 feet |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from property line for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 15 feet and 75 feet on street side of corner lots |
| Single-family dwellings and modular homes | 15 feet (if a buffer is provided at the side of the lot pursuant to § 155.080 of this chapter, the side yard setback shall be measured to the nearest edge of the buffer area) |
| Telephone repeater stations, transmitting facilities and public utility substation | 75 feet |
| All other uses | 15 feet |

(E) *Minimum rear yard setback.*

| | |
|---|--|
| All essential services, Class III uses | 100 feet |
| Barns (principle use) | See § 156.089 |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from property line for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 15 feet |
| Single-family dwellings and modular homes | 30 feet. (If a buffer is provided at the rear of the lot pursuant to § 155.080 of this code of ordinances, the rear yard setback shall be measured from the nearest edge of the buffer area) |

Wesley Chapel - Land Usage

| | |
|---|---------|
| Telephone repeater stations, transmitting facilities and public utility substations | 75 feet |
| All other uses | 40 feet |

(F) *Maximum building height.* (Except as permitted in § 156.132 of this chapter.)

| | |
|-----------------------------|---|
| All uses | 35 feet (see § 156.005 of this chapter) |
| Essential services Class IV | 10 feet |
| Essential Services Class V | 20 feet |

(Ord. passed 8-21-2000, § 5.4; Ord. passed 3-12-2001; Ord. passed 10-17-2005; Ord. passed 1-14-2008; Ord. 2013-01, passed 2-19-2013; Ord. passed 11-11-2013; Ord. passed 5-12-2016; Ord. 2017-07, passed 9-11-2017; Ord. 2018-12, passed 12-17-2018)

§ 156.065 GENERAL BUSINESS DISTRICT B-1.

(A) *Yard requirements.* Within any B-1 Zoning District, the following dimensional requirements shall be complied with:

| | |
|--|--|
| Maximum building height | |
| Essential services Class IV | 10 feet |
| Essential Services Class V | 20 feet |
| All other uses | 35 feet, as defined in § 156.005 of this chapter, except as permitted in § 156.132 of this chapter |
| Maximum enclosed floor area per use (including all principal and accessory structures) | 10,000 square feet, unless otherwise approved through the conditional use process |
| Minimum front yard setback | |
| Essential services Class IV | 10 feet from existing right-of-way |
| Essential Services Class V | 100 feet from the edge of the existing pavement for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 75 feet from the edge of existing pavement to fence line |
| All other uses | 65 feet from existing right-of-way, if any parking located in front yard, 25 feet for side and rear yard parking only |

| | |
|-----------------------------|--|
| Minimum rear yard setback | |
| Essential services Class IV | 10 feet |
| Essential Services Class V | 100 feet from the property line for placement of any solar power generating facility and 50 feet from the property line for placement of the security fences |
| Natural gas substation | 15 feet |
| All other uses | 20 feet; except that, 30 feet shall be required when the rear yard abuts any residential zoning district |
| Minimum side yard setback | |
| Essential services Class IV | 10 feet |
| Essential Services Class V | 100 feet from the property line for placement of any solar power generating facility and 50 feet from the property line for placement of the security fences |
| Natural gas substation | 15 feet and 75 feet on street side of corner lots |
| All other uses | 20 feet; except that, 30 feet shall be required when the side yard abuts any residential zoning district |
| Minimum lot area | None |
| Minimum lot width | None |

(B) *Screening*. Screening and landscaping shall be provided in accordance with § 156.126 of this chapter.

(C) *Off-street parking and loading*. Off-street parking and loading shall be provided in accordance with §§ 156.175 and 156.176 of this chapter.

(D) *Storm water management*. The post-development rate of storm water runoff from any lot shall be managed according to the village’s *Storm Water Design Manual*. The applicant shall submit calculations, plans and specifications as required by and to demonstrate compliance with the *Storm Water Design Manual*. In addition, the applicant shall also provide a statement from the owner acknowledging responsibility for the operation and maintenance of required retention/detention facilities and to disclose such obligation to future owners.

(Ord. passed 8-21-2000, § 5.5; Ord. passed 3-12-2001; Ord. passed 1-12-2004; Ord. passed 10-17-2005; Ord. passed 1-14-2008; Ord. 2012-13, passed 10-8-2012; Ord. passed 2-19-2013; Ord. passed 11-11-2013; Ord. passed 5-12-2016; Ord. 2018-12, passed 12-17-2018)

§ 156.066 SHOPPING CENTER DISTRICT B-2.

(A) *Approval of shopping center plan.* A shopping center shall consist of any commercial development of two or more acres qualifying under the following provisions. Petitioners for this classification shall present the following items to the Zoning Administrator for consideration by the Planning Board and the Village Council:

(1) *Proof of need.* A valid market analysis indicating the economic feasibility of the proposed development by outlining the following:

- (a) The trade area of the proposed shopping center;
- (b) Estimation of the trade area population, present and future;
- (c) Estimation of the effective buying power of the trade area, both existing and proposed;
- (d) Estimation of the net potential customer buying power for stores in the proposed development; and
- (e) An estimate of the amount of retail sales floor space in square feet currently lacking in the trade area.

(2) *Amendments of development plan.* Where a planned shopping center is proposed for a location, the procedure shall require the submission of a development plan as described in division (A)(1) above, as well as the regular amendment procedure set forth in § 156.244 of this chapter if a rezoning is otherwise required;

(3) *Development plan.* The petitioner shall submit a development plan, at a scale of not less than one inch to 100 feet, which shall clearly and completely show:

- (a) Dimensions of the property and adjacent lots and streets;
- (b) Location and proposed use of all buildings with dimensions and ground area thereof;
- (c) The parking spaces, channelization and ratios shown;
- (d) Service areas, off-street loading facilities, service drives and dimensions thereon;
- (e) All pedestrian ways;
- (f) Title, giving the names of the developers, the date, scale of the plan and the person or firm preparing the plan;

- (g) Landscaping and proper buffers between other uses;
- (h) Illumination of buildings and parking areas;
- (i) Design of entrance(s); and
- (j) Signage.

(4) *Statement of readiness.* The petitioner shall submit a statement indicating readiness to proceed with the proposed development by filing with the Village Council a statement signed by the owner or owners of the proposed development that the actual construction shall begin within one year from the date the conditional use is granted, and that it will be prosecuted to completion within 18 months from the final approval of a conditional use permit. In the event the Planning Board and the Village Council find that the intent of this section has not been met, or construction has not begun within 18 months, proceedings may be instituted for rezoning the area in accordance with § 156.244 of this chapter. It is not the intent of this division (A)(4) to prohibit a reasonable extension of the 18-month limit by the Village Council; providing, however, that, the petitioner can demonstrate to the satisfaction of the Planning Board and the Council that circumstances beyond his or her reasonable control have precluded the start of construction.

(B) *Yard requirements.* Within any B-2 Zoning District, the following dimensional requirements shall be complied with:

| | |
|--|--|
| Maximum building height | |
| Essential services Class IV | 10 feet |
| Essential services Class V | 20 feet |
| All other uses | 35 feet, as defined in § 156.005 of this chapter, except as allowed herein |
| Maximum enclosed floor area per use (including all principal and accessory structures) | 10,000 square feet, unless otherwise approved through the conditional use process |
| Minimum front yard setback | |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from the edge of the existing pavement for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 75 feet from the edge of existing pavement to fence line |
| All other uses | 65 feet from the existing right-of-way, if any parking located in front yard, 25 feet for side and rear yard parking only |

Wesley Chapel - Land Usage

| | |
|-----------------------------|--|
| Minimum lot area | None |
| Minimum lot width | |
| Essential services Class IV | 10 feet |
| Natural gas substation | 15 feet |
| All other uses | 20 feet; except that, 30 feet shall be required when the rear yard abuts any residential zoning district |
| Minimum rear yard setback | |
| Essential Services Class V | 100 feet from the property line for placement of any solar power generating facility and 50 feet from the property line for placement of the security fences |
| Minimum side yard setback | |
| Essential services Class IV | 10 feet |
| Essential services Class V | 100 feet from the property line for placement of any solar power generating facility and 50 feet from the property line for placement of the security fences |
| Natural gas substation | 15 feet and 75 feet on street side of corner lots |
| All other uses | 20 feet; except that, 30 feet shall be required when the side yard abuts any residential zoning district |

(C) *Screening*. Screening and landscaping shall be provided in accordance with § 156.126 of this chapter.

(D) *Off-street parking and loading*. Off-street parking and loading shall be provided for in accordance with §§ 156.175 and 156.176 of this chapter.

(E) *Compliance with CUP*. The granting of a conditional use permit by Village Council for a shopping center shall require the developer to strictly comply with the development plan submitted in division (B) above as amended by the Village Council in granting the conditional use permit. Any subsequent variation from said development plan without the additional and prior approval of Village Council shall constitute a violation of this chapter, except as specifically provided for in § 156.084 of this chapter.

(F) *Storm water management*. The post-development rate of storm water runoff from any lot shall be managed according to the village's *Storm Water Design Manual*. The applicant shall submit calculations, plans and specifications as required by and to demonstrate compliance with the *Storm Water*

Design Manual. In addition, the applicant shall also provide a statement from the owner acknowledging responsibility for the operation and maintenance of required retention/detention facilities and to disclose such obligation to future owners.

(Ord. passed 8-21-2000, § 5.6; Ord. passed 3-12-2001; Ord. passed 1-12-2004; Ord. passed 10-17-2005; Ord. passed 1-14-2008; Ord. 2012-13, passed 10-8-2012; Ord. passed 2-19-2013; Ord. passed 11-11-2013; Ord. passed 5-12-2016; Ord. 2018-12, passed 12-17-2018)

§ 156.067 LIGHT INDUSTRIAL DISTRICT L-1.

(A) *Yard requirements.* Within any L-1 Zoning District, the following dimensional requirements shall be complied with:

| | |
|-----------------------------|---|
| Maximum building height | |
| Essential services Class IV | 10 feet |
| Essential services Class V | 20 feet |
| All other uses | 35 feet, as defined in § 156.005 of this chapter, except as allowed in § 156.132 of this chapter |
| Minimum front yard setback | |
| Essential services Class IV | 10 feet from the existing right-of-way |
| Essential Services Class V | 100 feet from the edge of the existing pavement for placement of any solar power generating facility; 50 feet from property line for placement of the security fences |
| Natural gas substation | 75 feet from the edge of existing pavement to fence line |
| All other uses | 80 feet from the existing right-of-way |
| Minimum lot area | None |
| Minimum lot width | None |
| Minimum rear yard setback | |
| Essential services Class IV | 10 feet |
| Essential Services Class V | 100 feet from the property line for placement of any solar power generating facility and 50 feet from the property line for placement of the security fences |
| Natural gas substation | 15 feet |
| All other uses | 40 feet, when the rear yard abuts any residential district |

Wesley Chapel - Land Usage

| | |
|-----------------------------|--|
| Minimum side yard setback | |
| Essential services Class IV | 10 feet |
| Essential Services Class V | 100 feet from the property line for placement of any solar power generating facility and 50 feet from the property line for placement of the security fences |
| Natural gas substation | 15 feet and 75 feet on street side of corner lots |
| All other uses | 40 feet |

(B) *Screening*. Screening and landscaping shall be provided in accordance with § 156.126 of this chapter.

(C) *Off-street parking and loading*. Off-street parking and loading shall be provided for in accordance with §§ 156.175 and 156.176 of this chapter.

(D) *Storm water management*.

(1) The post-development rate of storm water runoff from any lot shall be managed according to the village’s *Storm Water Design Manual*. The applicant shall submit calculations, plans and specifications as required by and to demonstrate compliance with the *Storm Water Design Manual*.

(2) In addition, the applicant shall also provide a statement from the owner acknowledging responsibility for the operation and maintenance of required retention/detention facilities and to disclose such obligation to future owners.

(E) *Industrial limitations*. The following limitations shall be considered by the Zoning Administrator before issuing a permit for any light industrial use.

(1) Light industries permitted by right shall minimize the emission of smoke, dust, fumes, flare, noise and vibration and shall comply with all local, state and federal regulations applicable to those byproducts.

(2) The use will not overly impact the ability of a public agency to collect and/or treat any wastewater generated by the use or the ability of the public agency to treat and distribute any potable water needed by the use.

(3) The use will not overly impact (impact beyond capacity) the system of streets serving the use or that improvements will be made to such streets in consort with the development of said use, the result of which will be adequate for handling of the additional traffic generated in the opinion of the Zoning Administrator.

(4) Not only will the use meet the minimum screening requirements of § 156.126 of this chapter, but also that such additional screening will be installed, when, in the opinion of the Zoning Administrator, said additional screening is necessitated by the visual characteristics of the particular use, such that the use will be screened from view of adjoining residential districts, or that the nature of the topography makes the screening from distance view from such residential areas impossible and that other measures such as heavy on-site landscaping will be taken to lessen any distant visual impacts. (Ord. passed 8-21-2000, § 5.7; Ord. passed 3-12-2001; Ord. passed 1-12-2004; Ord. passed 10-17-2005; Ord. passed 1-14-2008; Ord. 2012-13, passed 10-8-2012; Ord. passed 2-19-2013; Ord. passed 11-11-2013; Ord. passed 5-12-2016; Ord. 2018-12, passed 12-17-2018)

§ 156.068 OFFICE-INSTITUTIONAL DISTRICT O-I.

(A) *Yard requirements.* Within any O-I Zoning District, the following dimensional requirements shall be complied with:

| | |
|--|--|
| Maximum building height | |
| Essential services Class IV | 10 feet |
| Essential Services Class V | 20 feet |
| All other uses | 35 feet, as defined in § 156.005 of this chapter, except as permitted in § 156.132 of this chapter |
| Maximum enclosed floor area per use (including all principal and accessory structures) | 10,000 square feet, unless otherwise approved through the conditional use process |
| Minimum front yard setback | |
| Essential services Class IV | 10 feet from existing right-of-way |
| Essential Services Class V | 100 feet from the edge of the existing pavement for placement of any solar power generating facility; 50 feet from property line for placement of the security fence |
| Natural gas substation | 75 feet from the edge of existing pavement to fence line |
| All other uses | 65 feet from existing right-of-way, if any parking located in front yard, 25 feet for side and rear yard parking only |
| Minimum rear yard setback | |
| Essential services Class IV | 10 feet |
| Essential Services Class V | 100 feet from the property line for placement of any solar power generating facility and 50 feet from the property line for placement of the security fences |
| Natural gas substation | 15 feet |
| All other uses | 20 feet; except that, 30 feet shall be required when the rear yard abuts any residential zoning district |

Wesley Chapel - Land Usage

| | |
|-----------------------------|--|
| Minimum side yard setback | |
| Essential services Class IV | 10 feet |
| Essential Services Class V | 100 feet from the property line for placement of any solar power generating facility and 50 feet from the property line for placement of the security fences |
| Natural gas substation | 15 feet and 75 feet on street side of corner lots |
| All other uses | 20 feet; except that, 30 feet shall be required when the side yard abuts any residential zoning district |
| Minimum lot area | None |
| Minimum lot width | None |

(B) *Screening*. Screening and landscaping shall be provided in accordance with § 156.126 of this chapter.

(C) *Off-street parking and loading*. Off-street parking shall not be allowed within the front yard and instead shall be provided in the side or rear yards as necessary. Otherwise, off-street parking and loading shall be provided in accordance with §§ 156.175 and 156.176 of this chapter.

(D) *Storm water management*. The post-development rate of storm water runoff from any lot shall be managed according to the village’s *Storm Water Design Manual*. The applicant shall submit calculations, plans and specifications as required by and to demonstrate compliance with the *Storm Water Design Manual*. In addition, the applicant shall also provide a statement from the owner acknowledging responsibility for the operation and maintenance of required retention/detention facilities and to disclose such obligation to future owners.

(Ord. passed 8-21-2000, § 5.8; Ord. passed 3-12-2001; Ord. passed 1-12-2004; Ord. passed 10-17-2005; Ord. passed 1-14-2008; Ord. 2012-13, passed 10-8-2012; Ord. passed 2-19-2013; Ord. passed 11-11-2013; Ord. passed 5-12-2016; Ord. 2018-12, passed 12-17-2018)

CONDITIONAL USES

§ 156.080 INTENT.

This subchapter provides for certain uses to be located by right in certain districts where the uses are compatible with the purpose of the district and with other uses to be located in certain districts only by complying with additional development standards to ensure that same compatibility. However, certain uses which are basically in keeping with the intent and purpose of the district may have substantial

impact on the surrounding area and shall only be allowed after a review of any specific proposal. In order to ensure that these uses would be compatible with surrounding development and be in keeping with the purpose of the district in which they are proposed to be placed, they are not allowed to be established as a matter of right. They may be established only after review and approval of a conditional use permit as set forth in this subchapter.

(Ord. passed 8-21-2000, § 6.1)

§ 156.081 CONDITIONAL USES.

Certain uses listed in this chapter require the issuance of a conditional use permit (CUP) by the Village Council prior to the issuance of a zoning permit by the Zoning Administrator. In certain cases, a change in the zoning district of the property in question will also be necessary. The following information details the procedures which shall be followed under these circumstances.

(Ord. passed 8-21-2000, § 6.2)

§ 156.082 PROCEDURES.

Conditional use permits shall be considered by the Village Council by either of the following methods.

(A) *No zoning change required.* When a conditional use permit is being requested for an intended use in a zoning district for which a rezoning is not required, the following procedure shall be followed.

(1) Formal staff conference with the applicant shall be held prior to submittal of the application in order to review timeline and requirements of the CUP process.

(2) A completed written application for a conditional use permit shall be filed with the Zoning Administrator. The application, at a minimum, shall include all items listed in § 156.091 of this chapter.

(3) All applications shall be signed by the applicant and shall be submitted with any application fee required by the village. All reasonable expenses incurred by the village for the processing of a CUP application, including expenses for review by the Village Engineer, shall be paid by the applicant.

(4) The Zoning Administrator shall present any properly completed application to the members of the Planning Board at least 15 days prior to their next regularly scheduled meeting. The Planning Board, by majority vote, may shorten or waive the time provided in this subchapter for receipt of a completed conditional use application.

(5) The Planning Board shall conduct a public information and comment session as part of a scheduled Planning Board meeting and due notice of such meeting shall be as prescribed in § 156.244(A)(7)(a), (A)(7)(b), (A)(7)(c) and (A)(7)(d) of this chapter.

(6) The Planning Board shall have a maximum of 30 days from the date on which it was met or until its next regularly scheduled meeting, whichever is longer, to review the application and to submit its recommendation to the Village Council. If a recommendation is not made during said time period, the application shall be forwarded to the Village Council by the Zoning Administrator without a recommendation from the Planning Board.

(7) When dealing with the conditional use permit process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Zoning Administrator, the Planning Board and/or the Village Council may request additional information, as they may individually deem necessary.

(8) Once the application is forwarded to the Village Council from the Planning Board (or the Zoning Administrator as prescribed in division (A)(4) above, the Village Council shall consider conducting a public hearing as described in § 156.244(A)(7) of this chapter (a public hearing is required if a CUP is to be approved). In the event the Village Council deems a public hearing appropriate, due notice of such hearing shall be as prescribed in § 156.244(A)(7)(a), (A)(7)(b), (A)(7)(c) and (A)(7)(d) of this chapter.

(B) Zoning change required.

(1) When a conditional use permit is being requested for a use in a zoning district for which rezoning is required, the following procedures shall be followed.

(a) Requirements listed in division (A) above shall be met.

(b) The applicant shall also complete a rezoning application which together with the conditional use permit application required by division (A)(4) above shall be submitted at the same time to the Zoning Administrator as set forth in § 156.244(A)(2) of this chapter.

(2) Once the conditional use permit application and rezoning application have been properly completed, they shall both be reviewed together by Board and the Village Council in compliance with division (A) above for conditional uses and § 156.244(A)(4) through (A)(10) of this chapter for zoning changes. All recommendations made by the Planning Board concerning any associated rezoning shall be in accordance with § 156.244 of this chapter.

(3) The withdrawal of a conditional use permit application by the applicant after it has been accepted by the Zoning Administrator shall immediately terminate review of any associated rezoning application by either the Planning Board or Village Council. Any fee paid by an applicant shall be forfeited to the village unless the application for a conditional use permit is withdrawn prior to submission of the application to the Planning Board.

(4) Notwithstanding said withdrawal, any expenses incurred by the village up to the date of an application withdrawal shall be paid by the applicant, consistent with the intent of division (A)(1) above. (Ord. passed 8-21-2000, § 6.3; Ord. passed 9-22-2009)

§ 156.083 VILLAGE COUNCIL DECISION.

(A) *General.* The Village Council shall review all application items in accordance with § 156.091 of this chapter. If the Village Council should find, after conducting a public hearing, that the proposed conditional use permit and, where requested, rezoning should be granted, the Village Council may impose such additional reasonable and appropriate special conditions upon such conditional use permit, as it may deem necessary. In no instance shall any of these conditions be less restrictive than any requirements which would pertain to that particular development found in the same zoning district. Any conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development and other matters that the Village Council may find appropriate or the petitioner may propose. The conditions may include architectural review or control and sign controls. The screening provisions of this chapter shall be minimum screening requirements as a condition for awarding a CUP, however, the Village Council may impose additional reasonable screening requirements as a condition for awarding a CUP as the Council considers necessary to protect the health, safety and welfare in accordance with the purpose and intent of this chapter. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Village Council. The Village Council shall give due regard to the intent and purpose of this section of the ordinance and that the public health, safety and welfare will be secured and substantial justice done.

(B) *Burden of proof.* The applicant has the burden of producing competent material and substantial evidence, tending to establish the existence of the facts and conditions which the appropriate section of this chapter requires for the issuance of a conditional use permit, and rezoning, where requested and/or applicable.

(C) *Voting.* When deciding conditional use permits, the Village Council shall follow quasi-judicial procedures. No vote greater than a majority vote shall be required for the Council to issue such permits. For the purposes of this section, vacant positions on the Council and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the Council" for calculation of the requisite majority.

(D) *Findings to be made by Village Council.* The Village Council shall issue a CUP only after having conclusively confirmed each of the following findings:

(1) The use will not materially endanger the public health, safety or welfare if located where proposed and developed according to the submitted plan and not create dangerous traffic conflict points, noxious odors/sounds/glare or environmental hazards;

(2) The use meets all required conditions and specifications;

(3) The use will not substantially injure the value of adjoining or abutting property and will not hinder future development potential of adjacent properties by the introduction of incongruous land use or incompatible development scale/intensity;

(4) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located, will not disrupt the integrity of existing land use districts, and will be in general conformity with this chapter and the village's Land Development Plan;

(5) Availability of services including water, wastewater treatment, gas, storm water as required by project;

(6) Access to public streets and the adequacy of those streets to carry anticipated traffic; and on-site circulation for both pedestrian and on-site and off-site vehicular traffic circulation patterns;

(7) Adequate safety and emergency services (police, fire and EMS); and

(8) Additional review criteria, as stated in this chapter, shall also be considered and addressed where required.

(E) *Appeal of Village Council decision on CUP.* Every CUP decision of the Village Council shall be subject to review by the Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the appropriate Clerk of Superior Court within 30 days after the decision of the Village Council is filed in the office of the Village Clerk, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk at the time of the hearing of the case, whichever is later. The decision of the Village Council may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

(Ord. passed 8-21-2000, § 6.4; Ord. passed 1-5-2006; Ord. passed 9-22-2009)

§ 156.084 BINDING EFFECT.

(A) Any conditional use permit so authorized shall be likewise binding to the property included in such permit unless subsequently changed or amended by the Village Council. A copy of the letter notifying the applicant of the Council approval of a conditional use permit shall be forwarded to the county's Register of Deeds for recordation.

(B) (1) However, minor changes in the detail of the approved plan which will:

(a) Not alter the basic relationship of the proposed development to adjacent property;

(b) Not alter the uses permitted or increase the density of development;

(c) Not decrease the off-street parking ratio; or

(d) Reduce the yards provided at the boundary of the site may be made upon submittal to and the subsequent approval of the Zoning Administrator.

(2) The Zoning Administrator shall take action on such requests within 15 days, unless additional information is requested.

(3) A written decision shall be provided to applicant and, if positive, a copy shall be forwarded to the county's Register of Deeds.

(4) Any applicant may appeal a negative decision of the Zoning Administrator to the Board of Adjustment which shall determine if an amendment to the conditional use permit is required in order to allow the proposed minor change to be made to the approved plan.

(Ord. passed 8-21-2000, § 6.5)

§ 156.085 CERTIFICATE OF COMPLIANCE.

No certificate of compliance shall be issued for any building or land use on a piece of property which has received a conditional use permit unless the building or structure is constructed, or used, or the land is developed or used in conformity with the conditional use permit as approved by the Village Council. In the event that only a segment of a proposed development has been approved, the certificate of compliance shall be issued only for that portion of the development as approved.

(Ord. passed 8-21-2000, § 6.6)

§ 156.086 ONE-YEAR LIMITATION.

(A) If a conditional use permit request is denied by the Village Council, a similar application for a conditional use permit for the same property or any portion thereof shall not be filed until the expiration of a 12-month period from the date of most recent determination by the Village Council.

(B) This waiting period shall not be applicable or otherwise be involved in the filing of a new application for rezoning of all or any part of the property previously considered by the Village Council where the new application requests rezoning to a different zoning district and/or where the application for a conditional use permit is substantially different from the original application.

(Ord. passed 8-21-2000, § 6.7)

§ 156.087 CHANGE IN CONDITIONAL USE PERMIT.

Any request to materially change a CUP shall be reviewed by the Planning Board as required by § 156.082(A) of this chapter or in compliance with the applicable portion of the minor change approval procedure set forth in § 156.084 of this chapter. The Village Council may thereafter change or amend any previously approved conditional use permit, only after having held a public hearing. Notice of public hearing shall be in accordance with the provisions of § 156.244(A)(7) of this chapter, amendment by

Village Council of a conditional use permit shall be subject to the same considerations as provided for in § 156.083(B) of this chapter.

(Ord. passed 8-21-2000, § 6.8)

§ 156.088 IMPLEMENTATION OF CONDITIONAL USE PERMIT.

(A) Subject to division (B) below, implementation of an activity authorized by a CUP shall begin within 12 months after the date of approval, unless otherwise specified by Village Council. Failure to implement conditional use within the time period specified shall require a reapplication for the permit. **IMPLEMENTATION AT A MINIMUM** means that the applicant has secured a building permit within one year (unless a greater time period was listed as one of the conditions contained in the Village Council's approval) following the date of the approval of the conditional use permit.

(B) Any conditional use permit issued on or after the effective date of this chapter shall also be governed by "An Ordinance Implementing the Statutory Vested Right Provisions of G.S. § 160A-385.1".

(C) Any violation of the conditions set forth as part of the approval of a conditional use permit shall be remedied and made to comply with those conditions or the property owner or designated applicant shall seek a change to the conditional use permit, in accordance with § 156.087 of this chapter should conditions not be met or a change to a conditional use permit not be approved, the conditional use permit shall be revoked and the property owner or designated applicant will not be allowed to apply for a new or amended conditional use permit for a period of one year.

(Ord. passed 8-21-2000, § 6.9; Ord. passed 9-22-2009)

§ 156.089 ADDITIONAL REVIEW CRITERIA.

The review criteria specified for each of the following conditional uses shall be addressed by the Village Council as an integral part of any applicable CUP review activity:

(A) *Day care centers and fraternal lodges.*

(1) Relationship to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts;

(2) The existing residential character is reasonably safeguarded; and

(3) The proposed use will not create or seriously heighten the congestion on local streets and thoroughfares.

(B) *Country clubs and schools.*

(1) The proposed use will be compatible with the general characteristics of the area with respect to the:

- (a) Location of structures;
- (b) The location, design and screening of parking and service areas; and
- (c) The location, size and character of signs and streetscape.

(2) The proposed use will not create or seriously heighten the congestion on area thoroughfares.

(C) *Shopping centers.* Relationship to and impacts upon adjoining properties and the adequacy of proposed measures to minimize any adverse impacts.

(D) *Golf courses, churches.*

(1) Relationships to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts; and

(2) The proposed use will be compatible with the general characteristics of the area with respect to the location of structures and the location, design and screening of off-street parking areas.

(E) *Automobile service stations, convenience stores.*

(1) On corner properties, the driveways shall be located no closer than 30 feet from the point of intersection of two street property lines.

(2) Driveways shall be located no closer than 30 feet from adjacent properties in residential districts or from properties used for residential or institutional purposes, and driveways shall be 30 feet wide and shall be designated by curb, planted areas and landscaping which shall not exceed two feet in height.

(3) No gasoline pump and/or canopy shall be located any closer than 40 feet from an existing street right-of-way.

(4) Outdoor lighting shall be permitted in compliance with § 156.134 of this chapter.

(5) Freestanding canopies may be placed over properly located pumps or pump island; provided:

(a) They do not overhang the right-of-way of any street; and

(b) They are not used as a sign structure or as the sign base.

(F) *Essential services - Classes II and III.*

(1) All structures, related facilities and storage shall be screened from all abutting properties in accordance with § 156.126 of this chapter;

(2) No more than 60% of the lot area shall be used for essential services structures, related facilities and storage, excluding transmission and distribution lines;

(3) Structures, related facilities and storage shall be reasonably located on the property so as to reasonably mitigate any visual impact on abutting properties;

(4) Noise levels shall be compatible with the existing area noise background levels. The applicant/developer is to provide existing decibel noise levels for property and proposed decibel noise levels resulting from project. Project shall not generate an excess of ten db(A) beyond daytime existing noise levels and shall not in any case generate more than 70 db(A), as measured from adjacent property lines;

(5) Dedicated access and service to facilities, as well as emergency services, from a public street; and

(6) Documented safety and disaster mitigation plan and training for public safety services.

(G) *Public parks and recreational facilities.*

(1) Relationships to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impacts; and

(2) The proposed use will be compatible with the general characteristics of the area with respect to the location of structures and the location, design and screening of off-street parking areas.

(H) *Wholesale sales and distribution facilities.*

(1) Relationships to and impacts upon adjoining and nearby properties and the adequacy of proposed measures to minimize any adverse impact; and

(2) The proposed uses will be compatible with the general characteristics of the area with respect to the location of structures and the location, design and screening of off-street service, loading and parking areas.

(I) *Adult use establishments, adult video stores and adult lingerie modeling studios.* The purpose of this section is to provide areas in which adult entertainment or sexually-oriented business may be established. Because of their very nature, these adult uses/establishments, adult video stores and adult lingerie modeling studios are recognized as having serious objectionable operational effects upon adjacent neighborhoods and residential or institutional uses. It has been demonstrated that the establishment of adult businesses often creates problems for law enforcement agencies, by the nature of these businesses and the difficulty often experienced in trying to determine if the operations are of a legal nature. Conditional regulation of these establishments is necessary to ensure that these adverse affects will not contribute to defacto downgrading or blighting of surrounding neighborhoods and uses. It is the intent of this section to restrict the concentration of these uses and to separate these uses from residential and institutional uses or areas. All adult uses/establishments, adult video stores and adult lingerie modeling studios must obtain a conditional use permit and meet the following supplementary regulations. In addition, a site plan and vicinity map along with any other information as required by this chapter, must be submitted to the Zoning Administrator to verify compliance. Adult hotel/motels are not permitted in any zoning district.

(1) *Advertisements and sound.* No printed material, slide, video, photograph, written text, live show or other visual presentation format shall be visible from outside the walls of any adult use/establishment, adult video store or adult lingerie-modeling studio. Nor shall any live or recorded voices, music or sound be heard from outside the walls of the adult/use establishment, adult video store or adult lingerie-modeling studio.

(2) *Over concentration.* No more than one adult use/establishment, adult video store or adult lingerie-modeling studio shall be located in any 2,000-foot radius. This is determined by straight line and not street distance to any portion of the adult use/establishment, adult video store or adult lingerie modeling studio structure or parking area.

(3) *Proximity to other uses.* No adult use/establishment, adult video store or adult lingerie modeling studio shall be located within a 1,000-foot radius of any church, synagogue, temple or other place of worship, school, day care, public park or playground, including all parking areas and grounds,

nor within a 500-foot radius of any dwelling. This is determined by straight line and not street distance to any portions of the adult use/establishment, adult video store or adult lingerie modeling studio structure or parking area.

(4) *Sleeping quarters, private rooms.* No adult use/establishment, adult video store or adult lingerie-modeling studio may have sleeping quarters or private rooms.

(5) *Multiple locations.* There shall not be more than one adult use/establishment, adult video store or adult lingerie-modeling studio on the same property or in the same building, structure or portion thereof.

(6) *Total floor area.* The maximum total floor area of any allowed adult use/establishment, adult video store or adult lingerie-modeling studio shall not exceed 2,000 square feet.

(7) *Hours of operation.* The hours of operation of any adult use/establishment, adult video store or adult lingerie modeling studio shall be limited to 10:00 a.m. to 10:00 p.m., Monday through Saturday.

(J) *Barns.* A barn shall be allowed as a principal use, in the R-80, R-60, RA-40, R-40, RA-20 and R-20 zoning districts, on a tract that is at least three acres or greater in size. Required minimum setbacks shall be as follows:

(1) *Front yard.* One-hundred feet except 150 feet if the structure houses poultry or livestock.

(2) *Side yard.* Sixty feet, except 150 feet if the structure houses poultry or livestock.

(3) *Rear yard.* Sixty feet, except 150 feet if the structure houses poultry or livestock.

(K) *Conservation subdivisions.*

(1) *Ownership.* When land within a conservation subdivision is held in multiple ownerships, it shall be planned and developed as a single entity for purposes of this division.

(2) *Conservation lands disturbance.* The proposed design of the conservation subdivision shall minimize disturbance of primary conservation and required secondary conservation lands and any required viewshed buffers.

(3) *Density standards.* The actual number of lots suitable for the placement of a principal residential structure shall be limited by on-site features as determined by submission and analysis of a yield plan. A conservation subdivision shall not be used to allow for a greater number of lots than could result if the subdivision were developed as a “conventional subdivision.”

(4) *Minimum required conservation land.* A viewshed buffer, a minimum of 100 feet in depth shall be reserved (preserved and/or landscaped) adjacent and parallel to all roads that form the exterior

boundaries of the conservation subdivision. In addition to this viewshed buffer, a minimum of 10% of the gross acreage of the tract(s) being considered for the conservation subdivision shall be provided as conservation lands. No lot suitable for the placement of a principal residential structure shall be platted to include within its dimensions any conservation lands or viewshed buffer as herein required.

(5) *Conservation land options.*

(a) The following is a priority list for retained “conservation lands”:

1. Tier A (highest priority): Forestlands.
2. Tier B (medium priority):
 - a. Farmlands.
 - b. Historic sites.
 - c. Lands adjacent to parks.
3. Tier C (lowest priority):
 - a. Steep slopes.
 - b. Rock formations.

(b) Conservation land shall be retained, to the greatest degree feasible, in order of prioritization shown above. The Village Council, in approving a conditional zoning permit or conditional zoning allowing for a conservation subdivision, shall have the discretion to allow for variations from this schedule based on the unique features of the tract in question.

(c) If none of the above features are found on the tract in question, conservation land will be considered to be areas planted with trees and shrubs per § 156.126. Any portion of required viewshed not covered by existing, natural tree canopy shall be planted with up to twice the planting requirements of § 155.080. Fences, walls and berms shall not be allowed to reduce the amount of acreage constituting the conservation lands or viewshed buffer.

(6) *Lot dimensional standards.*

(a) *Minimum lot area.*

1. Lots within a conservation subdivision shall have a minimum lot size of 30,000 square feet; however, a maximum of 30% of the lots within a conservation subdivision may have a minimum lot size of 20,000 square feet.

2. Any lot having an area of 30,000 square feet or greater shall meet the following standards:

a. The lot shall directly abut conservation land that is a minimum of 50 feet in width;

b. The conservation land shall run parallel the entire length of the lot line shared with the residential lot;

c. The conservation land that abuts the residential lot shall have a minimum contiguous area of at least one acre.

3. Any lot having an area less than 30,000 square feet shall meet the following standards:

a. The lot shall directly abut conservation land that is a minimum of 75 feet in width;

b. The conservation land shall run parallel the entire length of the lot line shared with the residential lot;

c. The conservation land that abuts the residential lot shall have a minimum contiguous area of at least one acre.

(b) *Minimum front yard setback.* Fifty feet.

(c) *Minimum side yard setback.* Fifteen feet.

(d) *Rear yard setback.* Forty feet, except for lots less than 30,000 square feet with rear lot lines not abutting conservation land or required landscape buffer; in which case 75 feet is required.

(e) *Minimum lot width (at front yard setback).* All lots: One-hundred twenty feet.

(f) *Maximum building height.* Thirty-five feet.

(7) *Conservation land uses.* No use or development shall be allowed on primary and required secondary conservation lands except as follows:

(a) Conservation of open land in its natural state (e.g., forestlands, fields or meadows).

(b) Agricultural uses, including raising crops or livestock, nurseries and associated buildings, excluding residences, provided that such buildings are specifically needed to support an active,

viable agricultural or horticultural operation, and are architecturally compatible with the neighborhood setting. Specifically excluded, but not limited to, are commercial livestock operations involving swine, poultry and mink.

(c) Pastureland.

(d) Horse farms or academies.

(e) Forestry, in keeping with established best management practices for selective harvesting and sustained yield forestry.

(f) Neighborhood uses such as village greens, commons, picnic areas, community gardens, trails and similar low-impact, passive recreational uses.

(g) Noncommercial recreational areas, such as playing fields, playgrounds, courts and bikeways, provided such areas do not consume more than half of the minimum required conservation land or five acres, whichever is less. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces. Notwithstanding the above, golf courses, their parking areas, and associated structures, shall not be allowed on any required conservation lands.

(h) Water supply and sewage disposal systems (excluding stormwater detention areas).

(i) Easements for drainage, access, sewer or water lines or other public purposes.

(j) Underground utility rights-of-way. Above ground utility and street rights-of-way may traverse conservation lands but shall not count toward the minimum required conservation land.

(8) *Permanent conservation land protection through conservation easements.*

(a) Subject to the provisions of divisions (8)(b) and (c) below, conservation lands required pursuant to this section may be retained by the applicant or may be conveyed to another party, but must be and remain subject to a conservation easement.

(b) Required conservation land shall be subject to a conservation easement that specifies the range of uses allowable pursuant to division (7), above, and which are enforceable in accordance with all applicable laws of the state. The holders of the conservation easement shall be the homeowners' association of the subdivision in question, the State of North Carolina or appropriate department or agency thereof, or a conservation organization. Any subdivision plat for a conservation subdivision shall indicate that required conservation lands are subject to a conservation easement being conveyed to specific entities pursuant to this section.

(c) Any homeowners' association that is a holder of a conservation easement as provided herein shall be subject to and comply with all applicable requirements for homeowners' associations as set forth in the NC General Statutes. In addition, the following criteria shall be met.

(9) *Conservation land maintenance plans and maintenance agreement.*

(a) The cost and responsibility of maintaining the required conservation lands and associated common facilities shall be borne by the fee simple owner of the required conservation lands, or by another party as specified in an executed, binding and enforceable maintenance agreement, who is a holder of the conservation easement.

(b) The applicant must submit, and the Village Council shall be given the responsibility to approve, a maintenance agreement that obligates either the property owner of the conservation lands, or other specified party as provided above, to implement the maintenance plan.

(c) The maintenance plan shall be in accordance with the following requirements:

1. The maintenance plan shall specify ownership of required conservation lands.

2. The maintenance plan shall establish a regular operation and maintenance program appropriate to the uses to be undertaken on the subject conservation lands.

3. The maintenance plan shall specify required insurance and all maintenance and operating costs, and shall define the means for funding the maintenance plan on an on-going basis. Such funding plan shall include the means for funding long-term capital improvements as well as regular yearly operating and maintenance costs.

4. The property owner or other specified party as provided above, shall be required to escrow or bond sufficient funds for the maintenance and operation costs of the conservation lands for two years. The amount of such escrow or bond shall be equal to 1.25 times the biannual estimated maintenance and operational costs, and shall be in a form as provided in § 155.053(B).

5. Any changes to the maintenance plan shall be approved by the Village Council.

6. The property owner of the conservation lands and, if utilized, any other maintaining party by agreement, shall execute a release and indemnity of the village, in a form satisfactory to the village, for any claims or damages arising from the maintenance agreement and maintenance plan or performance thereof.

(L) *Essential services - Class V.*

(1) All structures, related facilities and storage shall be screened from all abutting properties in accordance with § 156.126.

(2) Structures, related facilities and storage shall be reasonably located on the property so as to reasonably mitigate any visual or noise impact on/to abutting properties.

(3) Dedicated access and service road to facilities as well as use by emergency services, from a public street.

(4) Documented safety and disaster mitigation plan and training for public safety services.

(5) Existing vegetation should remain in the required setbacks to the greatest extent possible on all property sides.

(6) Submit a description of the route to be utilized for the transmission and distribution system to connect the facility to the electric grid.

(7) Submit a written maintenance plan and a process plan to decommission and remove the solar power generating facility from the property. Property must be restored to pre-installation conditions within 12 months after facility cession of operation.

(8) Noise levels shall be compatible with the existing area noise background levels. The applicant/developer is to provide existing decibel noise levels for property and proposed decibel noise levels result from the project. Project shall not generate an excess of ten db(A) beyond daytime existing noise levels and shall not in any case generate more than 70 db(A), as measured from adjacent property lines.

(Ord. passed 8-21-2000, § 6.10; Ord. passed 12-9-2002; Ord. passed 9-22-2009; Ord. passed 6-14-2010; Ord. 2015-12, passed 10-12-2015; Ord. 2016-07, passed 5-12-2016; Ord. 2017-07, passed 9-11-2017; Ord. 2018-08, passed 8-13-2018; Ord. 2018-11, passed 11-12-2018; Ord. 2018-12, passed 12-17-2018)

§ 156.090 CONDITIONAL USE; VILLAGE AS CUP APPLICANT.

(A) In the event the Village Council petitions for a conditional use permit under this subchapter, then and in that event the Village Council shall have no role in determining whether or not said conditional use permit should be granted, or the terms and conditions of said conditional use permit.

(B) In the event the village petitions for a conditional use permit, it shall be required to follow all of the procedural requirements established in this subchapter. However, said conditional use permit shall not be submitted to the Planning Board for preliminary approval as set out in § 156.082(A)(3), (A)(4), (A)(5) or (A)(6) of this chapter. Instead, the petition shall be reviewed by the village's Zoning Administrator, as set out in § 156.082(A)(1) and (A)(2), who shall thereafter present any properly completed application to the members of the village's Board of Adjustment, which body politic shall decide whether or not to grant said conditional use permit, and if granted, shall establish the terms and conditions thereof.

(C) In the event the village petitions for a conditional use permit, the village’s Board of Adjustment shall assume the role of the Village Council as set out in this subchapter and shall conduct a public hearing as set out in § 156.083 of this chapter and shall otherwise be governed by the provisions of this subchapter in its deliberations and decision.

(Ord. passed 8-21-2000, § 6.11)

§ 156.091 PERMIT APPLICATION, SCHEDULE AND CHECKLIST.

Applications shall not be considered complete until the applicable application fees are paid and the following items are included with the application:

| VILLAGE OF WESLEY CHAPEL CONDITIONAL USE PERMIT APPLICATION | |
|--|----------------------------|
| Application Number: _____ | Date of Application: _____ |
| I. Applicant/Owner Information | |
| A. Applicant’s Name: _____ | |
| Address: _____ | |
| Phone: _____ | |
| B. Owner’s Name: _____ | |
| Address: _____ | |
| II. Property Information | |
| A. Property Location: _____ | |
| B. Tax Parcel Number: _____ | |
| C. Deed Book _____ | Page _____ |
| D. Existing Zoning _____ | Proposed Zoning _____ |
| E. Existing Use _____ | Proposed Use _____ |
| F. Property Size _____ | (Sq. Ft./Acres) |
| G. Is a Rezoning Application being submitted with CUP Application? _____ | |

III. Other Required Information (Attach the Following)

- A. Name, address, email and telephone number of the applicant and property owner, if different from the applicant, as well as tax parcel identification number and property description of the subject property.
- B. A scaled boundary survey drawn to an appropriate scale prepared by and certified to be correct by a surveyor or engineer registered with the state, showing the total acreage, present zoning classifications, date and north arrow.
- C. For all adjacent property owners, provide the current owners' names, addresses and tax parcel numbers (as shown on the current year county tax records) and the uses and current zoning classifications of those properties.
- D. All existing easements, reservations, rights-of-way, required setbacks and all yard requirements for the proposed use within the applicable zoning district.
- E. A site plan showing all existing and/or proposed buildings, storage areas, parking and access areas, proposed size, layout and setbacks of land and proposed structures and proposed number. For all uses, this shall include the approximate square footage of all structures and an outline of the area where the structures will be located.
- F. All proposed signage, including type and location, in compliance with §§ 156.155 through 156.165 of the code of ordinances.
- G. Traffic, parking and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets, in compliance with §§ 156.175 and 156.176 of the code of ordinances.
- H. Preliminary landscape plan at the same scale as the site plan showing existing and proposed trees, ground cover and landscape material, proposed screening, including walls, fences, berms or planted areas as well as treatment of any existing natural features, in compliance with §§ 156.126 and 156.127 of the code of ordinances. The screening provisions of § 156.126 of the code of ordinances shall be minimum screening standards required for the issuance of a conditional use permit, however, the Village Council may impose additional reasonable screening requirements as a condition for awarding a conditional use permit as the Council considers necessary to protect the public health, safety and welfare in accordance with the purpose and intent of this chapter.
- I. Documentation shall be provided to stipulate that no quarantined vegetation or soil if any will be removed and that and all endangered species, wetlands or other environmentally sensitive features or areas are identified, protected, mitigated and addressed in correspondence with all applicable village, county, state and federal requirements.
- J. Floor plans and combined site/building elevations for the proposed development.
- K. A map at the same scale as the site plan showing the following:
 - (1) Delineation of areas within the floodplain as shown on the official flood hazard boundary maps;
 - (2) Accurate mapping of all soil classifications found on the site and general depths thereof. The applicant shall use the same classifications used by the U.S. Department of Agriculture; and
 - (3) Existing and proposed topography at five-foot contour intervals.
- L. Meet all applicable requirements and provisions of Ch. 154 of the code of ordinances.
- M. Proposed phasing, if any, and approximate completion time of the project.
- N. Narrative addressing findings in § 156.083(C) of the code of ordinances as well as applicable additional review criteria in § 156.089 of the code of ordinances.
- O. Preliminary storm water management plan review as required in § 156.220(B) of the code of ordinances.
- P. Lighting plan in compliance with § 156.134 of the code of ordinances.
- Q. Certification from owner of record that applicant has authorization to apply for zoning action.
- R. Conditional use projects proposed for B-2 Zoning Districts shall comply with the requirements and provisions of § 156.066(B) of the code of ordinances.
- S. Statement regarding applicant's proprietary or contractual interest, if any, in neighboring properties.
- T. Application processing fee. Attach check, payable to the village in the amount of \$250.
- U. Engineering deposit. Attach check, payable to the village in the amount of \$900 for residential or commercial site plan engineering review and \$3,500 for multi-parcel residential or commercial plan engineering review. Any additional fees incurred through engineering review will also be paid by the applicant.

Wesley Chapel - Land Usage

Staff Review

V. Staff review letter (prepared by the village’s Zoning Administrator).

Planning Board

W. Planning Board meeting(s)/public comment (copy of minutes to be provided by village staff).

X. Planning Board written recommendation (provided by the Secretary to the Planning Board, as outlined in the Planning Board Rules of Procedure).

Village Council Setting of Public Hearing Date

Y. Public hearing shall be set by Village Council in accordance with § 156.244 of the code of ordinances.

Z. Certification form that all notices have been posted and mailed in accordance with § 156.244 of the code of ordinances (provided by the village’s Zoning Administrator).

Village Council - Public Hearing and Review

AA. Village Council quasi-judicial public hearing deliberation and decision on findings, including any applicable conditions to be placed on decision, such as storm water and wastewater provisions (provided by the village’s Clerk).

BB. Village Council recommendation and conditions notification provided to applicant, Village Clerk and County Register of Deeds (provided by village’s Zoning Administrator).

CC. Final approved storm water management plan as required in § 156.220(C) of the code of ordinances.

DD. Final approved landscaping plan.

EE. Plans for providing potable water and for the treatment of wastewater and approval letter from County Public Works.

Zoning, Foundation and Compliance Permitting

FF. Verification that all conditions of approval and all related studies and plans have been met and/or approved shall be submitted to the village’s Zoning Administrator.

I, the undersigned owner or authorized representative, hereby submit this application with the attached information. The information and documents provided are complete and accurate to the best of my knowledge.

DATE

SIGNATURE OF OWNER OR AUTHORIZED REPRESENTATIVE

(The following information is to be completed by the Zoning Administrator)

PUBLIC HEARING DATE: _____

Notice of public hearing published on: _____

Notices to applicant and adjoining property owners mailed on: _____

(Verification Attached)

Signs posted on: _____

Conditional use permit “findings of fact” checklist attached: Yes _____ No _____

Action taken by Village Council: _____

Conditions imposed by the Village Council upon said conditional use notification of action mailed to applicant on:

§ 156.092 TRANSPORTATION IMPACT ANALYSIS.

(A) *Applicability.* The development of a transportation impact analysis (TIA) is required for applicable development projects in order to maintain the capacity, function, safety and level of service for the transportation systems related to those proposed developments. Vehicular, bicycle, pedestrian, mass transit and other modes of transportation are to be considered when preparing a TIA. Terms utilized in this section are taken from the Institute of Transportation Engineers *Trip Generation Manual*.

(1) Transportation impact analysis (TIA) is required for all development or redevelopment projects requiring a conditional use permit not having a residential component and anticipated to generate more than 100 a.m. or p.m. peak-hour vehicular trips.

(2) Transportation impact analysis (TIA) is also required for all development or redevelopment projects requiring a conditional use permit having a residential component and anticipated to generate more than 50 a.m. or p.m. peak-hour vehicular trips.

(3) Transportation impact analysis (TIA) is also required for all major subdivisions that are anticipated to generate more than 50 a.m. or p.m. peak-hour vehicular trips.

(4) The 50 peak-hour vehicular trip and 100 peak-hour vehicular trip threshold shall also apply towards multi-phased development projects where each phase may not exceed the threshold, however, cumulative trips for all phases would. In this case, the TIA would be prepared for the entire project, yet provide transportation improvement requirements to be implemented in accordance with the timing of each phase.

(B) *Procedure.*

(1) The TIA shall be submitted along with applications for preliminary plat or conditional use permit. The cost of the TIA shall be the responsibility of the applicant.

(2) The TIA shall be reviewed by the Zoning Administrator and any Transportation Engineer contracted by the village on an as-needed basis. The Zoning Administrator and Transportation Engineer shall review study area, trip distribution, traffic counts, approved developments in the area, pass-by and internal capture percentages and any other issues related to the TIA. The applicant shall be required to modify the TIA in response to review comments. Reimbursement of cost for any contracted Transportation Engineer shall be the responsibility of the applicant.

(3) The TIA shall, at a minimum:

(a) *Estimate the traffic generated.* Estimate the peak-hour traffic that will be generated as a result of the proposed development. Trips should be estimated for all uses located within the development using the standard Institute of Transportation Engineer's *Trip Generation Manual*, including pass-by trips, internal trip assumptions and trip distribution assumptions;

(b) *Evaluate site access.* Evaluate site access, site distance, parking and internal circulation;

(c) *Evaluate existing capacity.* Evaluate the ability of the street network to support the proposed development;

(d) *Identify specific improvements.* Identify specific improvements to the street network that are necessary in order to support the traffic anticipated to be generated by the proposed development and any adjacent areas being analyzed, including intersection improvements, signalization and turning lanes;

(e) *Identify non-automobile modes.* Identify specific improvements or facilities provided for bicyclists and pedestrians to support non-vehicular access and access to and within the proposed project, including sidewalks, street crossings and multi-use paths; and

(f) *Improvements implementation program.* Include a program for proposed transportation improvements necessary to accommodate each phase of development and to maintain existing levels of service, safety and access. Identified transportation improvements should include a timeline, funding sources, including public and private matching funds and responsible parties.

(Ord. passed 8-21-2000, § 6.13; Ord. passed 11-22-2011)

NON-CONFORMING USES

§ 156.105 GENERAL INTENT AND EXCEPTIONS.

Non-conforming uses, which are uses of structures or of land existing at the effective date of initial adoption of this chapter, which do not comply with the provisions of this chapter, are declared by this chapter to be incompatible with permitted uses in the various districts. The intent of this subchapter is to permit the continued use of a structure, or portion thereof, or of the use of land legally existing prior to the effective date of this chapter, until such uses are removed, but not to encourage their survival. Such non-conforming uses shall not be expanded, extended or changed in any manner, except as specifically provided for in this subchapter. Creation of additional non-conforming uses are not to be encouraged, nor shall be permitted.

(Ord. passed 8-21-2000, § 7.1)

§ 156.106 NON-CONFORMING USES OF STRUCTURES.

(A) A conforming structure in which a non-conforming use is being conducted may be used to expand and enlarge such non-conforming use into an area of the structure then in existence and designed for such non-conforming use.

(B) No structural changes shall be made to any structure occupied by a non-conforming use, except as follows:

(1) Those structural changes ordered by an authorized official in order to ensure the safety of the structure; and

(2) Maintenance and repairs to keep a structure in sound condition shall be acceptable.

(C) When a non-conforming use of a structure has been changed to a conforming use, it shall not thereafter be used for any non-conforming use.

(D) If said use is discontinued for 180 days or more, the use shall not be allowed to be re-established. All new uses in said structure shall thereafter be conforming.

(E) If said conforming structure housing a non-conforming use is destroyed to an extent of greater than 50% of its replacement cost at the time of destruction, it may be rebuilt and may then be used for the same non-conforming use.

(F) A non-conforming use of a structure shall not be changed to another non-conforming use. (Ord. passed 8-21-2000, § 7.2)

§ 156.107 NON-CONFORMING USES OF LAND.

(A) Non-conforming uses of land, which may include structures incidental and accessory to the use of the land, such as, but not limited to, storage yards for various materials, or areas used for recreational purposes, shall not be used for other non-conforming purposes, once the non-conforming use has been abandoned.

(B) No such non-conforming use of land shall be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of initial adoption of this chapter.

(C) (1) If said land use is abandoned for 180 days or more, or materially altered, the land use shall be considered discontinued and shall not be reestablished unless the use is in conformance with the regulations of the district in which it is located.

(2) **MATERIAL ALTERATION**, for the purpose of this division (C), is defined as change to size, contour and the like to an extent of more than 50% of the replacement cost at the time of said alteration.

(D) A non-conforming use of land shall not be changed to another non-conforming use of land. (Ord. passed 8-21-2000, § 7.3)

§ 156.108 NON-CONFORMING STRUCTURES.

Where a structure exists at the effective date of initial adoption or amendment of this chapter that could not be built under the terms of this chapter, such structure may remain so long as it remains otherwise lawful, subject to the following provisions.

(A) A non-conforming structure may not, under any circumstances, be enlarged or altered in a way which increases its non-conformity or be replaced with a similar non-conforming structure.

(B) If a non-conforming structure or non-conforming portion of a structure is destroyed to an extent of more than 50% of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. Non-conforming manufactured homes used for residential purposes may be replaced with an equivalent year model or newer manufactured home as long as the model year does not predate 1976.

(C) A non-conforming structure which is abandoned for 180 days or more shall be considered discontinued and shall not be allowed occupancy or use unless in conformance with the district in which it is located.

(D) Said non-conforming structure may be moved to another lot so long as the structure is permitted in accordance with this chapter on said lot.

(E) A non-conforming use of a structure shall not be changed to another non-conforming use. (Ord. passed 8-21-2000, § 7.4; Ord. passed 9-9-2002)

§ 156.109 NON-CONFORMING LOTS OF RECORDS.

In any district where a lot has been recorded on a plat filed with the county's office of the Register of Deeds, and was not in violation of the county's Zoning Ordinance or Subdivision Ordinance prior to the effective date of this chapter, and such lot does not comply with the village's minimum lot area and width requirements for the zoning districts in which such lot is located, such lot may be used for any use permitted in that zoning district; provided that, the principal and accessory structures meet all applicable front, side and rear yard requirements of this chapter. In the case of lots subdivided and approved under the county's Zoning and Subdivision Ordinance prior to the effective date of this chapter, the setbacks recorded on the final plat may be used.

(Ord. passed 8-21-2000, § 7.5; Ord. passed 3-12-2001)

§ 156.110 NON-CONFORMING SIGNS.

(A) Non-conforming advertising signs shall be allowed to continue as provided as follows.

(1) No structural changes to the support structure or changes to the sign face itself, except message changes, which do not renew or extend the life of said sign shall be allowed.

(2) Maintenance to non-conforming advertising signs shall be limited to painting and repair of the existing sign.

(3) Once a non-conforming advertising sign is removed, taken down or destroyed (i.e., receiving damage to an extent of more than 50% of the replacement cost at the time of destruction), such sign shall not be replaced with another sign unless such sign is in conformance with this chapter.

(B) Non-conforming business or identification signs shall be allowed to continue provided as follows.

(1) Signs which are non-conforming with respect to size or illumination requirements may be repaired and/or repainted or relettered; provided, such non-conformance is not increased. No other changes to this category of non-conforming signs shall be allowed.

(2) Signs which are non-conforming with respect to location or number permitted or any other provision of this subchapter shall not be altered in any way, except to make such sign comply with the provisions of this chapter.

(C) Signs associated with a legal non-conforming use of a structure or land shall be allowed to continue provided as follows.

(1) Non-conforming signs associated with a non-conforming use of a structure or land shall not be changed, except to make such signs comply with the applicable sign regulations for the district in which said use or land is located.

(2) Replacement signs for a legal non-conforming use of a structure or land shall be permitted in accordance with the applicable sign regulations for the district in which said use or land is located. (Ord. passed 8-21-2000, § 7.6)

§ 156.111 ABANDONMENT.

(A) A non-conforming use of a structure, or non-conforming use of land, or a non-conforming structure, or non-conforming sign which have been abandoned as defined in § 156.005(B) of this chapter shall not thereafter be re-established.

(B) Such structures or land shall thereafter be used only for such purpose as permitted in the applicable zoning districts and in full compliance with this chapter.
(Ord. passed 8-21-2000, § 7.7)

§ 156.112 ALTERATIONS.

If a non-conforming building or a building which houses a non-conforming use which has been damaged less than 50% of its replacement cost, then such structure may be restored to the same degree of non-conformity as existed before such damage.
(Ord. passed 8-21-2000, § 7.8)

§ 156.113 CHANGE OF TENANCY OR OWNERSHIP.

There may be a change in tenancy, ownership or management in an existing non-conforming use; provided, there is no change in the nature, or character of such non-conforming use and provided all other applicable requirements of this chapter are met.
(Ord. passed 8-21-2000, § 7.9)

GENERAL REGULATIONS

§ 156.125 CUSTOMARY HOME OCCUPATIONS.

(A) Customary home occupations may be established in any dwelling unit.

(B) The following requirements shall apply in addition to all other applicable requirements of this chapter for the district in which such uses are located.

(1) The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential use of the dwelling.

(2) No more than one accessory building or outside storage area shall be used in connection with the home occupation and shall be located in the rear yard only.

(3) Use of the dwelling for the home occupation shall be limited to 25% of the area of the principal building. Hours of operation may only be established between the hours of 8:00 a.m. and 9:00 p.m.

(4) Only a resident of the dwelling may be the home occupation operator. No more than two people who do not reside on the premises may be employed.

(5) No display of products shall be visible from any adjoining streets or properties. Sales of products are limited to those made on the premises and those which are accessory to the service being provided.

(6) No alterations to the exterior appearance of the residence or premises shall be made which change the residential characteristics.

(7) Only vehicles used primarily as passenger vehicles (e.g., automobiles, vans, sports utility vehicles and pick-up trucks) shall be permitted in connection with the conduct of the customary home occupation.

(8) Chemical, mechanical, electronic or electrical equipment that creates odor, light emission, noises or interference with radio or television reception detectable outside of the dwelling shall be prohibited.

(9) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be provided off the road right-of-way.

(10) One non-illuminated professional name plate, occupational sign or business identification sign mounted flush to the dwelling unit and not more than one and one-half square feet in area shall be allowed.

(Ord. passed 8-21-2000, § 4.1)

§ 156.126 SCREENING AND LANDSCAPING.

(A) Screening required by any of the following divisions or by any other section of this chapter shall be provided in accordance with the following standards.

(1) Such screening shall be located on the property with the use with which it is associated or required, and shall materially screen the subject use from the view of the adjoining properties. Screening shall be in the form of all-natural material, including brick with no exposed cement block. When screening is in the form of natural vegetation, a buffer strip at least ten feet wide shall be planted. This strip shall be free of all encroachments by building, parking areas or impervious coverage.

(2) Buffer requirements include a given minimum distance separation from the property line and required planting trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the lot, shall be in accordance with the table below.

| Acre | Less than 0.5 | 0.5 | 1.0 | 1.5 | 2.0 | 2.5 | 3.0 | 3.5 | 4.0 | 4.5 | 5.0 | 5.5 | 6.0 | 6.5 | 7.0 | 7.5 | 8.0 | 8.5 | 9.0 | 9.5 | 10 or more |
|---------------|---------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|------------|
| Buffer Width* | 10 | 12 | 14 | 16 | 18 | 20 | 22 | 24 | 26 | 28 | 30 | 32 | 34 | 36 | 38 | 40 | 42 | 44 | 46 | 48 | 50 |

Wesley Chapel - Land Usage

| | | | | | | | | | | | | | | | | | | | | | |
|--|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| Trees (per 100 ft) | 3 | 3 | 3 | 4 | 4 | 4 | 5 | 5 | 5 | 6 | 6 | 6 | 7 | 7 | 7 | 7 | 8 | 8 | 8 | 8 | 9 |
| Shrubs (per 100 ft) | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 | 20 |
| NOTES TO TABLE: *The minimum width of a buffer may be reduced by an additional 20% if a fence or wall is constructed accordance with these regulations, ft = feet of buffer width. | | | | | | | | | | | | | | | | | | | | | |

(3) The width of the buffer may be reduced by 20% with construction of either of the following:

(a) A fence or wall constructed in a durable fashion using brick, stone or other masonry materials, or any combination thereof as may be approved by the Zoning Administrator. No more than 25% of the fence surface shall be left open and the finished side of the fence shall face the abutting property. Walls and fences shall be a minimum six feet in height.

(b) A berm in compliance with division (A)(7), below.

(4) Required trees and shrubs within the buffer shall meet the following standards.

(a) Forty percent of the required trees within the buffer shall be large maturing trees.

(b) All trees shall have a minimum caliper of two and one-half inches, measured six inches above ground and the minimum height of all trees shall be eight feet at the time of planting.

(c) Shrubs shall be evergreen and at least three feet tall when planted with the average height of six feet in three to four years. However, 25% of the shrubs may vary from the above standard. The allowed variations are as follows.

1. Shrubs may be deciduous.

2. Shrubs may be two feet tall when planted; provided, an average height of three to four feet is expected as normal growth within four years. Shrubs planted on a berm may be of lesser height; provided, the combined height of the berm and plantings is at least eight feet after four years.

(d) Shrubs and trees shall be on the approved plant list in § 156.140 of this chapter.

(e) All specifications for the measurement, quality and installation of trees and shrubs shall be in accordance with the *American Standards for Nursery Stock*, published by the American Association of Nurserymen, and free of disease.

(f) Twenty-five percent of all trees shall be evergreen, except when screening essential services. Essential services are to be screened by 100% evergreen trees, from § 156.140 of this chapter and shall consist of at least three different species.

(5) Landscaping buffers will have an arrangement of trees and shrubs in the buffer area, which shall be done in a manner that provides a visual separation between abutting land uses. Shrubs shall be

massed in rows or groups to achieve the maximum screening effect, except when screening essential services. While they need not be made invisible, essential services are to be screened in a uniform manner to provide consistent screening from all adjacent properties.

(6) In the event that it can be demonstrated that existing vegetation meets the intent of this section, but the plant materials are not on the approved list, the Zoning Administrator may waive the requirements for plant materials. If a plant material is not on the approved list, the Zoning Administrator may determine whether it is acceptable.

(7) Berms may be used as screening provided such berms are at least five feet in height with a maximum slope of four to one (4:1) as measured from the exterior property line.

(a) Berms shall be stabilized to prevent erosion and landscaped.

(b) If a berm is constructed, shrubs are required, but the number may be reduced by 25%. However, constructing a berm does not modify the number of trees required; and

(c) If a berm is used as a screen for an essential services, Class II or V use, the backside of the berm can be up to a two to one (2:1) slope.

(8) Required buffers shall not be disturbed for any reason, except for required driveways, sidewalks or other pedestrian or bicycle paths, walls, fences or required landscaping, landscaping maintenance or replacement, or maintenance and construction of berms or utility lines. However, utility line construction must meet the following requirements.

(a) The removal of any tree larger than six inches in caliper or any dogwood or redbud larger than two inches in caliper shall require the approval of the Zoning Administrator.

(b) No utility easements shall run longitudinally within a buffer yard.

(9) To the extent possible, the path cleared for the utility lines shall be replaced with plant materials which are consistent with those that existed prior to utility line construction in the buffer yard.

(10) In no case shall the plant species of *Pueraria thumberfiana* ('Kudzu') be used for planting with the buffer.

(11) All buffer screening materials shall be maintained in a horticultural manner similar to the surrounding areas (i.e., mowing, irrigation, fertilizing, mulching). The owner of the property and any tenants shall be jointly and severally responsible for maintenance of all required screening.

(12) All buffers shall be constructed in a manner that shall allow for adequate sight distance where subdivision streets intersect with the thoroughfare.

(13) If utilities are located within the buffer yard, then the right-of-way width must be added to the total buffer width, in addition to the required width in the table above. This additional buffer width can be added into the calculated lot area.

(14) If above ground utilities are to remain in the buffer yard, then all landscaping, including the location of a berm, must be located outside the right-of-way for the utility(ies).

(B) Business, commercial and light industrial uses adjacent to residential zoning shall provide screening to materially screen the subject use from the view of all adjoining residential zoning districts.

(C) Off-street parking and loading facilities, and dumpsters adjacent to residential zoning or located in a residential district, shall provide screening.

(D) For open-air storage, or an un-enclosed structure within 100 feet of a road, consisting of a roof, but no walls, used for storage of materials, products, wastes or equipment associated with business or certain conditional uses, screening shall be provided. Such screening may be located anywhere on the subject property provided the storage is effectively screened. Screening required by this division (D) shall be in accordance with all other applicable requirements of this section.

(E) The screening provisions of this section shall be minimum screening standards required for the issuance of a conditional use permit as provided in §§ 156.080 through 156.092 of this chapter; however, the Village Council may impose additional reasonable screening requirements as a condition for awarding a conditional use permit as the Council considers necessary to protect the public health, safety and welfare in accordance with the purpose and intent of this chapter.

(F) In cases where screening is required by this chapter and devices such as existing vegetation or topographical features or extreme size of the tract involved would render the installation of screening unnecessary, the Zoning Administrator is hereby empowered to accept the existing features as meeting the general requirements. Such decision shall be based on the spirit and intent of this section. If at any time after existing topographical features or size of the lot are thereafter altered so as to render them inadequate as screening, the owner of the land shall provide screening as described in this section to achieve the required screen. The vacancy or non-use of adjacent property shall not negate the necessity for installation of screening.

(G) The foregoing divisions (A) through (F) above shall be construed to require screening alongside and/or rear property lines adjacent to residential zoning, but in no case shall screening be required along a public street, except as provided in divisions (C) and (D) above.

(H) Uses permitted within the business districts shall provide street trees as landscaping along the front property line, along the side street property line on a corner lot and along the rear property line when the rear property line lies directly across the street from a residential district. Such trees shall be installed in accordance with the following standards.

(1) Such trees may be evergreen or deciduous.

(2) Such trees shall be a minimum of eight feet high at planting.

(3) The maximum spacing between trees shall be 30 feet.

(I) Street trees shall, when possible, be located immediately behind any involved right-of-way. When it is necessary to locate landscaping required by this section on the right-of-way of a state maintained road, an encroachment agreement shall be obtained from the NCDOT and recorded with the Zoning Administrator. Consideration should be given to the alignment of trees or shrubs installed on an adjoining lot and when possible the alignment should be continued along the street. Encroachment into the sight distance area, as defined in § 156.130 of this chapter, shall be allowed subject to the requirement that landscaping installed within a sight distance shall be set back as far as is practicable from the intersection of the two streets forming the intersection and shall not be of a height to interfere with sign distance.

(J) In cases where existing trees on a lot or lots are located within the required setback, and where existing trees would inhibit or restrict the growth of street trees required by this section, the Zoning Administrator may authorize that low growing shrubbery be installed in lieu of trees. Such shrubs shall adhere to the locational requirements stated in divisions (G) and (H) above. If, at any time thereafter, street trees are removed, the owner of the land shall provide screening as described in this section.

(K) Essential services, (excluding transmission and distribution lines) shall be naturally screened on all sides in compliance with the following requirements:

(1) Class I and Class IV: none; and

(2) Class II, III, and V: minimum buffer width 30 feet, to be increased according to the table above for properties greater than five acres, plus seven medium maturing trees per 100 feet and seven small maturing trees or 20 shrubs per 100 feet, in two staggered rows, as measured from essential service facilities and associated parking, or an acceptable landscaping plan as part of the conditional use process.

(L) Screening shall also comply with additional requirements in this section.

(Ord. passed 8-21-2000, § 4.2; Ord. passed 1-14-2008; Ord. passed 6-14-2010; Ord. 2018-05, passed 5-4-2018; Ord. 2018-12, passed 12-17-2018) Penalty, see § 156.999

§ 156.127 FENCES AND WALLS.

Unless otherwise noted in this chapter, fences or walls 30 inches or greater in height are permitted in the various districts subject to the following regulations.

(A) *In residential districts.*

(1) Within the required rear and side yard setbacks, the maximum height of a fence (except court perimeter fences) or freestanding or retaining wall shall be eight feet.

(2) Within the required front yard setbacks, the maximum height of a fence or freestanding or retaining wall shall be five feet.

(3) No portion on any fence or freestanding or retaining wall shall be located within the established right-of-way of any publicly maintained road unless an encroachment agreement has first been obtained from the governmental body maintaining said road.

(4) Subdivision entry walls are not limited to any specific height or style, but are subject to specific review and approval of the village's Planning Board prior to the start of construction. Said review and approval shall include any signage and/or illumination integral to subdivision entry and perimeter walls.

(B) *In business districts.*

(1) Within the required rear and side yard setbacks, the maximum height of a fence or freestanding or retaining wall shall be eight feet.

(2) Within the required front yard setbacks, the maximum height of a fence shall be five feet. (Ord. passed 8-21-2000, § 4.3; Ord. passed 12-9-2002; Ord. 2017-05, passed 10-12-2017) Penalty, see § 156.999

§ 156.128 LOT TO ABUT A PUBLIC STREET.

No building or structure shall be erected or located, nor shall any principal use be instituted on a lot which does not abut a public street with the following exceptions.

(A) (1) A single-family dwelling or manufactured home may be constructed on a lot which does not abut a street; provided, such a lot existed prior to the date this chapter became effective and provided such lot is provided access to a public street by an easement at least 20 feet in width for occupants of the dwelling established on such lot; and, further provided that, such easement is maintained in a condition passable for service and emergency vehicles.

(2) Said easement may also be used, where needed for the installation and maintenance of utility facilities.

(B) Lots may be created and approved by the Planning Board in accordance with § 155.092 of this code of ordinances.

(Ord. passed 8-21-2000, § 4.4; Ord. passed 9-10-2001; Ord. passed 6-10-2002) Penalty, see § 156.999

§ 156.129 ONE PRINCIPAL BUILDING.

(A) In any single-family residential district, one single-family dwelling unit or one modular home or one manufactured home and accessory structure(s) shall be permitted on a single lot which meets at least the minimum requirements of this chapter.

(B) In any business district, a detached building or a group of detached buildings shall be either permitted as a matter of right or may be authorized by a conditional use permit (§§ 156.080 through 156.092 of this chapter) on a single lot, which meets at least the minimum requirements of this chapter.

(Ord. passed 8-21-2000, § 4.5) Penalty, see § 156.999

§ 156.130 VISIBILITY AT INTERSECTIONS.

No structures, buildings or other improvements over three and one-half feet high will be permitted within ten feet of the right-of-way of an intersection, except as provided in § 156.126(H) of this chapter.

(Ord. passed 8-21-2000, § 4.6) Penalty, see § 156.999

§ 156.131 TEMPORARY STRUCTURES AND USES.

(A) Temporary structures and uses, when in compliance with all applicable provisions of this chapter and all other ordinances of the village, shall be approved by the Zoning Administrator who shall issue a permit for such approval.

(B) The following temporary structures and uses shall be permitted.

(1) In the event of a disaster, the result of which would require the rebuilding of a dwelling, the owner and his or her family may occupy a manufactured home on the property. The permit shall be issued for a six-month period and may be renewed by the Village Council; provided that, construction has proceeded in a diligent manner.

(2) Manufactured homes, construction trailer, sales trailer and temporary buildings not for residential purposes when used by a contractor for field offices and storage during the building of structures on the same site or subdivision are permitted. The permit shall be issued for a one year period and may be renewed by the Zoning Administrator; provided that, the construction has proceeded in a diligent manner.

(3) Turkey shoots not prohibited by the Firearms Ordinance, sales of agricultural plant products (as defined in § 156.005 of this chapter), 4-H shows, charitable uses, federal, state or local government-sponsored public events and/or non-profit organization-sponsored events of a limited nature and for a limited time may be allowed, but shall be specifically permitted. Vehicles and trailers may remain on the property overnight with written permission from the event organizer, with the exception of vehicles or trailers containing hazardous materials, such as explosives, fireworks or fuel, which shall not be left overnight. One on-premises sign, limited to 12 square feet and not in violation of § 156.163 of this chapter, shall be permitted for the duration of the use, as specified in an approved application. Parking, ingress and egress shall be adequate and not represent a safety hazard. The use shall not disturb neighboring properties with respect to noise, vibration, lighting or odor. Each such permit shall be issued for a period of 45 days.

(4) A structures, whether temporary or permanent, located in a subdivision, and used as sales offices for the subdivision development, are allowable, but shall be specifically permitted. Such permits shall be issued by the Zoning Administrator for a period of one year and are renewable for a period of time as determined by the Village Council; provided, the development is being actively marketed. At the completion of the sales in a tract, the temporary structure(s) shall be removed and any permanent structure(s), temporarily used as a sales office shall be used only for a purpose otherwise permitted in that district.

(5) Sidewalk/special sales events shall not be located within public right-of-way, shall not obstruct ingress/egress to a parking area, shall be held with permission of the property owner, shall not operate beyond the operating hours of the sponsoring entity or between 11:00 p.m. and 5:00 a.m. (whichever is more restrictive), shall provide adequate restroom facilities and shall be specifically permitted. A temporary use permit shall be issued to the sponsoring entity by the Zoning Administrator, if approved, for a period of three days and shall include any additional conditions deemed appropriate by the Zoning Administrator. The permit shall authorize all participating mobile vendors, however, mobile vendors are required to adhere to all applicable regulations in division (C) below.

(6) No mobile vendor shall be installed, maintained or operated in any zone unless the standards and requirements set forth in this section are complied with and maintained. Mobile vendors are allowed only in commercial and industrial zones or any zone on village-owned property or non-profit institutional property, subject to the approval of a temporary use permit by the Zoning Administrator. Such a temporary use permit shall include any conditions appropriate to assure compliance of the requirements of this section, shall be limited to 45 days in duration and may include additional conditions and requirements that are found appropriate to assure the use will not be detrimental to health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood.

(a) Every mobile vendor shall be a temporary day-to-day use and all equipment, including any stand, cart, table or vehicle, shall be removed at the end of each sales day, excepting those vendors associated with a sidewalk/special sales event where removal of equipment is not customary.

(b) Every mobile vendor shall have written permission from the property owner or lessee of property on which the vendor is located, a copy of which shall be filed with the operators' application. The operator shall also have a copy of the permission statement required by these provisions at the vendor location for inspection upon request by any person authorized to enforce the provisions of this section.

(c) No activities relating to the operation of a mobile vendor, including customer parking, shall occur, without express permission from the property owner.

(d) All stands, carts, vehicles and display of merchandise shall be set back not less than ten feet from any property line.

(e) No mobile vendor, stand, cart, vehicle, merchandise or parking area shall be located which restricts the visibility of vehicles along any adjacent streets or of vehicles entering or exiting the site.

(f) One temporary/portable sign shall be allowed, not to exceed six square feet in area, and shall be removed when vendor has completed daily sales activity. No sign shall obstruct view of bicyclists or motorist using any street, private driveway, approach to any street intersection or which interferes with the effectiveness of or obscures any traffic sign, device or signal.

(g) No food items shall be prepared and/or sold for immediate consumption on site, except for sidewalk/special sales events.

(h) Only one vendor at a time may conduct business on any parcel of property, except commercial shopping center properties or sidewalk/special sales events.

(i) At least one trash receptacle shall be provided on-site.

(j) Shall not operate beyond the operating hours of the property owner/associated business entity or between 11:00 p.m. and 5:00 a.m. (whichever is more restrictive).

(k) Sale of produce is permitted only in accordance with applicable state laws. The area used for sales or display of merchandise by the temporary concession shall be limited to 300 square feet. Such area shall be identified on the use permit and the use permit shall be valid only for the area so identified.

(l) A parking plan shall be submitted by the applicant and approved by the Zoning Administrator to ensure adequate access, circulation, capacity and safety.

(7) Fireworks displays shall be required to have an application submitted to the Zoning Administrator at least 60 days in advance of the event. Applications must include proof of a qualified operator and adequate insurance, as well as all documentation required by the county's Fire Marshal's office. The application will also need to be submitted by the applicant to the county's Fire Marshal's

office for its review. The Village Council will vote to approve or deny the application at a meeting of the Village Council. The village will provide the county's Fire Marshal's office with a letter stating that Council approved the application and the date of the Council meeting at which the application was voted upon. Any approval of an application by the Village Council shall be contingent upon the applicant receiving final approval from the county's Fire Marshal's office.

(8) Temporary family health care structures shall be allowed per § 156.133 of this chapter.

(C) A temporary use permit shall not be issued for any single property more than four times per calendar year; except that, there shall be no limit on the number of temporary use permits issued for federal, state or local government-sponsored public events and/or non-profit organization-sponsored events.

(D) Temporary use permits shall not be approved and can be revoked should the Zoning Administrator determine the required criteria have not been met, or no acceptable remedy proposed/implemented, at any point during the application or operation of the temporary use.

(E) (1) In either R-20, R-A20, R-40, R-A40, R-60 or R-80 Residential Districts, a temporary conditional use permit (CUP) may be granted by the Village Council for not more than one manufactured home to be placed on a residential lot as an accessory use when conditions exist of the need to care for an immediate family member due to medical reasons. The CUP shall be granted only after all of the following findings have been confirmed to the Council through appropriate investigation and certification by the Zoning Administrator:

(a) The manufactured home is an accessory use to the principal residential use;

(b) The manufactured home will be placed on the lot on a temporary basis;

(c) There exists a medically related need for the proximate care of an immediate family member (this finding must be substantiated by a certification of need from a medical doctor and other evidence the Village Council may desire);

(d) The person(s) responsible for providing the care will live in either the principal dwelling or the manufactured home and that the person(s) needing the care shall live in the structure not occupied by the person(s) providing the care;

(e) There exists sufficient reason(s) justifying separate quarters and such reasons shall be limited to contagious disease, serious illness or lack of adequate space within the principal dwelling;

(f) The person(s) in need of care is an immediate family member of the person(s) to be responsible for providing care;

(g) The manufactured home will have adequate access to a well and septic tank as verified by permits from the county's Health Department or directly connected to public water and sewer systems;

(h) The manufactured home will be placed in the rear yard and will be no closer than 20 feet from any property line or, if it is not feasible to locate the manufactured home in the rear yard, that the manufactured home will be located in the non-required side yard behind the building line of the principal dwelling; and

(i) The granting of the CUP will not materially endanger the public health, safety and welfare. The following additional requirements shall be applicable.

1. The CUP shall be valid for one year after issuance or for shorter periods as specified by the Village Council, however, no such CUP shall be valid beyond 30 days after any of the reasons justifying the CUP cease to exist.

2. The CUP may be renewed prior to the expiration date with proper application to and approval by the Village Council when the hardship warranting the original permit remains and is re-certified.

3. Such permit is granted to a particular owner on the basis of circumstances peculiar to that owner and it shall not remain in effect in the event of a change of ownership of any land structure, use or other item covered by the CUP.

4. When granting the CUP, the Village Council may impose reasonable conditions, restrictions and safeguards as considered necessary to protect the public health, safety and general welfare in accordance with the purpose of intent of this chapter. Violation of these conditions, restrictions and safeguards shall be considered a violation of this chapter.

(2) In the event of overcrowded permanent facilities, a temporary conditional use permit (CUP) may be issued by the Village Council to any school or church using at the time of the application permanent buildings, for one or more manufactured home(s) utilized as a temporary classroom(s) pending construction of additional permanent facilities. The CUP shall be issued for a period of up to one year and may be renewed by the Village Council for subsequent periods of one year.

(3) Any manufactured home(s) utilized as a temporary classroom(s) permitted under this division (E) shall be constructed pursuant to the state's Building Code.

(Ord. passed 8-21-2000, § 4.7, 4.7A; Ord. passed 2-8-2010; Ord. passed 12-13-2010; Ord. passed 10-18-2011; Ord. passed 10-14-2013; Ord. passed 8-10-2015; Ord. 2015-10, passed 8-10-2015; Ord. 2016-13, passed 11-14-2016; Ord. 2018-11, passed 11-12-2018) Penalty, see § 156.999

§ 156.132 HEIGHT EXEMPTION.

The maximum height as indicated in the various districts may be exceeded; providing Council-specific approval is first obtained for proposed uses as provided in the following instances.

(A) Roof structures and the like not intended for human occupancy, such as skylights, radio transmission or television towers, stairways, water tanks, ventilating fans, elevator and air conditioning equipment or similar equipment housings, steeples, spires, belfries, cupolas or chimneys, may exceed the maximum allowable height limits in any of the zoning districts.

(B) The height restrictions of §§ 156.190 through 156.204 of this chapter shall apply to telecommunication towers.

(C) Public safety stations (police, fire, rescue) may be 45 feet in height.
(Ord. passed 8-21-2000, § 4.8; Ord. passed 5-12-2008)

§ 156.133 ACCESSORY USES AND STRUCTURES.

Minor uses or structures which are necessary to the operation or enjoyment of a permitted principal use, and are appropriate, incidental and subordinate to any such uses, shall be permitted in all districts with certain exceptions as described herein as an accessory use, subject to the following.

(A) (1) Except as provided below, accessory uses or structures, well houses, garages and swimming pools shall be located no closer than 15 feet to any side or rear lot line. Well houses shall be allowed in any yard and shall not be subject to setback requirements. Detached garages may be located in any side or rear yard.

(2) On any lot in the R-80, R-60, RA-40, R-40, RA-20 and R-40 zoning districts that is three acres or greater in area, barns (as an accessory structure) shall be allowed in a front yard provided that the barn is provided with a minimum 100-foot front setback, except 150 feet if the barn houses poultry or livestock. All other applicable side and rear yard setback requirements shall also apply.

(B) In any residential district or on any lot containing a principal residential use, no accessory use or structure shall be permitted that involves or requires any construction features which are not residential in nature or character. Accessory uses shall be located on the same lot as the principal use.

(C) An accessory building(s) other than qualified barns or farm related structures may not exceed the height of the principal building.

(D) An accessory building(s) other than qualified barns or farm related structures shall not exceed one half of the gross floor area of the principal building.

(E) Roofed accessory uses physically attached or connected to the principal building shall be considered a part of the principal building and shall be subject to the setback requirements for the principal building.

(F) A swimming pool shall be considered an accessory use. A swimming pool shall only be located in the rear yard of residential properties or in the side yard of properties where the residence location has a setback of at least 200 feet. In all other situations, swimming pool locations shall be subject to specific approval of a conditional use permit as provided for in §§ 156.080 through 156.092 of this chapter.

(G) Structures housing poultry or livestock and waste removed from any structure shall be located no closer than 150 feet from any property line; except that, structures housing horses shall be located no closer than 60 feet from any property line.

(H) Where permitted as an accessory use, horses are allowed at a maximum density of one horse per 40,000 square feet of pasture area, excluding minimum lot size for house.

(I) A temporary family health care structure shall be allowed by right as an accessory structure on lots located in a residential (R or RA) zoning district subject to the following conditions.

(1) The temporary family health care structure shall be used by a caregiver in providing care for a mentally or physically impaired person on property owned or occupied by the caregiver as the caregiver's residence as a permitted accessory use in any single-family residential zoning district (i.e., any R or RA Zoning District) on lots zoned for single-family detached dwellings.

(2) The village shall consider a temporary family health care structure used by an individual who is the named legal guardian of the mentally or physically impaired person a permitted accessory use in any single-family residential zoning district on lots zoned for single-family detached dwellings in accordance with this section if the temporary family health care structure is placed on the property of the residence of the individual and is used to provide care for the mentally or physically impaired person.

(3) Only one such temporary family health care structure shall be allowed per lot or parcel of land. The temporary family health care structure shall comply with all accessory structure requirements as contained in this section, except as herein provided. Such temporary family care structures shall comply with all setback requirements that apply to the primary structure and with any maximum floor area limitations that apply to the primary structure.

(4) Any person proposing to install a temporary family health care structure shall first obtain an accessory structure permit from the village and pay the applicable zoning permit fee for accessory structures. An annual review shall be conducted by the village to ensure that all requirements for having such structure remain are in place. A fee for such review shall be in accordance with the village's fee schedule. As a part of such annual review, the village may require that the applicant provide evidence of compliance with this section on an annual basis as long as the temporary family health care structure remains on the property. The evidence may involve the inspection by the village of the temporary family

health care structure at reasonable times convenient to the caregiver, not limited to any annual compliance confirmation, and annual renewal of the doctor's certification. The village may not withhold a permit if the applicant provides sufficient proof of compliance with this section.

(5) Notwithstanding this division (I), any temporary family health care structure installed under this section may be required to connect to any water, sewer and electric utilities serving the property and shall comply with all applicable state law, local ordinances and other requirements, including G.S. Ch. 160A, Art. 19, Part 5, (Building Inspection), as if the temporary family health care structure were permanent real property.

(6) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the temporary family health care structure or elsewhere on the property.

(7) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section. If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used, or may be reinstated on the property within 60 days of its removal, as applicable.

(8) The village may revoke the permit granted pursuant to division (I)(4) above if the permit holder violates any provision of this section or G.S. § 160A-202. The village may seek injunctive relief or other appropriate actions or proceedings to ensure compliance with this section or G.S. § 160A-202.

(9) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

(Ord. passed 8-21-2000, § 4.9; Ord. passed 11-12-2001; Ord. passed 10-17-2005; Ord. 2013-01, passed 2-19-2013; Ord. 2016-13, passed 11-14-2016; Ord. 2017-07, passed 9-11-2017) Penalty, see § 156.999

§ 156.134 OUTDOOR LIGHTING.

(A) The purpose of this section is to improve night-time public safety, utility and security by restricting the night-time emission of light rays. New lighting technologies have produced lights that are extremely powerful, and these lights may be improperly installed so that they create problems of excessive glare, light trespass and higher energy use.

(B) Excessive glare can be annoying and may cause safety problems. Light trespass reduces everyone's privacy, may be detrimental to the aesthetic values of the village, and can restrict persons from the peaceful enjoyment of their property. Higher energy use results in increased costs for everyone. This section is intended to reduce the problems caused by excessive lighting, or by improperly designed and installed outdoor lighting.

(C) (1) All public and private outdoor lighting installed in the village shall be in conformance with the requirements established by this section. The provisions of this section are intended to supplement other applicable codes and requirements. Compliance with all applicable provisions of building, electrical and other codes must be observed. In the event of a conflict between the requirements of this code and other requirements, the stringent requirement shall apply.

(2) Control of glare and light trespass.

(a) Any luminaire with a lamp or lamps rated at a total of more than 1,800 lumens, and all flood or spot luminaires with a lamp rated at a total or more than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.

(b) Any luminaire with a lamp or lamps rated at a total of more than 1,800 lumens, and all flood or spot luminaires with a lamp or lamps rated at a total or more than 900 lumens, shall be mounted at a height equal to or less than the value $3 + (D/3)$, where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed 30 feet.

(3) Unless specified otherwise in this chapter, 75% of all outdoor light fixtures used for commercial, advertising or industrial use, whether installed before, on or after the effective date of this chapter, shall be turned off between 11:00 p.m. and sunrise, except when used for:

(a) Commercial and industrial use (such as sales, assembly and repair areas) where business is conducted after 11:00 p.m., but only while the business is open to the public. Illuminated advertising signs on the premises of a business while it is open to the public; and

(b) Illuminated advertising signs on the premises of a business while it is open to the public.

(D) (1) Any luminaire with a lamp or lamps rated at a total of 1,800 lumens or less, and all flood or spot luminaires with a lamp or lamps rated at 900 lumens or less, may be used without restriction to light distribution or mounting height, except that if any spot or flood luminaire rated 900 lumens or less is aimed, directed or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.

(2) Luminaires used for public-roadway illumination may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property.

(3) All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this section.

(4) All hazard warning luminaries required by federal regulatory agencies are exempt from the requirements of this section; except that, all luminaries must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.

(5) Motion detector security lights which are normally off and which are activated for less than five minutes occasionally when motion is detected are exempt from this section.

(6) The design for an area may suggest the use of parking lot lighting, area lighting and roadway fixtures of a particular “period” or upscale architectural style such as the “nostalgic lantern”, as either alternatives or supplements to the lighting described above. These decorative post-mounted fixtures are generally classified as non-cutoff by the IESNA and are acceptable. The maximum lumens generated from each fixture shall not exceed 9,500 initial lamp lumens per fixture and each fixture must be equipped with a solid top to reduce the amount of light going up into the sky.

(7) In the case of flags, statues or other top-of-pole mounted objects, including neighborhood entrances, which cannot be illuminated with down-lighting, upward lighting may be used only in the form of two narrow-cone spotlights which confine the illumination to the object of interest.

(8) This section does not regulate outdoor signs. Such regulations can be found in §§ 156.155 through 156.165 of this chapter.

(E) (1) The operation of searchlights, lasers or other high-intensity beams is prohibited.

(2) The use of flashing, rotating or pulsating devices is prohibited.

(F) Any light source permitted by this section may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball and softball fields, tennis courts or show areas; provided, all the following conditions are met: all fixtures used for event lighting shall comply with the requirements of division (C)(2) above or be provided with sharp cut-off capability, so as to minimize up light, spill light and glare.

(G) (1) Any temporary outdoor lighting that conforms to the requirements of this subchapter shall be allowed. Non-conforming temporary outdoor lighting may be permitted by the Village Council after considering:

(a) The public and/or private benefits that will result from the temporary lighting;

(b) Any annoyance or safety problems that may result from the use of the temporary lighting; and

(c) The duration of the temporary non-conforming lighting.

(2) The applicant shall submit a detailed description of the proposed temporary non-conforming lighting to the Village Council, who shall consider the request at the next regularly scheduled meeting. Prior notice of the meeting shall be provided to the applicant. The Village Council shall render its decision on the temporary lighting request and notify the applicant in writing within two weeks. A failure of the Village Council to act on a request shall constitute a denial of the request.

(H) (1) All luminaries, in non-commercial areas, lawfully in place prior to the date of this chapter, are deemed “pre-existing luminaries”.

(2) However, any luminaire that replaces a pre-existing luminaire, or any pre-existing luminaire that is moved, must meet the standards of this chapter subject to the above sentence.

(3) All pre-existing luminaries that are in B-1, B-2 or L-1 zoned areas may remain for a period of three years after the date of adoption of this chapter, and must thereafter comply with provisions of this section.

(I) Installation of any new public area and roadway lighting fixtures other than for traffic control shall be specifically approved at a Village Council meeting.

(Ord. passed 8-21-2000, § 4.10; Ord. passed 4-8-2002; Ord. 3-31-2003) Penalty, see § 156.999

§ 156.135 VIBRATION.

No equipment in any district shall operate in such a fashion that any inherent or recurring ground vibrations can be felt or detected at the property line without the use of instruments.

(Ord. passed 8-21-2000, § 4.11) Penalty, see § 156.999

§ 156.136 NOISE.

Every use of land must be conducted in such a manner that regularly recurring noises are not disturbing or loud and do not cause injury, detriment or nuisance to any person of ordinary sensitivities, as measured at the property line.

(Ord. passed 8-21-2000, § 4.12) Penalty, see § 156.999

§ 156.137 RESTORING UNSAFE BUILDINGS.

Nothing in these regulations shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by lawful order.

(Ord. passed 8-21-2000, § 4.13)

§ 156.138 USES NOT EXPRESSLY PERMITTED OR CONDITIONAL.

(A) No building, sign or land shall be used, erected or occupied and no building or structure shall be erected, expanded or moved after the effective date of this chapter, except in conformity to this chapter.

(B) This chapter specifies uses which are allowed in each zone. Uses designated as “permitted uses” are allowed in a zone as a matter of right. Uses designated as “conditional uses” and/or “non-conforming uses” are allowed only after individual, specific approval by the Village Council pursuant to §§ 156.080 through 156.092 of this chapter. Certain uses pre-existing the adoption of this chapter are allowed to remain as non-conforming uses pursuant to §§ 156.105 through 156.113 of this chapter.

(C) Unless a use is allowed as a “permitted”, “conditional” or “non-conforming” use, then such use is expressly prohibited in that zone by this chapter, and such use shall constitute a violation of this chapter.

(D) (1) Certain definitions set out in § 156.005(B) of this chapter regarding unallowable uses are not mentioned in any other sections of this chapter.

(2) The purpose of these definitions is to make clear that any such defined use is not permitted under this chapter.

(Ord. passed 8-21-2000, § 4.14) Penalty, see § 156.999

§ 156.139 CONSTRUCTION BEGUN PRIOR TO ADOPTION OF CHAPTER.

Nothing in this chapter shall be deemed to require any change in the plans, construction or designed use of any building for which a permit has been issued or upon which actual construction was lawfully begun prior to the effective date of this chapter, and upon which building actual construction has been diligently carried on; and, provided further that, such building shall be completed within one year from the date of passage of this chapter.

(Ord. passed 8-21-2000, § 4.15)

§ 156.140 ACCEPTABLE PLANT SPECIES.

(A) *Large maturing trees.*

| <i>Botanical Name</i> | <i>Common Name</i> |
|-----------------------|--------------------|
| Abies firma | Japanese fir |
| Acer platanoides | Norway Maple |
| Acer rubrum | Red Maple |

| <i>Botanical Name</i> | <i>Common Name</i> |
|-------------------------------|-----------------------|
| Acer saccharinum | Silver Maple |
| Saccharum | Sugar Maple |
| Altis laevigata | Sugar Hackberry |
| Amelanchier Canadensis | Serviceberry |
| Betula negra | River Birch |
| Carya illinoensis | Pecan |
| Carya glabra | Shagbark hickory |
| Carya cordiformis | Pignut hickory |
| Cedrus deodara | Deodar cedar |
| Celtis occidentalis | Hackberry |
| Cryptoeria j aponica | Japanese cryptomeria |
| Cupressocyparis leylandii | Leyland cypress |
| Diospyros virginiana | Persimmon |
| Fagus grandiflora | American beech |
| Fraxinus americana | White ash |
| Fraxinus pennsylvanica | Green ash |
| Ginkgo biloba | Ginkgo |
| Gleditsia triacanthos inermis | Thornless honeylocust |
| Gymnocladus dioicus | Kentucky coffee tree |
| Juniperus virginiana | Eastern red cedar |
| Liquidambar styraciflua | Sweetgum |
| Liriodendron tulipifera | Tulip poplar |
| Magnolia acuminata | Cucumber tree |
| Magnolia grandiflora | Southern Magnolia |
| Nyssa sylvatica | Black gum |
| Picea abies | Norway spruce |
| Picea orientalis | Oriental spruce |
| Picea pungens | Colorado spruce |
| Pinus bungeana | Lacebark pine |
| Pinus echinata | Short leaf pine |

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| <i>Botanical Name</i> | <i>Common Name</i> |
|-------------------------|----------------------|
| Pinus nigra | Austrian pine |
| Pinus sylvestris | Scotch pine |
| Pinus thunbergi | Japanese black pine |
| Pinus taeda | Loblolly pine |
| Pinus virginiana | Virginia pine |
| Platanus acerifolia | London planetree |
| Platanus occidentalis | Sycamore |
| Pseudotsuga menziesii | Douglas Fir |
| Quercus acutissima | Sawtooth oak |
| Quercus alba | White oak |
| Quercus bicolor | Swamp white oak |
| Quercus borealis | Northern red oak |
| Quercus coccinea | Scarlet oak |
| Quercus falcata | Southern red oak |
| Quercus laurifolia | Laurel oak |
| Quercus macrocarpa | Bur oak |
| Quercus nigra | Water oak |
| Quercus phellos | Willow oak |
| Quercus rubra maxima | Eastern red oak |
| Quercus shumardi | Shumard oak |
| Quercus velutina | Black oak |
| Quercus virginiana | Live oak |
| Salix babylonica | Weeping willow |
| Sophora japonica regent | Japanese pagoda tree |
| Taxodium distichum | Bald cypress |
| Tilia cordata | Littleleaf linden |
| Tsuga caroliniana | Carolina hemlock |
| Tsuga canadensis | Eastern hemlock |
| Ulmus alata | Winged elm |
| Ulmus americana | American elm |

| <i>Botanical Name</i> | <i>Common Name</i> |
|-----------------------|--------------------|
| Ulmus parvifolia | Lacebark elm |
| Zelkova serrata | Japanese zelkova |

(B) *Small maturing trees.*

| <i>Botanical Name</i> | <i>Common Name</i> |
|-----------------------------|---------------------------|
| Acer buergeranum | Trident maple |
| Acer campestre | Hedge maple |
| Acer griseum | Paperbark maple |
| Amelanchier arborea | Service berry |
| Betula platyphylla japonica | Japanese white birch |
| Carpinus betulus | European hornbeam |
| Carpinus carolinana | American hornbeam |
| Catalpa bignonioides | Southern catalpa |
| Cornus florida | Flowering dogwood |
| Cornus Kousa | Kousa dogwood |
| Cornus mas | Cornel ian-cherry dogwood |
| Cercis candensis | Eastern redbud |
| Crataegus phaenopyrum | Washington hawthorne |
| Cupressus arizonica | Arizona cypress |
| Eriobotrya japonica | Loquat |
| Halesia Carolina | Carolina silver bell |
| Hammamelis mollis | Chinese witch-hazel Ilex |
| Fagus sylvatica | European beech |
| Fosteri | Foster holly |
| Ilex opaca | American holly |
| Ilex opaca hume | Hume holly |
| Ilex x attenuata 'Fosteri' | Foster hybrid holly |
| Ilex x attenuata savannah | Savannah holly |
| Kowlrwuteria bipinnata | Chinese flame tree |

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| <i>Botanical Name</i> | <i>Common Name</i> |
|----------------------------------|------------------------|
| Koelreutaria paniculata | Golden raintree |
| Lagerstroemia indica | Crape myrtle |
| Magnolia soulangeana | Saucer magnolia |
| Magnolia stellata | Star magnolia |
| Malus floribunda | Flowering crabapple |
| Malus hybrida | Flowering crab apple |
| Morus alba 'Pendula' | Weeping white mulberry |
| Osmanthus americanus | Devilwood |
| Ostrya virginiana | Ironwood |
| Oxydendrum arboreum | Sourwood |
| Prunus caroliniana | Carolina cherry laurel |
| Prunus cerasifera 'Atropurpurea' | Pissard plum |
| Prunus cerasifera pissardii | Purpleleaf plum |
| Prunus cerasus | Sour cherry |
| Prunus seirulata kwanzan | Kwanzan cherry |
| Prunus subhirtella pendula | Weeping cherry |
| Prunus yedoensis | Yoshino cherry |
| Pyrus calleryana | Callery pear |
| Pyrus calleryana Bradfordi | Bradford pear |
| Pyrus calleryana 'Redspire' | Redspire pear |
| Pyrus calleryana 'Capital' | Capital pear |
| Quercus acuta | Japanese evergreen oak |
| Quercus glauca | Ring cupped oak |
| Ulmus parvifolia | Chinese elm |
| Viburnum rufidulum | Southern blackhaw |

(C) *Shrubs.*

| <i>Botanical Name</i> | <i>Common Name</i> |
|-----------------------|--------------------|
| Abelia grandiflora | Glossy Abelia |
| Aucuba japonica | Japanese Aucuba |

| <i>Botanical Name</i> | <i>Common Name</i> |
|-------------------------------|--------------------------|
| Azalea hybrida | Glendale azalea |
| Azalea Indica | Indian azalea |
| Azalea Obtusum Kaempferi | Kaempferi azalea |
| Berberis julianae | Wintergreen barberry |
| Camelliajaponica | Camellia |
| Camellia sasanqua | Sasanqua camellia |
| Chaenomeles speciosa | Flowering quince |
| Cleyera japonica | Cleyera |
| Euonymus japonicus | Evergreen euonymus |
| Forsythia intermedia | Forsythia |
| Hammamelis virginiana | Witch-hazel |
| Hydrangea quercifolia | Oakleaf hydrangea |
| Ilex aquifolium | English holly |
| Ilex cornuta | Chinese holly |
| Ilex cornuta burfordi | Burford holly |
| Ilex comuta burfordi nana | Dwarf burford holly |
| Ilex crenata 'convexa' | Convex Japanese holly |
| Ilex crenata 'hetzi' | Hetzi Japanese holly |
| Ilex crenata 'roundifolia' | Roundleaf Japanese holly |
| Ilex 'Emily Brunner' | Emily brunner holly |
| Ilex glabra | Inkberry holly |
| Ilex latifolia | Lusterleaf holly |
| Ilex pernyi | Perny holly |
| Ilex vomitoria | Yaupon holly |
| Jumperus chinesis pfitzeriana | Pfitzer jumper |
| Jumperus chinesis hetzi | Hetzi jumper |
| Laurus nobilis | Laurel |
| Ligustrum lucidum | Glossy privet |
| Ligustrum vicaryi | Vicary goldern privet |
| Loropetalum chinense | Loropetalum |

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| <i>Botanical Name</i> | <i>Common Name</i> |
|--------------------------------------|----------------------------|
| Myrica cerifera | Wax myrtle |
| Nandina domestica | Nandina |
| Osmanthus fortunei | Fortune tea olive |
| Osmanthus fragrans | Fragrant tea olive |
| Osmanthus heterophyllus | Holly osmanthus |
| Osmanthus heterophyllus roundifolius | Curly leaf tea olive |
| Photinia fraseri | Fraser photinia |
| Photinia serrulata | Chinese photinia |
| Pieris floribunda | Mountain andromeda |
| Pieris japonica | Japanese andromeda |
| Pittosporum tobira | Pittosporum |
| Prunus laurocerasus | English laurel |
| Prunus laurocerasus angustifolia | Narrow leaf english laurel |
| Podocarpus macrophyllus maki | Podocarpus |
| Pyracantha coccinea | Scarlet firethorn |
| Raphiolepis umbellata | Yeddo-hawthorn |
| Spirea cantoniensis | Reves spirea |
| Spirea thunbergi | Bridalwreath spirea |
| Spirea vanhouttei | Vanhoutte spirea |
| Taxus cuspidata | Japanese yew |
| Viburnum prunifolium | Blackhaw viburnum |
| Viburnum rhytidophyllum | Leatherleaf viburnum |
| Viburnum tinus | Laurestinus viburnum |

(Ord. passed 8-21-2000, App. 17-A; Ord. 2017-08, passed 9-11-2017)

§ 156.141 COUNTY PUBLIC SCHOOLS STANDARDIZED DEVELOPMENT CRITERIA.

(A) Union County Public Schools (UCPS) is currently subject to 13 different sets of local land use regulations (12 different municipalities and Union County). Regulations vary from jurisdiction to

jurisdiction, making it difficult to build new schools, renovate existing schools or locate mobile units in a consistent, timely and cost effective manner.

(B) (1) As a part of the County Board of Education's adopted building program cost saving principles, UCPS is endeavoring to establish a standard zoning classification and standardized requirements for school construction regardless of the schools locale in the county. Such standardization will result in:

- (a) Equitable school facilities throughout the county;
- (b) More efficient permitting of school facilities; and
- (c) Cost savings for the benefit of the taxpayers of the county.

(2) Staffs from UCPS, the county and local municipalities have met and have agreed to make recommendations to their elected boards as follows.

(a) UCPS staff will involve local municipal staff early in the site selection process as well as the local community, if possible. The local municipal staff will make recommendations regarding target sites or areas within their respective jurisdictions that are suitable for school uses. Pursuant to state statute, final decisions regarding the selection of school sites are made by the county's Board of Education.

(b) Allow all new schools, additions, mobile classrooms (MCR) up to six total (any additional will require CUP approval), or renovation uses by right with supplemental standards. This will eliminate the costly and time-consuming discretionary (CUP/SUP) zoning process and site-by-site negotiations. All local government entities benefit by having expectations regarding school design and construction identified in advance.

(c) Jurisdictions may consider an optional CUP/SUP review process if unique conditions exist as determined by the Zoning/Planning Administrator. The Administrator shall consider if the proposed project poses a negative impact on the public health and safety.

(d) Supplemental standards shall include:

1. *Exterior of buildings.*

a. Exterior building materials shall be limited to masonry brick (brick or pre-finished block), natural or synthetic stucco, pre-finished insulated or non-insulated metal panel system, pre-finished metal fascia and wall coping, standing seam metal roof (for sloped roof only), painted hollow metal and/or pre-finished aluminum door and window frames, glass, painted or pre-finished steel.

b. UCPS staff will work with municipality staff to follow any requirements of municipality “special overlay districts” as it relates to the exterior design of the facility.

c. Exterior of buildings will be articulated to enhance the area of the site.

2. *Mobile classrooms (MCR).*

a. MCRs shall be located in rear yard if possible. If rear yard cannot accommodate the MCRs, then they can be placed in the side yard. MCRs can be placed in the front yard only if the MCRs cannot be accommodated in the rear or side yards.

b. MCR underpinning and crawl spaces shall be screened.

c. Landscaping/planting shall be provided between the MCR and any adjacent roads from which the MCRs are visible.

3. *Sidewalks.* Sidewalks will be required along all roads extending the length of the property line. Sidewalks must be four feet wide with a four-inch depth concrete with a tamped base. Installation and maintenance requirements set forth in § 155.053(A) of this code of ordinances shall apply.

4. *Exterior illumination.*

a. Driveway and parking area lighting shall be no more than ten foot candles. Spill over to adjacent properties shall not exceed one foot candle. Lighting fixtures shall be shielding type.

b. Lighting fixtures located on the building exterior shall not emit more than five foot candles and shall be shielding type.

c. Lighting for athletic fields shall follow the current standards as set forth by the *North Carolina High School Athletic Association Lighting Standard*. A lighting control package shall be included and lights shall be shut-off no later than one hour after the end of the event.

5. *Signs.*

a. Materials for sign base and structure shall match the primary building materials.

b. Sign face shall not exceed 40 square feet and does not include the sign support structure. The bottom of the sign face shall be no less than 24 inches above, nor more than 72 inches above, the ground surface. The sign support structure can include columns and walls on either side of and below the sign face and shall not be more than 16 inches taller than the sign face.

c. One sign shall be permitted per school. Alternatively, if multiple schools use the same driveway access, then the allowable square footage may be increased by ten square feet for each additional school.

d. One wall sign per school shall be permitted and only for the name of the school and shall be reviewed by the Administrator.

e. External illumination is allowed.

6. *Parking.*

a. At elementary and middle schools, provide one space per staff member, plus 1.6 spaces per classroom or one space for each three seats used for assembly purposes whichever is greater;

b. At high schools, provide five spaces per instructional classroom or one space for each three seats used for assembly purposes whichever is greater;

c. No more than 20% of the required spaces can be compact spaces; and

d. Minimum size of spaces shall be nine feet wide by 19 feet long for regular, seven and one-half feet wide by 15 feet long for compact, and accessible spaces shall meet current accessibility codes. Compact spaces shall be marked with a "c" or "compact".

7. *Student drop off stacking.* On-site vehicle stacking for student drop-off shall be based on NCDOT requirements using the NCDOT required calculator.

8. *Landscaping and screening/buffering.*

a. Trees and shrubs shall be as indicated within the municipality species list.

b. Parking area: one large or two small trees shall be provided for each 12 parking spaces. Each parking space shall be located within 65 feet of a tree. Rows of parking spaces shall be terminated with a landscaped island and shall be the same size as a parking space.

c. Parking areas shall be screened from adjacent public roads with shrubs based on the municipality's species list.

d. Wet detention basins shall be screened with black vinyl chainlink fencing in addition to landscaping as determined by the Zoning Administrator. Dry detention basins shall be screened with black vinyl chainlink fencing and/or shrubs if needed, as determined by the Zoning Administrator and shall be dependant upon the size, location and use of the basin.

e. Land berms will not be permitted between school facilities and roads.

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f. Land berms can be used in conjunction with required screening/buffering to adjacent uses as determined by the local regulations.

g. Screening/buffering from adjacent uses will be opaque and shall consist of:

i. Small trees planted at a rate of three per 100 feet and six feet high evergreen shrubs planted at a rate of 25 per 100 feet;

ii. Large trees planted at a rate of two and one-half per 100 feet and a six-foot high solid wood fence; or

iii. Tall evergreen trees with branches touching the ground planted in a stagger.

h. If the adjoining property is of similar or compatible use, the Administrator may reduce or eliminate the screening/buffer.

i. Screening/buffering requirements may be waived when screening/buffering is already provided. There may be cases where the unusual topography or elevation of a site, or the size of the parcel involved, or the presence of screening on adjacent property would make the strict adherence to the regulation serve no useful purpose. In those cases, the Administrator is empowered to waive the requirements for screening so long as the spirit and intent of this section and the general provisions of this section pertaining to screening are adhered to. This section does not negate the necessity for establishing screening for uses adjacent to vacant property.

j. UCPS will adhere to all tree preservation ordinances of the municipalities and shall preserve natural buffers between the school facility and adjacent properties as much as practical.

k. UCPS will retain as much existing trees and vegetation on school sites as practical and will re-introduce common local species into the project as possible.

(3) In the event any provisions of the supplemental regulations conflict with any other provisions of this chapter, then the provisions of these supplemental regulations shall control. Other ordinance provisions not in conflict with these supplemental regulations remain in effect. (Ord. passed 8-21-2000, App. 17-B; Ord. passed 1-14-2008) Penalty, see § 156.999

§ 156.142 ADEQUATE PUBLIC FACILITIES.

Any permit which authorizes the construction of a dwelling unit shall be subject to §§ 360 through 373 of the county's Land Use Ordinance (Adequate Public Facilities Section). (Ord. passed 8-21-2000, App. 17-C; Ord. passed 5-12-2008)

SIGNS**§ 156.155 GENERAL PURPOSE AND INTENT.**

(A) *Compliance.* These sign regulations are adopted under the zoning authority of the village. Signs are permitted in accordance with regulations listed below and in accordance with other applicable regulations of this chapter.

(B) *Purpose.* The purpose of this subchapter is to permit signs that by their reason, size, location or manner of display are compatible with their surroundings and the general character of the village. Specifically:

(1) To ensure signs will not endanger the public safety of individuals;

(2) To ensure signs will not confuse, mislead or obstruct the visibility necessary for traffic safety or otherwise endanger public health, safety and general welfare;

(3) To protect and enhance property values and community appearance as part of the village's effort to enrich the aesthetic quality of the village; and

(4) To support and complement land use objectives set forth in the Future Land Use plan. (Ord. passed 8-21-2000, §§ 8, 8.1; Ord. passed 5-17-2011; Ord. 2019-01, passed 5-13-2019)

§ 156.156 APPLICABILITY.

The provisions of §§ 156.155 through 156.165 are applicable to all signs, both off- and on-premises, unless otherwise provided for in this subchapter. A sign may be constructed, placed, established, painted, created, displayed, altered or maintained in the village only in conformance with the provisions of these sections. A sign shall meet all other regulations applicable to signs, including those found in the North Carolina Building Code and the National Electric Code.

(Ord. 2019-01, passed 5-13-2019)

§ 156.157 SIGN PERMITS.

(A) Prior to the construction, placement, establishment, creation, display or modification of a sign, a completed permit application, consisting of an application form and appropriate fees, shall be submitted to the village for approval, unless otherwise expressly exempted from these requirements. A sign permit will be issued if the village's Planning and Zoning Administrator deems that the proposed sign(s) is in compliance with these ordinances. A single application and fee may be submitted for multiple signs at one location, provided those signs are to be constructed or displayed at the same time and for the same property or event.

(B) For new construction, a sign permit application cannot be submitted prior to the submittal for construction plan review. For new subdivisions, monument entrance signs are reviewed by the Planning Board as part of the preliminary plat approval, unless otherwise noted.
(Ord. 2019-01, passed 5-13-2019)

§ 156.158 SIGN AREA COMPUTATION.

(A) *Sign area.*

(1) The total area of a sign face entirely within the smallest polygon that will encompass the limits of the writing, representation, emblem or other information on the sign that can be reasonably calculated. This includes any material or color forming an integral part of the background of the display, but does not include any supporting framework, bracing or decorative fencing or wall that is clearly incidental to the sign.

(2) Multi-sided signs shall include all sides in the computation of total sign area. If the sign is a two-sided, back-to-back sign, the sign area shall be measured as the area of only one of the sides.

(B) *Sign height.*

(1) *Attached signs.* The height of an attached sign shall be measured as the distance from the finished grade at the base of the building to the top of the highest component of the sign.

(2) *Freestanding signs.* The height of a freestanding sign shall be measured as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade is established at the existing grade prior to construction or the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of the sign.
(Ord. 2019-01, passed 5-13-2019)

§ 156.159 GENERAL REQUIREMENTS.

(A) *Maintenance.*

(1) Ongoing maintenance of the sign, including replacement of sign faces, lettering or other features of a sign, shall be considered maintenance and shall not require a permit. No alteration that modifies the area, height or illumination of a sign, or alters its location, shall be permitted under this provision.

(2) Any sign in the village that is found to be in need of repair shall be renovated or removed within 30 days by the owner upon receipt of written notification, or the sign may then be removed by

the Planning and Zoning Administrator. The reasonable cost of such removal, including associated attorney's fees, shall be the owner's responsibility.

(B) *Materials and structure.*

(1) All signs shall be constructed to retain sound structural condition, shall be mounted and attached to a building or the ground in a secure manner, and shall comply with county building codes.

(2) All freestanding sign structures shall be self-supporting structures, clad with any masonry material except cinder-block, and shall be erected on or set into, and permanently attached to concrete foundations. Such structures shall comply with county building codes.

(3) Except for flags, certain temporary signs and window signs conforming to this code, all signs shall be constructed of rigid, all-weather materials, and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame or structure.

(C) *Illuminated signs.*

(1) Illuminated signs shall employ only devices emitting a light of constant intensity; no signs shall be illuminated by a flashing, intermittent, rotating or moving light.

(2) Any lighted sign or lighting device shall be so oriented as not to cast light upon a public right-of-way so as to cause glare, intensity or reflection that may constitute a traffic hazard or a nuisance, or cast light upon adjacent property that may constitute a nuisance.

(D) *Public right-of-way.*

(1) Permitted signs shall be located outside of public rights-of-way and behind sidewalk areas, except where encroachments are specifically permitted by the provisions of this subchapter.

(2) No portion of a freestanding sign, including projections, may extend into or over an existing public right-of-way.

(3) Any unauthorized signs placed on public property or within a public right-of-way may be taken down and destroyed without prior notification to the sign owner. In addition to other remedies hereunder, the Administrator shall have the right to recover from the owner or person placing such a sign the full costs of its removal and disposal.

(E) *Visibility.* All signs shall be located outside of required site triangles and in a manner that does not impair traffic visibility. (Ord. passed 8-21-2000, § 8.2; Ord. passed 5-17-2011; Ord. 2012.02, passed 1-9-2012; Ord. 2019-01, passed 5-13-2019) Penalty, see § 156.999

§ 156.160 EXEMPT SIGNS.

The following signs shall not require a permit:

| <i>Type</i> | <i>District Allowed</i> | <i>Sign Face Area Max.</i> | <i>Temporary/ Permanent</i> | <i>Notes</i> |
|--|-------------------------|----------------------------|-----------------------------|---|
| Official government, emergency, safety and signs required to be posted by law. Signs established by governmental agencies. | All | N/A | Both | |
| Posted signs (i.e., warning, no trespassing, private property, directional) | All | 2 sq. ft. | Both | |
| Signs for candidates seeking public office | All | N/A | Temporary | All political-type signs shall be posted in accordance with the G.S. § 136-32 |
| Small wall signs (i.e., identification, name or address signs) | All | 1½ sq. ft. | Both | |
| Yard signs (i.e., signs typically used for sale, rent, lease of residence, produce, yard sale, lost pet, and the like) | All | 6 sq. ft. | Temporary | Shall be removed within 7 days after the event, sale, recovery, and the like is completed |
| Incidental signs | All | 2 sq. ft. | Both | |
| Window coverings | B-1, B-2, O-1, L-1 | < 50% of total window area | Both | |
| Historical plaques, tablets or markers placed by a federal or state government agency | All | N/A | Permanent | |
| Vehicular signs | All | N/A | Both | |
| Internal signs | B-1, B-2 | 4 sq. ft. | Both | Does not include banner signs |
| Sandwich board signs* | B-1, B-2, O-1, L-1 | | Temporary | One sign per entrance facing the parking area/driveway |
| <p>* For B-1 and L-1 Districts, the signs shall be located within 35 feet of the principal entrance. For B-2 and O-1 Districts, the signs shall be placed within the segment of paved sidewalk adjacent to the principal structure's facade; providing it does not impede a clear path for pedestrian movement or handicap accessibility. The adjacent area is measured by extending two perpendicular lines from the edges of the facade to the back of the curb bordering the sidewalk. Sidewalks separated by natural or unpaved areas from the facade shall not be designated as eligible space.</p> | | | | |

(Ord. passed 8-21-2000, § 8.3; Ord. passed 5-17-2011; Ord. 2012.02, passed 1-9-2012; Ord. 2013.07, passed 7-8-2013; Ord. passed 8-11-2014; Ord. 2019-01, passed 5-13-2019)

§ 156.161 PROHIBITED SIGNS.

The following signs are expressly prohibited within all zoning districts, unless as otherwise specified in this chapter.

- (A) All off-premise signs, including billboards, except where expressly allowed.
- (B) All portable signs, except those authorized elsewhere in this chapter.
- (C) Flashing signs. Electronic message board signs are not considered flashing signs.
- (D) Any sign that the Zoning Administrator determines obstructs visibility.

(E) Exposed neon, incandescent or non-changing, light-emitting-diode (LED) signs (except for interior window signs in compliance with window signage regulations) exceeding two square feet.

(F) Any sign placed upon a traffic control sign, tree or utility pole, for any reason except as provided in this chapter.

(G) Any permanent sign that is an inflatable device.

(H) Animated signs.

(I) Signs temporarily attached to vehicles.

(J) Awning signs.

(K) Handwritten signs, including temporary signs and window signs. Signs advertising temporary uses, as permitted in §§ 156.131(A) and § 156.160 of this chapter, are excluded.

(L) Roof signs.

(M) Window signs covering more than 50% of window area.

(Ord. passed 8-21-2000, § 8.4; Ord. passed 10-14-2002; Ord. passed 5-17-2011; Ord. 2019-01, passed 5-13-2019) Penalty, see § 156.999

§ 156.162 PERMANENT SIGNS.

Permitted signs shall be regulated as follows:

| <i>Type</i> | <i>District Allowed</i> | <i>Sign Face Area Max.</i> | <i>No.</i> | <i>Notes</i> |
|--|---------------------------------------|--|------------|--|
| Professional name plat | Residential | 3 sq. ft. | 1 | |
| Monument | Residential | 30 sq. ft. | 2 | Approved as part of a preliminary plat or a conditional use process. Must be 10 feet from adjacent lot line, no more than 10 feet in height, and 100 sq. ft. in total area. Materials include stucco, painted wood, or masonry. Structures shall be masonry material other than cinderblock. |
| Changeable copy | Residential | 20 sq. ft. | 1 | Approved as part of a preliminary plat or a conditional use process. Must be 10 feet from adjacent lot line, no more than 5 feet in height, 25 sq. ft. in total area. Materials include stucco, painted wood, or masonry. Structures shall be masonry material other than cinderblock. |
| Permanent local historic sign | Residential; B-1: B-2; O-1, L-1 | 6 sq. ft. | 1 | From a recognized historical society. |
| Wall sign, type 1 | B-1, L-1 | Not to exceed 20% of each wall facade if externally light; 5% if internally lit. | N/A | Fastened by permanent mount or mechanism, or painted. No sign shall be located on the roof or extended above the parapet or eave line of any structure. |
| Wall sign, type 2 | B-2, O-1 | Not to exceed 10% of each wall facade if externally light; 5% if internally lit. | N/A | Fastened by permanent mount or mechanism, or painted. No sign shall be located on the roof or extended above the parapet or eave line of any structure. |
| Under canopy signs | B-1, B-2, O-1, L-1 | 8 sq. ft. | N/A | |
| Freestanding monument signs, including electronic message boards | B-1, B-2, O-1, L-1 | 20 sq. ft. | 1 | Sign structures must be 10 feet from adjacent lot line, no more than 5 feet in height, 25 sq. ft. in total area. |
| Projecting signs | B-1, B-2, O-1, L-1 | 3 sq. ft. | 1 | At least 10 feet of ground clearance. |
| Monument signs | B-2 | 75 sq. ft. | 1 | Approved as part of conditional use process; must be 10 feet from adjacent lot line; no more than 20 feet in height; 200 sq. ft. in total area. |

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| <i>Type</i> | <i>District Allowed</i> | <i>Sign Face Area Max.</i> | <i>No.</i> | <i>Notes</i> |
|-------------|-------------------------|----------------------------|------------|--------------|
|-------------|-------------------------|----------------------------|------------|--------------|

| | | | | |
|------------|-----|---------|----------------------------|---|
| Drive-thru | B-2 | 4' x 6' | 2 per lane - 12 feet apart | Approved as part of conditional use process. Must be 15 feet from adjacent lot line; no more than 6 feet from drive surface or 5 feet curb side in height. Internal position no more than 6.6 feet (80 inches) in width for sign panel, located on the side of the building opposite the main thoroughfare. Predominant color and material of sign and speaker post should be that of the principal building. |
|------------|-----|---------|----------------------------|---|

(Ord. passed 8-21-2000, §§ 8.6-8.8; Ord. passed 5-17-2011; Ord. 2012.02, passed 1-9-2012; Ord. passed 5-11-2015; Ord. passed 12-12-2016; Ord. 2019-01, passed 5-13-2019)

§ 156.163 TEMPORARY SIGNS.

Permitted temporary signs shall be regulated as follows:

| <i>Type</i> | <i>District Allowed</i> | <i>Sign Face Area Max.</i> | <i>No.</i> | <i>Notes</i> |
|--|-------------------------|----------------------------|--------------------------|--|
| Portable signs (i.e., banners, pennants, spinners, flags, directional and feather/blade signs) | All | 24 sq. ft. | 1 | All temporary signs shall be unlit and may be on- or off-premise (with permission of property owner). For in-line tenant spaces, banners shall be limited to the portion of the building occupied or used by tenant. |
| Pole- or post- mounted signs | All | 35 sq. ft. | 1 per business or parcel | Good for one year, renewable for one year. No illumination. |
| Posted sign (i.e., all directional signs in event of road closures, and the like) | All | N/A | N/A | Signs shall be allowed only while extenuating circumstances exist. A letter from the property owner of the proposed location of the off-premise sign granting permission for the installation of the sign shall be required with permit application. |

(Ord. passed 8-21-2000, § 8.5; Ord. passed 5-17-2011; Ord. 2016-16, passed 12-12-2016; Ord. 2019-01, passed 5-13-2019) Penalty, see § 156.999

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§ 156.164 NON-CONFORMING SIGNS.

Non-conforming signs shall be governed by the provisions in § 156.110.

(Ord. passed 8-21-2000, § 8.9; Ord. passed 5-17-2011; Ord. 2019-01, passed 5-13-2019) Penalty, see § 156.999

§ 156.165 ENFORCEMENT.

A violation of this subchapter is a violation of the Zoning Ordinance and is subject to the enforcement procedures and penalties of §156.240 and §156.999.
(Ord. 2019-01, passed 5-13-2019)

OFF-STREET PARKING AND LOADING

§ 156.175 OFF-STREET PARKING.

Every new use, or any enlargement, expansion or alteration of an existing use, shall require off-street parking in compliance with this subchapter, unless specifically exempt from such provisions or portions thereof.

(A) Off-street parking spaces shall be increased when a change of use of either a structure or of land requires additional parking spaces in compliance with this subchapter. Parking spaces may be decreased when a change of use in either a structure or of land requires less spaces than provided for the replaced use.

(B) A one-time only enlargement of a structure or increase in the amount of land used may be made for existing uses deficient in off-street parking; provided that, the enlargement or increase does not represent a requirement in excess of five off-street parking spaces. In the event that such increase represents a requirement in excess of five off-street parking spaces, such increase shall require complete compliance of the provisions of this subchapter for the entire use.

(C) Off-street parking for residential uses shall be located as follows.

(1) Parking as required herein shall be located on the same lot as the principal use, except when specifically permitted to be located elsewhere. Driveways shall be considered as providing off-street parking spaces for all single-family dwellings.

(2) Cooperative provisions for off-street parking may be made by contract between owners of adjacent property with dissimilar hours of operation, and any such contract shall be filed with the Zoning

Administrator. The parking area provided on any one lot may be reduced to not less than 50% of the parking spaces required for the use occupying such lot. The total number of spaces provided under such a cooperative parking scheme shall not be less than the total number of spaces required for each use.

(3) (a) Remote parking may be used to meet up to 50% of off-street parking requirements for permanent uses; provided, the property is owned by the same owner of the property hosting the principal use, is under long-term lease equal to or greater than five years, or is allowed by a recorded access easement specifying the parking arrangement.

(b) Remote parking may also be used to meet all of the off-street parking requirements for temporary uses, approved in accordance with § 156.131(A) of this chapter; provided, written permission of the remote parking property owner, if other than the temporary use applicant, is provided.

(c) Remote parking shall be located on property within 400 feet of the property hosting permanent or temporary uses. Remote parking for permanent uses shall be connected by adequate pedestrian facilities, as determined by the Zoning Administrator. Remote parking for temporary uses

[Text resumes on page 325.]

shall be connected by adequate pedestrian facilities or by managed pedestrian assistance provisions, as determined by the Zoning Administrator.

(d) Any change in legal availability of the remote parking property or facilities shall require the owner of the permanent use or applicant for a temporary use permit to provide replacement parking through other allowable means or be considered in violation of this section and/or § 156.131(A) of this chapter, if applicable. Remote parking shall be assessed after any cooperative parking allowances have been assigned. Remote parking may not constitute more than 50% of the remainder of parking spaces required after assignment of cooperative parking.

(4) No parking area shall be located over an active septic tank field.

(5) In residential areas, the temporary parking or storage of manufactured homes shall be prohibited. The parking of operable boats, motorcycles, all-terrain vehicles and trailers not required to be registered or have certificate of title by state law shall not be regulated by this chapter.

(6) For properties with more than 15% impervious surface coverage and located within platted subdivisions which include platted streets, recreational vehicles may be stored, if inoperable, or parked, if operable, in those subdivisions. Such storage or parking shall be consistent with the following regulations and with any more restrictive subdivision covenants. Inoperable motor vehicles, recreational vehicles, boats, motorcycles, all-terrain vehicles and trailers required to be registered may be stored outdoors, and shall be screened from public right-of-way (ROW) by year-around fencing or plant materials or combination thereof, providing at least 75% opaque coverage from the public right-of-way, and shall also satisfy any more restrictive subdivision covenants that may exist.

(7) The parking of commercial vehicles shall be subject to § 156.125 of this chapter.

(8) Motor vehicles, recreational vehicles, boats, motorcycles, all-terrain vehicles, agricultural equipment and trailers, required to be registered or otherwise, that are deteriorated beyond the definition of inoperable, as defined in § 156.005 of this chapter, shall be considered junk and subject to the regulation of junk yards, as defined in § 156.005 of this chapter.

(9) Parking areas, including driveways, for residential uses shall be allowed to be extended into side yard setbacks. Parking areas, including driveways, for residential uses shall be allowed to be extended into rear yard setbacks provided they are screened from neighboring properties by year-around fencing or plant materials or combination thereof, providing at least 75% opaque coverage.

(D) Design standards for non-residential parking areas are as follows.

(1) All parking areas, including required driveways for access to public roads and off-street loading areas, if any, shall be paved. Paving requirements for parking areas for places of worship, village owned and operated government uses and indoor or outdoor public or private recreation facilities are to be determined via the CUP process. Non-conforming use parking areas in compliance with this section shall be clearly delineated with a gravel bed and maintained border.

(2) A parking space shall be not less than nine feet in width, nor less than 18 feet in length. All parking stalls shall be clearly marked and such markings shall be maintained so as to be easily seen.

(3) Parking bays shall be designed in accordance with accepted standard practice for parking at various angles, with aisles being of such widths as to permit the entering and leaving of a parking space with ease and safety.

(4) (a) Access to all required parking areas shall be by roads adequate in width to accommodate two-way traffic, except for parking areas designed and clearly marked for one-way traffic. Except by way of approved driveways, access from or egress to a public road from a parking area shall be expressly prohibited.

(b) Adequate provisions shall be made to ensure compliance by the use of fences, walls, wheel stops or landscaping, or a combination of those devices.

(5) Wheel stops, curbs or other devices shall be provided in such locations as to prevent any vehicle from encroaching either on a public right-of-way or an adjacent property.

(6) Parking areas shall be so designed as to retain existing trees and other plant life. Where no trees or other plant life exists, adequate landscaping shall be provided, both within the parking area and on the external boundaries of such area.

(7) Screening shall be provided as required in § 156.126 of this chapter.

(8) Signs in compliance with §§ 156.155 through 156.165 of this chapter shall be allowed.

(9) Parking spaces for handicapped individual's usage shall be provided at all parking areas intended for public use. Said spaces shall be provided in sufficient number, size and accessories (i.e., access walks between spaces, ramps at curbs, signage and the like) to satisfy all applicable federal standards for handicapped parking.

(10) Parking space minimum requirements are provided in division (H) below for uses permitted by right and/or allowable under the CUP process. Any use classification not listed in said division (H) below shall be addressed as an integral part of the CUP process that must take place to consider such additional conditional use(s).

(11) Parking areas, including parking aisles, for non-residential uses shall not be extended into the required rear yard and side yard setbacks. Parking lot access, excluding parking aisles, may be located within a side or rear yard setback. However, such access shall be located perpendicular to the setback line to the greatest extent possible.

(12) Storage of inoperable vehicles, boats, motorcycles, all-terrain vehicles, trailers requiring registration and equipment for non-residential uses shall be in conformance with the screening requirements of § 156.126 of this chapter.

(E) Permits for driveway locations on state maintained roads shall be obtained from the state’s Department of Transportation.

(F) Storm drainage facilities shall be required and shall be so designed as to adequately protect any public right-of-way or adjacent property.

(G) The requirements for off-street parking spaces shall be computed as follows.

(1) When units of measurement determining the number of required parking spaces result in a fractional space, any fraction of one-half or more shall require one parking space.

(2) Where seats consist of pews or benches, each 20 inches in length of pew or a bench shall be considered as one seat.

(3) For the purpose of computing parking requirements based on the number of employees, the owners or managers shall also be considered employees.

(4) Lots containing more than one principal use shall provide parking in the amount equal to the total of the requirements for each use.

(H) The following chart indicates the minimum off-street parking requirements:

| <i>Use Classification</i> | <i>Parking Space Requirement</i> |
|--|--|
| Automobile service stations and/or convenience store | 1 spaces for each gas dispenser located remote from the pumping station(s), plus 1 space for each employee during the shift of greatest employment, plus 3 spaces for each automobile service bay, if provided |
| Cemeteries | 1 space per employee during the shift of greatest employment, plus parking on private internal roads |
| Churches, synagogues and other places of worship | 1 space per employee during the shift with greatest employment, plus 1 space for each 4 seats in the sanctuary |
| Community recreation centers; country clubs; fraternal, social organizations | 1 space for the largest number of employees per shift and recreational, plus 2 spaces for each 3 memberships, plus 1 space for each vehicle used in the operation |
| Customary home occupations | 1 space, plus the number of spaces required for the residential use |
| Day care centers | 1 space per employee during the shift of greatest employment, plus 1 space per 5 children |
| Dwellings | 2 spaces for each single-family dwelling unit |
| Elementary and secondary schools | 3 spaces for each room used for instruction or administration, or 1 space for each 4 seats used for assembly purposes, whichever is greater |
| Family care homes | 1 space for each 3 employees, plus 1 space for each resident |

Wesley Chapel - Land Usage

| <i>Use Classification</i> | <i>Parking Space Requirement</i> |
|--|--|
| Fire station | 1 space per employee during the shift of greatest employment |
| Funeral chapels | 1 space for each 3 seats in the chapel or chapels, plus 2 spaces for each 3 employees, plus 1 space for each vehicle used in the operation. In addition, off-street parking area shall be provided, on the site, to accommodate a minimum of 30 passenger vehicles for the purpose of forming a funeral procession |
| Golf courses | 1 space for the largest number of employees per shift, plus 4 spaces per hole, plus 1 space for each vehicle used in the operation (excluding golf carts) |
| Horse stables and riding academies, commercial | 1 space for each employee during the shift of greatest employment, plus 2 spaces for each 3 stalls, plus 1 space for each vehicle used in the operation |
| Learning centers | 1 space per employee during the shift with greatest employment, plus 1 space for each 150 square feet of gross floor area |
| Libraries | 1 space for each 200 square feet of gross floor area, plus 1 space for each employee and/or volunteer staff person during the shift of greatest employment, plus 1 space for each vehicle (including bookmobiles) used in the operation |
| Manufactured goods, Class 1 | 1 space per employee during the shift of greatest employment, plus 1 space per vehicle used in the operation. In order to accommodate visitors, 1 additional space for each 20 required employee spaces shall also be required |
| Medical and dental offices | 4 spaces for each doctor practicing at the clinic, plus 1 space for each employee |
| Offices, professional, business or public (excluding medical and dental offices and clinics) | 1 space per employee during the shift with greatest employment, plus 1 space for each 300 square feet of gross floor area |
| Post office, city hall | 1 space per employee during the shift of greatest employment, plus 1 space for each 200 square feet of gross floor area, plus 1 space for each vehicle used in the operation |
| Public or private assembly, and/or recreation | 1 space for each 4 fixed/designated seats provided for patron use, including portable seats, benches and amphitheater seating, plus 1 space for each 100 square feet designated for assembly, but not containing fixed/designated seats, or 1 space for every 1,000 square feet designated for active recreation, or 1 space for every 2,000 square feet designated for passive recreation, whichever is greater. Fifty percent of parking required for passive recreation shall be allowed to be unpaved. Parking shall be provided for all areas/uses intended to be in permanent use and not required, through a conditional use permit, to apply for a temporary use permit in accordance with § 156.131 of this chapter. Parking for permanent public or private assembly and/or recreation uses, particularly those with a number of differing uses, |

| <i>Use Classification</i> | <i>Parking Space Requirement</i> |
|--|---|
| | such as playground and walking trails, may also be determined by a parking study in order to establish a different set of off-street parking and loading standards. Upon receiving a conditional use permit for a qualifying use, the applicant may submit a site-specific parking and loading study which shall include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates, as approved by the Zoning Administrator, and should include other reliable data collected from similar uses |
| Restaurants | 1 space for each employee during the shift of greatest employment, plus 1 space for each 3 seats |
| Retail business and consumer service outlets (except as noted) | 1 space for each 200 square feet of gross floor area |
| Shopping centers | 1 space per 200 square feet of gross floor area excluding uses whose off-street parking requirements are listed separately |
| Telephone exchange building, electric or gas substation, water tower or tank, pump station | 1 space for each employee during the shift of greatest employment and/or 1 space for each vehicle used in the operation |

(Ord. passed 8-21-2000, § 9.1; Ord. passed 3-31-2003; Ord. passed 7-11-2011; Ord. 2012-10, passed 6-11-2012; Ord. passed 8-21-2012; Ord. passed 4-7-2014; Ord. 2016-05, passed 5-9-2016)

§ 156.176 OFF-STREET LOADING.

(A) *Purpose.* In order to assure a proper and uniform development of off-street loading areas and to relieve traffic congestion in streets and parking lots, the off-street loading requirements set forth in division (B) below shall apply. These requirements will apply to new buildings and uses and to additions to existing buildings and uses.

(B) *Minimum off-street loading space requirements.*

(1) An off-street loading berth shall have a minimum area of 12 feet by 25 and 14 feet overhead clearance.

(2) The following minimum requirement shall apply for commercial uses: one loading space for uses having gross floor areas of 10,000 through 29,999 square feet; two for uses having gross floor areas of 30,000 square feet or more.

(3) For structure containing less than 10,000 square feet of gross floor area, off-street loading can be provided using off-street parking spaces.

(C) *Design standards for loading areas.*

(1) The paving design standards in § 156.175(E) of this chapter for parking areas shall also apply to all loading areas.

(2) Access to all required loading areas shall be by roads adequate in width to accommodate two-way traffic, except for loading areas designed and clearly marked for one-way traffic.

(3) Upon entering an off-street loading area, such maneuvering as is necessary to gain access to a loading space shall be within the confines of the loading facility property only.

(4) Wheel stops, curbs or other devices shall be provided in such locations as to prevent any vehicle from encroaching either on a public right-of-way or an adjacent property.

(5) Screening shall be provided as required in § 156.126 of this chapter.

(6) Signs shall be permitted in compliance with §§ 156.155 through 156.165 of this chapter.

(7) Illumination shall be permitted in compliance with § 156.125 of this chapter.

(8) Storm drainage facilities shall be required and shall be so designed as to adequately protect any public right-of-way or adjacent property.

(9) Permits for driveway locations on state maintained roads shall be obtained from the state's Department of Transportation.

(Ord. passed 8-21-2000, § 9.2) Penalty, see § 156.999

TELECOMMUNICATION TOWERS

§ 156.190 INTENTION.

(A) In recognition of the Telecommunications Act of 1996, it is the intent of the village to allow communication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety and welfare of the citizens of village and its extraterritorial jurisdiction.

(B) Wireless towers may be considered undesirable with other types of uses, most notably residential, therefore, special regulations are necessary to ensure that any adverse affects to existing and future development are mitigated.

(Ord. passed 8-21-2000, § 13.1)

§ 156.191 TOWERS AND FACILITIES.

(A) If it is determined that telecommunications providers cannot provide an adequate service level from co-locating on an existing telecommunications tower, locate on an existing electric utility transmission tower or similar structure or locate camouflaged antennas within an existing structure; then telecommunications towers and facilities may be allowed as a conditional use in residential or business zoning districts, and as a use by right in the Light Industrial Zoning District, subject to the following regulations in addition to applicable requirements set forth elsewhere in this chapter.

(B) (1) In all residential and business zoning districts, telecommunication towers shall be of a monopole design and construction. All monopoles must be designed to telescope or collapse inward unless documentation can be provided to prove that such design is not feasible.

(2) In the Light Industrial Zoning District, either monopole or lattice construction steel structure tower designs are acceptable. Monopoles must be designed to telescope or collapse inward; lattice towers must be designed to collapse inward upon itself.

(C) The maximum allowable height of a tower is 199.9 feet in residential and business zoning districts. The maximum height of a tower located in the Light Industrial Zoning District is 300 feet. No variance to the height may be granted unless the applicant can prove the maximum height will not allow for the provision of adequate service levels (i.e., cannot provide a reasonable level of service in the area). The height of the tower or structure shall be the vertical distance measured from the mean elevation of the finished grade at the front of the structure to the highest point of the structure.

(D) Stealth tower locations are encouraged. Telecommunications towers, which can locate in or on an existing structure or which can be camouflaged to resemble a tree (not a flagpole) are encouraged. Towers, which are located in a stand of trees, rather than in an open field, are preferred.

(E) (1) Towers are prohibited on the top of buildings or structures in all residential and business zoning districts. In the Light Industrial Zoning District, towers may be permitted on roofs or walls with an approved conditional use permit after submittal of a report by a qualified and licensed professional engineer indicating the existing structure's suitability to accept the antenna and the proposed method of affixing the antennas to the structure. Complete details of all fixtures and couplings and the precise point of attachment shall be indicated.

(2) (a) Towers on roofs may be allowed when the tower height:

1. Does not exceed more than 30% of the height of the building; or
2. Is no more than 50 feet above the top of the building/structure, whichever is less.

(b) Towers on roofs or walls shall be screened, constructed and/or colored to match the structure to which they are attached.

(F) All towers shall be a minimum of 300 feet from the nearest residential dwelling unit.

(G) Telecommunications towers not requiring FAA painting/marketing shall have either a galvanized finish or be painted a non-contrasting light blue, gray or black finish.

(H) Telecommunications providers who are leasing a portion of a lot for the proposed telecommunication tower shall obtain written a signed certification from the property owner that no future development or subdivisions or leased portions will be made within the established setbacks of the telecommunication tower until such tower is removed from the site (i.e., is abandoned and removed by the provider). This requirement does not apply to telecommunication providers seeking to co-locate on an existing tower.

(I) Towers shall not restrict or interfere with air traffic or air travel to and from any existing or proposed public or private airport. All proposed towers shall comply with the Federal Aviation Administration (FAA) standards. Notwithstanding the foregoing, towers proposed within the Village of Wesley Chapel Airport Overlay (AO) District, as shown on the village's Airport Overlay Zoning Map, shall also meet all regulations contained in §§ 156.040 through 156.048 of this chapter. (Ord. passed 8-21-2000, § 13.2; Ord. passed 10-11-2004)

§ 156.192 CO-LOCATION.

The village encourages providers to co-locate facilities in an effort to reduce the number of telecommunication towers within the village's jurisdiction. All such towers over 150 feet in height must be designed and equipped with the technological and structural capability to accommodate multiple wireless communication carriers. The village requires providers to negotiate in good faith with other providers to lease space at a reasonable cost, and to publicize the fact that space is available on a lease basis as part of the conditional use process. Evidence provided to the contrary during application consideration may be cause for rejection of a CUP for such an installation. (Ord. passed 8-21-2000, § 13.3)

§ 156.193 REQUIREMENTS FOR LOTS WITH EXISTING USE.

Where a telecommunication tower is proposed to be located on a lot with an existing principal use, the tower shall be located in the rear yard only. An access road at least 12 feet wide shall be maintained by the property owner and/or the applicant from a public street to the tower for use by service and emergency vehicles. A minimum separation of 20 feet is required between accessory structures. (Ord. passed 8-21-2000, § 13.4) Penalty, see § 156.999

§ 156.194 COMPLIANCE WITH FEDERAL RADIO FREQUENCY EMISSIONS STANDARDS.

(A) The village recognizes that a tower cannot be prohibited nor can a conditional use permit be denied on the basis of environmental or health concerns relating to radio emissions if the tower complies with the federal radio frequency emission standards.

(B) The village requires that the applicant provide documentation proving conclusively that the proposed tower complies with the federal radio frequency emission standards.

(C) In the absence of such documentation, the Council may solicit technical advice at the sole expense of the applicant.

(Ord. passed 8-21-2000, § 13.5)

§ 156.195 ACCESSORY STRUCTURES.

All accessory structures on the ground which contain switching equipment or other related equipment should be architecturally compatible with surrounding buildings and land uses in the zoning district, or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the maximum extent practical. This generally requires structures with pitched roofs, made of local construction materials, such as brick, wood, stone or vinyl lapped siding.

(Ord. passed 8-21-2000, § 13.6) Penalty, see § 156.999

§ 156.196 SCREENING AND FENCING.

(A) Screening is required in the form of shrubs and/or trees along all sides of the perimeter of the telecommunication tower site as per § 156.126 of this chapter. In addition, a minimum eight-foot high fence is required immediately around the tower and any equipment buildings, with the screening to be located outside the fenced area. Telecommunications towers are considered to be attractive nuisances. Therefore, barbed wire or similar materials shall be placed along the top of the fence, and access to the tower area and equipment buildings shall be via locked gates. The Zoning Administrator may waive fencing requirements for stealth towers if the fencing serves no other useful purpose.

(B) It will be the responsibility of the provider to keep all landscaping material free from disease and properly maintained in order to fulfill the purpose for which it was established. The owners of the property, and any tenant on the property where screening is required, shall be jointly and severally responsible for the maintenance of all screen materials. Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy, and to keep planting areas neat in appearance. Any vegetation that constitutes part of the screening shall be replaced in the event it dies. Applicants that propose building new towers with co-location opportunities shall plan

the fence and screening to accommodate future providers on the site such that the fence and screening surrounds all future structures as well as the tower.

(Ord. passed 8-21-2000, § 13.7) Penalty, see § 156.999

§ 156.197 SETBACK REQUIREMENTS.

(A) Minimum setback requirements for free-standing towers located within the residential and business zoning districts shall be one foot for every one foot of actual tower height (i.e., a 199.9 foot setback on all sides), or the documented collapse zone, whichever is greater. Minimum setbacks for freestanding towers located in the Light Industrial Zoning District shall be determined by the underlying zoning district. These setback requirements are applicable on all sides of the property including any side along the road right-of-way and for all leased areas of a parcel. The purpose of these setback requirements is to prevent personal injury or property damage due to ice-fall materials and/or debris from tower failure or collapse. For the purpose of establishing setbacks, the measurements shall be from the edge of the concrete base on which the tower is located.

(B) For towers proposed to be located on leased property, the leased area shall fully include the setbacks or collapse zones, whichever is greater.

(C) Minimum setback requirements may be reduced by the Village Council to allow the integration of a tower into an existing or proposed structure such as a church steeple, electric transmission power line support device or similar structure.

(Ord. passed 8-21-2000, § 13.8) Penalty, see § 156.999

§ 156.198 LIGHTING.

Towers having a height of 199.9 feet or less shall not contain lights or light fixtures for general illumination purposes at a height exceeding 15 feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or accessory uses to reduce glare onto adjacent properties.

(Ord. passed 8-21-2000, § 13.9) Penalty, see § 156.999

§ 156.199 ABANDONMENT OF TOWERS.

Towers and related facilities must be removed by the applicant and/or property owner if abandoned (no longer used for its original intent) for a period greater than 90 consecutive days. Such removal and site restoration must be completed within six months of the first day the tower was abandoned. It shall be the responsibility of the applicant and/or property owner to notify the village when the tower has been abandoned for greater than 90 days. Failure to satisfy either requirement may constitute cause for assessing penalties in accordance with § 156.999 of this chapter.

(Ord. passed 8-21-2000, § 13.10) Penalty, see § 156.999

§ 156.200 INCREASING TOWER HEIGHT.

(A) Any planned increase in tower height to an existing telecommunication tower, constitutes the necessity for a new conditional use permit, requiring the provider to apply for a conditional use permit from the Village Council.

(B) Normal maintenance and repair of the structure can be completed without the issuance of a new permit at the discretion of the Zoning Administrator.

(C) Co-location of additional providers to an existing, approved tower requires review and approval by the Zoning Administrator, unless an increase in tower height, new or revised lighting patterns or painting of tower is proposed, which would require the provider to apply for a new conditional use permit, which includes review and approval by the Planning Board and the Village Council.
(Ord. passed 8-21-2000, § 13.11) Penalty, see § 156.999

§ 156.201 SIGNS.

(A) Free-standing signs are prohibited.

(B) Wall signs shall be limited to:

(1) Identification signage allowed on equipment structures or fences surrounding the telecommunication tower/structure; provided, it does not exceed nine square feet in total area; and

(2) “No trespassing” signs, “Danger - High Voltage” signs and other similar warning signs shall be installed to discourage trespassing by unauthorized persons.

(C) Warning signs shall be installed and/or mounted on the perimeter fence, and/or on the tower at its base, as appropriate. Any proposed signage must be specifically addressed in the conditional use permit application.

(Ord. passed 8-21-2000, § 13.12) Penalty, see § 156.999

§ 156.202 PROOF OF INSURANCE.

(A) The provider must show proof of adequate insurance coverage for any potential damage caused by or to the tower prior to the issuance of a conditional use permit.

(B) Once approved, documentation of adequate insurance must be provided to the Zoning Administrator every 12 months.

(C) Failure to do so may constitute cause for assessing penalties in accordance with § 156.999 of this chapter.

(Ord. passed 8-21-2000, § 13.13) Penalty, see § 156.999

§ 156.203 STORAGE OF EQUIPMENT.

Outdoor storage of equipment or other related items is prohibited.

(Ord. passed 8-21-2000, § 13.14) Penalty, see § 156.999

§ 156.204 CONDITIONAL USE PERMIT APPLICATION AND APPROVAL.

(A) All applications for a conditional use permit for a telecommunication tower must include the following information in addition to any and all other applicable information otherwise required in this chapter:

(1) Identification of intended provider(s);

(2) A statement specifying the general capacity of the tower in terms of the number of additional providers, or co-locaters, it is designed to accommodate;

(3) Documentation by a professional engineer registered by the state that the tower has sufficient structural integrity to accommodate at least three users;

(4) A statement from the provider indicating intent to allow shared use of the tower and how others will be accommodated;

(5) Evidence that the property owners of residentially zoned property within 300 feet of the site in addition to adjacent property owners, have been notified by the applicant within 14 calendar days of the public hearing. Notification of property owners is also required for amendments to any existing CUP. Notifications shall include the date, time and place of the public hearing;

(6) Documentation that the telecommunication tower complies with the federal radio frequency emission standards;

(7) A site plan(s) drawn to scale, identifying the site boundary, tower(s), existing and proposed structures, including equipment buildings, access, fencing area, fall radius and landscape screening, detailing the type of landscaping, amount of plantings and location. A site plan is not needed for providers who are seeking an amendment to a conditional use permit for coloration on an existing tower, or when a new equipment building is to be located within the existing fenced area;

(8) Documentation of collapse area;

(9) Documentation of monopole tower or lattice tower collapse area, as applicable; and

(10) Expert testimony and related documentation that demonstrates to the satisfaction of the Village Council that the provider has explored all means for stealth tower locations and co-locations opportunities, as applicable. Evidence may consist of the following:

(a) Existing or approved telecommunications towers with available co-location space are not located within the search area;

(b) Existing or approved towers or structures are not of sufficient height to meet the provider's specifications;

(c) Existing or approved towers or structures do not have sufficient structural strength to support the applicant's proposed antennas;

(d) The provider's proposed antenna would cause objectionable radio frequency interference with existing or planned antennas on an existing or planned tower (i.e., the spacing requirement between antennas cannot be met);

(e) Existing or approved towers lack co-location space; and

(f) If it is determined that an existing tower does not have the structural strength or integrity to support additional antennas and associated equipment, then the proposed provider shall provide documentation that the existing tower can not be structurally strengthened to accommodate an additional user.

(B) Approval of conditional use permits for any proposed telecommunication towers may be denied on the basis of negative influence on property values or on aesthetic concerns provided that there is evidence to prove the impact on adjacent property owners will be significant. As per the Telecommunications Act of 1996, the Village Council must clearly state the reasoning and available evidence of the impact on adjacent property values if the request is denied on this basis.

(C) The following factors may be used to evaluate a tower for aesthetic reasons:

(1) To protect the view in scenic areas, unique natural features, scenic roadways and the like;

(2) To prevent the concentration of towers in one specific area; and

(3) The height, design, placement and other characteristics of the tower can be modified to have a less intrusive visual impact on the village.

(D) The following requirements apply to the approval process for all telecommunications tower conditional use permit requests (new or amended).

(1) Decisions by the Village Council to approve or deny a conditional use permit for a telecommunications tower must be in writing to the applicant, along with detailed reasoning for the approval/denial, as per federal law.

(2) The applicant and the public are requested to submit their comments and arguments in writing prior to addressing the Village Council at the public hearing, as suggested by federal law.

(3) The decision of the Village Council must be based upon substantial evidence, which must be recorded in the minutes, as per federal law.

(4) In determining if a telecommunications tower should be approved/denied, the Planning Board and Village Council may take into account the tower's harmony with the surrounding area and its compatibility with adjacent properties. The aesthetic effects of the tower, as well as any mitigating factors concerning the aesthetics may be used to evaluate the conditional use permit. In reaching a decision, the Village Council may request the height, design, screening, placement or other characteristics of the tower be modified to produce a more harmonious situation.

(Ord. passed 8-21-2000, § 13.15) Penalty, see § 156.999

DRAINAGE, STORM WATER MANAGEMENT AND WETLAND PROTECTION

§ 156.215 DEFINITIONS.

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

DETENTION. The temporary storage of storm water runoff in a storm water management practice with the goals of controlling peak discharge rates and discharge volume.

DETENTION FACILITY. A detention basin or alternative structure designed for the purpose of temporary storage of surface runoff and gradual release of stored water at controlled rates.

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

DRAINAGE EASEMENT. An area of land dedicated for the purpose of conveying storm water runoff by means of an open channel or drainage pipe.

FLOOD or **FLOODING**. A general and temporary condition of partial or complete inundation of normally dry land areas from the unusual and rapid accumulation or runoff of surface waters from any source.

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

FREEBOARD. The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The base flood elevation (BFE), plus the **FREEBOARD**, establishes the regulatory flood protection elevation. **FREEBOARD** also means the vertical distance between the water level and the top of a structure, such as a dam, that impounds or restrains water.

IMPERVIOUS COVER. Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, gravel surfaces, sidewalks, driveways and the like).

PERMANENT POND. A human-made or natural storm water impoundment which retains a permanent pool of water.

RUNOFF. The excess precipitation from rain or snowfall, which flows over the ground.

STORM WATER MANAGEMENT. The use of structural or non-structural practices that are designed to reduce storm water runoff discharge volumes and/or peak flow discharge rates.

STORM WATER MANAGEMENT FACILITY. Any measure or practice that controls or reduces storm water runoff volumes and/or peak flow discharge rates.

(Ord. passed 8-21-2000, § 14.1; Ord. passed 10-13-2008; Ord. passed 9-14-2009; Ord. passed 2-13-2017)

§ 156.216 LANDS TO WHICH SUBCHAPTER APPLIES.

This subchapter shall apply to all lands within the jurisdiction, including extraterritorial jurisdictions (ETJs) of the village. In addition, regulations governing floodplain management are included in Ch. 154 of this code of ordinances.

(Ord. passed 8-21-2000, § 14.2; Ord. passed 10-13-2008; Ord. passed 9-14-2009; Ord. passed 2-13-2017)

§ 156.217 NATURAL DRAINAGE SYSTEM UTILIZED TO EXTENT FEASIBLE.

(A) To the extent practicable, all development shall conform to the natural contours of the land and natural and pre-existing human-made drainage ways shall remain undisturbed. Determination of

practicability will be made by the Village Engineer during Storm Water Management Concept Plan review, as required by § 156.220 of this chapter.

(B) To the extent practicable, lot boundaries shall be made to coincide with natural and preexisting human-made drainage ways within subdivisions to eliminate the creation of lots that could only be built upon by altering such drainage ways. Determination of practicability will be made by the Village Engineer during Storm Water Management Concept Plan review, as required by § 156.220 of this chapter.

(Ord. passed 8-21-2000, § 14.3; Ord. passed 10-13-2008; Ord. passed 9-14-2009; Ord. passed 2-13-2017) Penalty, see § 156.999

§ 156.218 DEVELOPMENTS MUST DRAIN PROPERLY.

(A) All developments shall be provided with a drainage system that is adequate to prevent the undue retention of surface water on the development site.

(B) Surface water shall not be regarded as unduly retained if:

(1) The retention results from a technique, practice or device deliberately installed as part of an approved sedimentation or storm water runoff control plan; or

(2) The retention is not substantially different in location or degree than that experienced by the development site in its pre-development stage, unless such retention presents a danger to health or safety.

(C) No development may be constructed or maintained so that such development unreasonably impedes the natural flow of water from high adjacent properties across such development, thereby unreasonably causing substantial damage to such higher adjacent properties.

(D) No surface water may be channeled or directed into a sanitary sewer.

(E) Whenever practicable, the drainage system of a development shall coordinate with and connect to the drainage systems or drainage ways on surrounding properties or adjacent streets. Determination of practicability will be made by the Village Engineer during Storm Water Management Concept Plan review, as required by § 156.220 of this chapter.

(F) Private roads and access ways within non-subdivided developments shall utilize curb and gutter and storm drains to provide adequate drainage if the grade of such roads or access ways is too steep to provide drainage in another manner, or if other sufficient reasons exist to require such construction.

(G) Construction specifications for drainage swales, curbs and gutters, and storm drains shall be reviewed and approved by the Zoning Administrator with the assistance of the village's Engineering Consultant, as necessary. All systems shall be designed in accordance with the *Storm Water Manual*.

Design of such systems shall be certified by a registered North Carolina professional engineer as an integral part of any permit application.

(Ord. passed 8-21-2000, § 14.4; Ord. passed 10-13-2008; Ord. passed 9-14-2009; Ord. 2017-01, passed 2-13-2017; Res. 2017-03, passed 2-13-2017) Penalty, see § 156.999

§ 156.219 GENERAL STANDARDS FOR STORM WATER MANAGEMENT.

(A) All developments shall be constructed and maintained so that properties are not unreasonably burdened with storm water runoff as a result of such developments.

(B) More specifically:

(1) (a) All non-residential development and all major residential subdivisions creating more than 2,500 square feet of impervious area shall provide storm water detention to control the peak storm water runoff from the one-, two-, ten- and 25-year, 24-hour storm events to pre-development rates, and shall safely pass the 50- and 100-year, 24-hour storm with minimum one-half feet of freeboard. Storm water volume control shall be provided for the one-year, 24-hour storm. Runoff volume drawdown time shall be a minimum of 24 hours, but not more than 120 hours. Storm water management facilities shall not be located within ten feet of any property lines, as measured from the top or toe of slope of the pond embankment. Pipe, riprap apron or any other features associated with the storm water management facility outlet shall not be located within 20 feet of any property lines, inclusive of any required buffers. Design of facilities shall be consistent with the *Storm Water Manual*, except as stated herein.

(b) The village hereby adopts and incorporates herein the provisions contained in the Charlotte-Mecklenburg *Storm Water Design Manual*, as amended (hereinafter referenced as the “*Storm Water Manual*”), with the following exceptions.

1. Deviations may be necessary to accommodate soil types found in the county and the village. Soil classifications shall be obtained from the “Soil Survey of Union County, North Carolina”, a publication prepared by the USDA Natural Resources Conservation Service.

2. Rainfall data for storm water management design calculations shall be the most current available and shall be obtained from the National Oceanic and Atmospheric (NOAA) Precipitation Frequency Data Server website.

3. When discrepancies are found between the *Storm Water Manual* and the village zoning or subdivision regulations, the stricter regulation shall apply.

4. The Town Engineer, on a case-by-case basis, may consider minor deviations from the *Storm Water Manual*.

(2) Minor residential subdivisions and individual single-family residences are exempt from requirements of this section.

(3) Additions to existing non-residential structures that are over 50% of the existing floor area square footage will be subject to the requirements of this section.

(4) All developments with existing impervious area that add impervious area (structural or non-structural), including demolition of existing structures for purposes of redevelopment, shall provide detention only for the newly added impervious area, in compliance with this section.

(5) Where storm water management facilities are proposed to be constructed, the owners, heirs, assigns or successors of the land, including any homeowners' associations, will agree to perpetual maintenance of the facility and will release and hold harmless the village from any liability, claims, demands, attorney's fees, and costs or judgments arising from said facility. At a minimum, the facility will be inspected by a registered North Carolina professional engineer on a yearly basis. The annual inspection report will be submitted by the owner to the Zoning Administrator for purposes of compliance. See § 156.221 of this chapter for further requirements.

(6) An evaluation of any dam that is part of a storm water management facility shall be made by the designer, in accordance with the Dam Safety Law of 1967, G.S. §§ 143-215.23 through 143-215.37, and submitted to the dam safety engineer for review, if required.

(7) No certificate of occupancy or release of sureties will be issued for any development until:

(a) A professional land surveyor has surveyed the as-built storm drainage and storm water management facilities;

(b) Any required revised calculations based upon as-built conditions have been submitted and approved by the village. Said revised calculations must be sealed by a registered North Carolina professional engineer;

(c) The facility has been stabilized consistent with the state's Department of Environment and Natural Resources standards and specifications; and

(d) The as-built survey, final calculations and facility have been reviewed and inspected, and final approval has been given by the village.

(8) When a storm water management facility serves more than one property, a permanent drainage easement that encompasses the facility shall be shown on a recorded plat, along with an access easement from the facility to a public right-of-way. This easement will be described by metes and bounds.

(9) There will be a note placed on the recorded plat that clearly describes who is responsible for maintenance of the storm water management facilities, pipes and/or channels located within the permanent facility.

(Ord. passed 8-21-2000, § 14.5; Ord. passed 10-13-2008; Ord. passed 9-14-2009; Res. 2017-03, passed 2-13-2017; Ord. 2017-01, passed 2-13-2017) Penalty, see § 156.999

§ 156.220 REQUIREMENTS FOR STORM WATER MANAGEMENT PLAN APPROVAL.*(A) Storm water management plan required for all developments.*

(1) No conditional use, vested rights, rezoning or zoning application for non-residential uses or preliminary subdivision plat for residential or non-residential uses will be considered as complete unless it includes a storm water management plan detailing in concept how runoff resulting from the development will be controlled or managed. However, preliminary informational meetings with the village's Zoning Administrator or the Planning Board may be allowed without a complete Storm Water Management Concept Plan.

(2) No zoning permit or final plat approval shall be issued until a satisfactory final storm water management plan, shall have undergone a review and been approved by the village after determining that the plan is consistent with the requirements of this chapter.

(3) All costs for the village's engineering review of the storm water management concept plans and final plans shall be borne by the owner/developer.

(B) Storm water management concept plan requirements. A storm water management concept plan shall be required with all permit applications and will include sufficient information (e.g., maps, hydrologic calculations and the like) to evaluate the environmental characteristics of the project site, the potential impacts of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing storm water generated at the project site. The intent of this conceptual planning process is to determine the type of storm water management measures necessary for the proposed project, and ensure adequate planning for management of storm water runoff from future development. To accomplish this goal, the information provided shall meet the submittal requirements outlined in the Concept Plan Submittal Checklist, division (E) below and the design requirements found in the *Storm Water Design Manual* and shall be included in the concept plan. The storm water concept plan shall be signed by a licensed professional engineer. The storm water management plan(s) shall be referred for comment to all other interested agencies, and any comments made must be addressed in a final storm water management plan.

(C) Final storm water management plan requirements. After review of the storm water management concept plan and modifications to that plan as deemed necessary by the village, a final storm water management plan must be submitted for approval. The final storm water management plan, in addition to the information from the concept plan, shall include all of the information required in the Final Storm Water Management Plan Checklist, division (F) below and the design requirements found in the *Storm Water Design Manual*, and shall be signed by a licensed professional engineer.

(D) Performance bond/security.

(1) The village may, at its discretion, require the submittal of a performance security or bond prior to issuance of a permit in order to ensure that the storm water management facilities are installed by the permit holder as required by the approved storm water management plan. The amount of the

installation performance security shall be the total estimated construction cost of the storm water management practices approved under the permit, plus 50%. The performance security shall contain forfeiture provisions for failure to complete work specified in the storm water management plan.

(2) The installation performance security shall be released in full only upon submission of “as-built plans” and written certification by a registered North Carolina professional engineer that the detention facility has been installed in accordance with the approved plan and other applicable provisions of this chapter.

(E) *Storm water management concept plan checklist.* The following items are required to be submitted for review of the Storm Water Management Concept Plan:

(1) Applicant and project information:

(a) Name, legal address, telephone number and email address, common address and name of development;

(b) Type of development original tax parcel data total area of project (acres);

(c) Total disturbed area (acres); and

(d) A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development.

(2) Vicinity map. Topographic base map of the site at one inch equals 200 feet which extends beyond the limits of the proposed development to include all offsite areas draining to the site, and which indicates existing surface water drainage including streams, ponds, culverts, ditches and wetlands; current land use including all existing structures; locations of utilities, roads and easements; and significant natural and human-made features;

(3) Existing and proposed mapping and plans (recommended scale of one inch equals 50 feet) which illustrate at a minimum:

(a) Boundary/property lines of the property being developed as well as the location of property lines which intersect the boundaries of the property being subdivided or developed; and

(b) Zoning information for the proposed project site and adjacent properties.

(4) Existing and proposed topography (minimum of two-foot contours recommended):

(a) Perennial and intermittent streams;

- (b) Mapping of predominant soils from USDA soil surveys;
 - (c) Boundaries of existing predominant vegetation and proposed limits of clearing and grading;
 - (d) Location and boundaries of resource protection areas such as wetlands, lakes, ponds and other setbacks (e.g., stream buffers, drinking water well setbacks, septic setbacks);
 - (e) Location of existing and proposed roads, buildings and other structures;
 - (f) Existing and proposed utilities (e.g., water, sewer, gas, electric) and easements. Proposed land use with tabulation of the percentage of surface area to be adapted to various uses;
 - (g) Location of existing and proposed conveyance systems such as grass channels, swales and storm drains;
 - (h) Flow paths;
 - (i) Location of floodplain/flood way limits and relationship of site to upstream and downstream properties and drainages;
 - (j) Preliminary location and dimensions of proposed channel modifications, such as bridge or culvert crossings; and
 - (k) Preliminary location, size, discharge points and limits of disturbance of proposed structural storm water management practices.
- (5) Sufficient engineering analysis to show that the proposed storm water management measures are capable of controlling runoff from the site in compliance with the village's Storm Water Management Ordinance and the specifications of the *Storm Water Design Manual*. More specifically, a preliminary hydrologic and hydraulic analysis including:
- (a) Existing condition analysis for runoff rates, volumes and velocities presented showing methodologies used and supporting calculations;
 - (b) Proposed condition analysis for runoff rates, volumes and velocities showing the methodologies used and supporting calculations;
 - (c) Preliminary analysis of potential downstream impact/effects of project;
 - (d) Preliminary selection and rationale for structural storm water management practices;
- and

(e) Preliminary sizing calculations for structural storm water management practices including, contributing drainage area, storage and outlet configuration.

(6) Preliminary landscaping plans for structural storm water management practices and any site reforestation or revegetation;

(7) Preliminary water quality treatment plan that at a minimum meets the requirements outlined by NCDENR Division of Water Quality;

(8) A note acknowledging responsibility for the operation and maintenance of any storm water management facility, and that such obligation shall be disclosed to future owners;

(9) If required, a concept plan to consider the maximum development potential of the site under existing zoning, regardless of whether the applicant presently intends to develop the site to its maximum potential; and

(10) Areas that may require retaining walls due to topographic constraints shall be identified on the plan. Provide proposed material and estimated height of the walls. Retaining wall materials shall have a decorative texture and an integrally tinted earth tone color.

(F) *Storm water management final plan checklist.* The following items are required to be submitted for review of the Storm Water Management Concept Plan:

(1) Applicant information:

(a) Name, legal address, telephone number and email address;

(b) Common address and legal description of site; and

(c) Signature and stamp of registered engineer/surveyor and design/owner certification and firm license number.

(2) Vicinity map;

(3) Existing and proposed mapping and plans (recommended scale of one inch equals 50 feet or greater detail) which illustrate at a minimum:

(a) Existing and proposed topography (minimum of two-foot contours recommended);

(b) Perennial and intermittent streams;

(c) Mapping of predominant soils from USDA soil surveys as well as location of any site-specific borehole investigations that may have been performed;

- (d) Boundaries of existing predominant vegetation and proposed limits of clearing;
 - (e) Location and boundaries of resource protection areas such as wetlands, lakes, ponds and other setbacks (e.g., stream buffers, drinking water well setbacks, septic setbacks);
 - (f) Location of existing and proposed roads, buildings and other structures;
 - (g) Location of existing and proposed utilities (e.g., water, sewer, gas, electric) and easements;
 - (h) Proposed land use with tabulation of the percentage of surface area to be adapted to various uses;
 - (i) Location of existing and proposed conveyance systems such as grass channels, swales and storm drains;
 - (j) Drainage delineation map to each storm water management practice flow paths;
 - (k) Location of floodplain/floodway limits and relationship of site to upstream and downstream properties and drainages;
 - (l) Location and dimensions of proposed channel modifications, such as bridge or culvert crossings; and
 - (m) Location, size, maintenance access and limits of disturbance of proposed structural storm water management practices.
- (4) Representative cross-section and profile drawings and details of structural storm water management practices and conveyances (i.e., storm drains, open channels, swales and the like) which include:
- (a) Existing and proposed structural elevations (e.g., invert of pipes, manholes and the like);
 - (b) Design water surface elevations;
 - (c) Structural details of outlet structures, embankments, spillways, stilling basins, grade control structures, conveyance channels and the like; and
 - (d) Logs of borehole investigations that may have been performed along with supporting geotechnical report.

(5) Hydrologic and hydraulic analysis for all structural components of storm water system (e.g., storm drains, open channels, swales, management practices and the like) for applicable design storms including:

(a) Existing condition analysis for time of concentrations, runoff rates, volumes, velocities and water surface elevations showing methodologies used and supporting calculations;

(b) Proposed condition analysis for time of concentrations, runoff rates, volumes, velocities, water surface elevations and routing showing the methodologies used and supporting calculations;

(c) Final sizing calculations for structural storm water management practices including, contributing drainage area, storage, and outlet configuration. Provide calculation summary on the village's Detention Worksheet found in the *Storm Water Design Manual*;

(d) Stage-discharge or outlet rating curves and inflow and outflow hydrographs for storage facilities (e.g., storm water ponds and wetlands);

(e) Final analysis of potential downstream impact/effects of project, where necessary; and

(f) Dam breach analysis, where necessary.

(6) Soils information. If a storm water management control measure depends on the hydrologic properties of soils (e.g., infiltration basins). The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measure;

(7) Final landscaping plans for structural storm water management practices and any site reforestation or revegetation;

(8) Structural calculations, where necessary;

(9) Applicable construction specifications;

(10) Erosion and sediment control plan that at a minimum meets the requirements of the local erosion and sediment control guidelines;

(11) Water quality treatment plan that at a minimum meets the requirements outlined by NCDENR Division of Water Quality;

(12) Sequence of construction;

- (13) Maintenance plan which will include:
- (a) Name, address and phone number of responsible parties for maintenance;
 - (b) Description of annual maintenance tasks;
 - (c) Description of applicable easements;
 - (d) Description of funding source;
 - (e) Minimum vegetative cover requirements;
 - (f) Access and safety issues; and
 - (g) Testing and disposal of sediments that will likely be necessary.
- (14) Evidence of acquisition of all applicable local and non-local permits; and
- (15) Evidence of acquisition of all necessary legal agreements (e.g., easements, inspection and maintenance agreements, covenants, land trusts).
(Ord. passed 8-21-2000, § 14.6; Ord. passed 10-13-2008; Ord. passed 9-14-2009; Ord. passed 2-13-2017; Ord. 2017-05, passed 10-12-2017) Penalty, see § 156.999

§ 156.221 MAINTENANCE OF STORM WATER FACILITIES.

(A) *General standards for maintenance.* The owner, its successors and assigns, including any homeowners' association, of a storm water management facility installed pursuant to this chapter shall maintain and operate the practice so as to preserve and continue its function in controlling storm water runoff at the degree or amount of function for which the facility was designed.

(B) *Operation and maintenance agreement.*

(1) All storm water management facilities shall have an enforceable operation and maintenance agreement to ensure the system functions as designed. This agreement will include any and all maintenance easements required to access and inspect the facilities, and to perform routine maintenance as necessary to ensure proper functioning of the facility. In addition, a legally binding covenant specifying the parties responsible for the proper maintenance of all facilities shall be secured prior to issuance of any permits for land disturbance activities. Refer to the Subdivision Declaration Form for the operation and maintenance of storm water management facilities.

(2) At the time that as-built plans are provided to the Zoning Administrator as described in § 156.220(D) of this chapter and prior to final approval of a project for compliance with this chapter, but in all cases prior to placing the storm water management facility in service, the applicant or owner

of the site must execute an operation and maintenance agreement that shall be binding on all current and subsequent owners of the site, including any homeowners' associations, portions of the site and lots or parcels served by the facility.

(3) Failure to execute an operation and maintenance agreement within the time frame specified by the Zoning Administrator may result in assessment of penalties as specified in § 156.222 of this chapter. Until the transference of all property, sites or lots served by the storm water management facility, the original owner or applicant shall have primary responsibility for carrying out the provisions of the maintenance agreement. At the discretion of the Zoning Administrator, certificates of occupancy may be withheld pending receipt of an operation and maintenance agreement. The operation and maintenance agreement shall require the owner or owners to maintain, repair and, if necessary, reconstruct the facility, and shall state the terms, conditions, and schedule of maintenance for the facility. In addition, it shall grant to the village a right of entry in the event that the Zoning Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair or reconstruct the facility; however, in no case shall the right of entry, of itself, confer an obligation on the village to assume responsibility for the facility. The operation and maintenance agreement shall be referenced on the final plat and shall be recorded by the applicant or owner with the county's Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be given to the Zoning Administrator within 14 days following its recordation.

(C) *Maintenance easement.* Prior to approval of the Final Storm Water Management Plan, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land, including any homeowners' associations, served by the storm water management facility. The agreement shall provide for access to the facility at reasonable times for periodic inspection by the village, or its contractor or agent, and for regular or special assessments of property owners to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this chapter. The easement agreement shall be recorded in the county's Register of Deeds land records.

(D) *Inspections.* The person responsible for maintenance of any storm water management facility installed pursuant to this subchapter shall submit to the Zoning Administrator an annual inspection report from a qualified registered North Carolina professional engineer performing services only in their area of competence. The inspection report shall contain all of the following:

- (1) The name and address of the land owner;
- (2) The recorded book and page number of the lot of each storm water management facility;
- (3) A statement that an inspection was made of all storm water management facilities;
- (4) The date the inspection was made;

(5) A statement that all inspected storm water facilities are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this chapter; and

(6) The original signature and seal of the engineer. An original inspection report shall be provided to the Zoning Administrator beginning one year from the date of as-built certification and each year thereafter on or before the anniversary date of the as-built certification.

(E) *Records of installation and maintenance activities.* The owner, its successors and assigns, including any homeowners' association, of each storm water management facility shall keep records of inspections, maintenance and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Zoning Administrator.

(F) *Nuisance.* The owner, its successors and assigns, including any homeowners' association, of each storm water management facility, shall maintain it so as not to create a nuisance condition.

(G) *Security.* Prior to placing the storm water management facilities ("SMFs") in service, the village may, at its discretion, require the submittal of a maintenance security in order to ensure that the SMFs are maintained by the developer or owner as required by the approved storm water management plan, the operation and maintenance agreement between the village and the developer or owner and this subchapter. The amount of the maintenance security shall be one-third of the total costs of construction of the SMFs, as shown by a construction cost estimate provided by developer's engineer and approved by the village. The security shall contain forfeiture provisions for failure to perform the principal's maintenance obligations. If, at any time, any portion of the security is forfeited, the village may, at its discretion, require the responsible persons (as defined in § 156.222 of this chapter) to provide new security equal to one-third of the then current cost of replacement of the SMFs, as shown by a construction cost estimate provided by the responsible person's engineer and approved by the village. All fees for engineering services incurred by the village in order to approve the amount of the security shall be reimbursed by the developer.

(Ord. passed 8-21-2000, § 14.7; Ord. passed 10-13-2008; Ord. passed 9-14-2009; Ord. 2017-01, passed 1-9-2017)

§ 156.222 VIOLATIONS AND ENFORCEMENT.

(A) General.

(1) The provisions of this subchapter shall be enforced by the Zoning Administrator, his or her designee or any authorized agent of the village. Whenever this section refers to the Zoning Administrator, it includes his or her designee as well as any authorized agent of the village.

(2) Any failure to comply with an applicable requirement, prohibition, standard or limitation imposed by this subchapter, or the terms or conditions of any permit or other development or

redevelopment approval or authorization granted pursuant to this chapter, is unlawful and shall constitute a violation of this subchapter.

(3) Any person who erects, constructs, reconstructs, alters (whether actively or passively) or fails to erect, construct, reconstruct, alter, repair or maintain any structure, detention facility, storm water management facility, practice or condition in violation of this chapter, as well as any person who participates in, assists, directs, creates, causes or maintains a condition that results in or constitutes a violation of this chapter, or fails to take appropriate action, so that a violation of this chapter results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs shall be subject to the remedies, penalties and/or enforcement actions in accordance with this section. For the purposes of this subchapter, **RESPONSIBLE PERSON(S)** shall include, but not be limited to:

(a) *Person maintaining condition resulting in or constituting violation.* Any person who participates in, assists, directs, creates, causes or maintains a condition that constitutes a violation of this chapter, or fails to take appropriate action, so that a violation of this chapter results or persists; or

(b) *Responsibility for land or use of land.* The owner of the land on which the violation occurs, any tenant or occupant of the property, any person who is responsible for storm water management practices pursuant to a private agreement or public document, and any person, who has control over, or responsibility for, the use, development or redevelopment of the property.

(B) *Inspections and investigations.*

(1) Inspections by the village may be conducted or established on any reasonable basis, including, but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, ground water and material or water in detention facility; and evaluating the condition of detention facility.

(2) The Zoning Administrator shall have the authority to conduct such investigation as he or she may reasonably deem necessary to carry out his or her duties as prescribed in this subchapter, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting. No person shall refuse entry or access to the Zoning Administrator who requests entry for purpose of inspection or investigation, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with the Zoning Administrator while in the process of carrying out official duties. The Zoning Administrator shall also have the power to require written statements, or the filing of reports under oath as part of an investigation.

(3) When the Zoning Administrator finds that any building, structure or land is in violation of this subchapter, he or she shall notify in writing the responsible person/entity. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation occurred or is occurring, order the necessary action to abate the violation, and give a deadline

for correcting the violation. The notice shall, if required, specify a date by which the responsible person/entity must comply with this subchapter, and advise that the responsible person/entity is subject to remedies and/or penalties or that failure to correct the violation within the time specified will subject the responsible person/entity to remedies and/or penalties as described in § 156.999 of this chapter. (Ord. passed 8-21-2000, § 14.8; Ord. passed 10-13-2008; Ord. passed 9-14-2009; Ord. passed 2-13-2017)

§ 156.223 WETLANDS.

(A) All developments shall fully comply with the state and federal requirements of §§ 401 and 404 of the Clean Water Act, 33 U.S.C. §§ 1341 and 1344, related to the protection of wetlands and surface waters. All developments shall obtain any required permits from the United States Army Corps of Engineers, pursuant to § 404 before submitting a permit application.

(B) When required, water quality certifications must also be obtained from the state's Department of Environment and Natural Resources, Division of Water Quality, pursuant to § 401 of the Clean Water Act before submitting a permit application.

(C) Persons desiring to develop property shall be solely responsible for providing the village with information and/or documentation demonstrating conclusively the proposed development will not unreasonably infringe, alter or harm wetlands. If, in the sole opinion of the Zoning Administrator, any impact to wetlands may occur as a result of a proposed development, the applicant may be required to provide additional documentation that all applicable federal and state requirements have been met for any specified areas in question before the permit application is further processed.

(Ord. passed 8-21-2000, § 14.9; Ord. passed 10-13-2008; Ord. passed 9-14-2009; Ord. passed 2-13-2017) Penalty, see § 156.999

§ 156.224 POND EVALUATION.

(A) All preliminary plats that include proposed permanent ponds, and all preliminary plats that include storm water runoff to any existing permanent ponds, shall be subject to the review of the state dam safety engineer. An evaluation of the pond dam shall be made by the designer, in accordance with the Dam Safety Law of 1967, G.S. §§ 143-215.23 through 143-215.37, and submitted to the dam safety engineer for review.

(B) (1) All proposed ponds shall be designed and constructed to safely withstand the 100-year storm with a minimum of one foot of freeboard at the dam.

(2) Design calculations shall include the assumption of future buildout of the drainage basin.

(C) All existing ponds shall be evaluated and rehabilitated as necessary to ensure that the ponds will safely withstand the 50-year storm with a minimum of one-half foot of freeboard at the dam. Design

calculations shall include the assumption of future buildout of the drainage basin.

(Ord. passed 8-21-2000, § 14.10; Ord. passed 10-13-2008; Ord. passed 9-14-2009; Ord. passed 2-13-2017) Penalty, see § 156.999

ADMINISTRATION

§ 156.235 ZONING ADMINISTRATOR.

(A) The Village Council shall appoint an administrative official(s) to enforce and administer this chapter.

(B) (1) It shall be the duty of the Zoning Administrator to interpret and enforce this chapter under the general supervision of the Mayor.

(2) All decisions of the Zoning Administrator shall be in writing.

(3) Routine zoning permits may be issued by such other persons as appointed by the Village Council in the absence of the Zoning Administrator; provided that, no investigative action is required to interpret the provisions of this chapter.

(Ord. passed 8-21-2000, § 10.1)

§ 156.236 ZONING INSPECTION; DUTIES SPECIFIED.

If the Zoning Administrator shall find that any of the provisions of this chapter are being violated, he or she shall notify, in writing, the person responsible for such violations, indicating the nature of the violation and order that necessary actions be taken to correct the deficiency. He or she shall order discontinuance of illegal uses of land, buildings or structures, removal of illegal buildings or structures, or of illegal additions, alterations or structural changes, discontinuance of any illegal work being done and shall take any other action authorized by this chapter to ensure its compliance or to prevent violation of its provisions. The Zoning Administrator shall keep and maintain records of all matters which require his or her action.

(Ord. passed 8-21-2000, § 10.2)

§ 156.237 ZONING PERMIT.

(A) *General.* It shall be unlawful to commence the excavation or filling of any lot for the construction of a building or structure, or to begin the construction of any building or structure or part thereof, or to erect or replace a sign (except as permitted in § 156.159 of this chapter) or to move, alter or add to any structure, or to begin the development of land, until the Zoning Administrator has issued

a zoning permit for such work. No zoning permit shall be issued, except in conformity with the provisions of this chapter unless after written order from the Board of Adjustment. No zoning permit shall be issued should the applicant(s) property be associated with any outstanding zoning violations.

(B) *Application for zoning permit.* A zoning permit as well as a foundation permit is required for all residential, institutional, commercial and light industrial uses, excepting those uses delineated in § 156.242 of this chapter. A zoning permit application form can be obtained from the Village Clerk, and shall contain the following information:

(1) *Non-residential uses.*

(a) Two copies of a scaled dimensional plan drawn by and certified as true and correct by a surveyor or engineer registered with the state which shows:

1. The exact shape, dimensions and location of the lot to be built upon;
2. The exact shape, dimensions, use and location of existing structures on the lot;
3. The exact shape, dimensions and location of the structure(s) to be developed upon the lot;
4. All setback lines on the lot once the proposed construction is completed;
5. Proposed parking facilities (if required);
6. Landscaping and buffering plans (if required); and
7. Any other information that may be needed to ensure that the proposed construction is in compliance with all applicable provisions of this chapter.

(b) In the event the subject property is a corner lot, as defined in § 156.005 of this chapter, the applicant shall designate which intersecting street shall be the front of the lot.

(2) *Single-family residences.*

(a) Two copies of a scaled dimensional survey drawn by and certified as true and correct by a surveyor or engineer registered with the state which show:

1. The exact shape, dimensions and location of the lot to be built upon; and
2. The exact shape, dimensions, use and location of existing structures on the lot.

(b) Upon this survey shall be sketched the following:

1. The exact shape, dimensions and area of proposed location of the proposed structure(s) to be placed upon the lot;
2. All setback lines on the lot once the proposed residence is completed, affirmatively showing that the area of proposed location will meet all setback requirements; and
3. Any other information that may be needed to ensure that the proposed structure is in compliance with all applicable provisions of this chapter.

(c) Provided, however, that, if the tract that the residence is being constructed contains ten acres or more, then the person applying for the zoning permit shall not be required to provide a drawing certified by an engineer or surveyor, but shall be allowed to present a non-certified sketch in lieu thereof; provided that, the residence is not to be located closer than 200 feet from any of the boundaries of the tract. In the event that the proposed residence is to be located closer than 200 feet from any of the boundaries of the tract, then the applicant shall submit a certified survey with respect to those boundaries only. The sketch submitted shall in all other respects comply with the requirements set forth above. In the event the subject property is a corner lot, as defined in § 156.005 of this chapter, the applicant shall designate which intersecting street shall be the front of the lot.

(3) *Accessory buildings on residential property and buildings for agricultural purposes.* Two copies of a sketch which show:

- (a) The shape, dimensions and location of the lot to be built upon;
- (b) The shape, dimensions, use and location of existing structures on the lot;
- (c) The shape, dimensions, use and location of the accessory or agricultural structure(s) to be placed upon the lot;
- (d) All setback lines on the lot once the proposed accessory building is completed; and
- (e) Any other information that may be needed to ensure that the proposed accessory structure(s) will be in compliance with all applicable provisions of this chapter.

(4) *Fee.* A fee for processing each application for zoning permits as well as foundation permits shall be charged by the village in accordance with an adopted fee schedule. Each structure requires a separate zoning permit and foundation permit application and, therefore, a separate fee. The fee shall be as established from time to time by resolution of the Village Council, and must be paid by check, or cash at the time an application for a zoning permit is received by the village. If processing of a zoning permit application necessitates plan review by the Village Engineer, all costs incurred associated with said review shall be reimbursed by the applicant.

(5) *Issuance.* If the proposed excavation, filling or construction as set forth in the application are in conformity with the provisions of this chapter and the processing fee has been paid, the Zoning Administrator shall issue a zoning permit and return one copy of the approved plan with his or her signature to the applicant. The Zoning Administrator shall mark the plan as approved, indicate the date of approval and attest to the same by his or her signature. The second copy of the plan, similarly marked, and a copy of the zoning permit shall be retained by the Zoning Administrator.

(C) *Approval process.* The Zoning Administrator shall promptly review each zoning permit application, examine the accompanying plans and specifications, and may inspect the premises upon which the proposed structure is to be built. A permit shall be issued or denied within 30 calendar days of receipt of application. Failure to issue a zoning permit shall constitute denial. After obtaining a zoning permit from the Zoning Administrator, the applicant shall apply to the county for a building permit. All building inspections in the village shall continue to be done by the county. Zoning permits for conditional uses shall be issued only after the final plans have been approved by the Village Council, as set forth in § 156.082 of this chapter.

(D) *Conditions for approval.* Zoning permits issued on the basis of dimensional plans approved by the Zoning Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications. Use, arrangement or construction that differs from that authorized shall be deemed a violation of this chapter and shall be subject to any and all sanctions as indicated under § 156.999 of this chapter.

(E) *Denial of permit.* If a zoning permit is denied, the Zoning Administrator shall specify the reasons for denial in writing and transmit the written denial within five days of his or her decision to the applicant by first class mail.

(F) *Expiration of zoning permit.* Any zoning permit shall become invalid unless the work authorized by it shall have been substantially begun within a period of six months of the date of issue of the permit. Once a zoning permit has expired, construction work on the lot(s) in question cannot proceed until a new zoning permit is issued.

(G) *Right of appeal.* The applicant may appeal the Zoning Administrator's denial of any such zoning permit to the Board of Adjustments. Appeal of denial of a zoning permit must be made in writing and must specify the grounds thereof and said appeal must be received by the Zoning Administrator and the Village Clerk within ten days of receipt by the applicant of the written notice of denial of a zoning permit application, or the passage of the time period specified in division (B) above which constitutes denial has occurred.

(H) *Records.* The Zoning Administrator shall maintain a record of all zoning permits on file and copies shall be made available upon written request by interested parties. A fee for these copies may be assessed.

(I) *Foundation permit and survey.* A foundation permit application form can be obtained from the Village Clerk and shall contain the following information.

(1) Upon construction of a building foundation (subsequent to the issuance of a zoning permit for that building or structure) the applicant shall be required to submit a foundation permit application and a copy of the foundation survey of that building or structure to the Zoning Administrator in order to ensure that the foundation is in accordance with all applicable setback and bulk requirements. The foundation survey, in scaled form and certified as being accurate by a surveyor or engineer registered with the state, shall show the location of the foundation on the lot and all applicable front, side and rear yard setbacks. Failure to submit this foundation survey may result in the denial of a certificate of compliance.

(2) (a) Accessory buildings other than detached garages or pool houses on residential property as well as buildings for agricultural purposes shall be required to submit two copies of a non-certified foundation sketch which show:

1. The shape, dimensions and location of the lot as built upon;
2. The shape, dimensions, use and location of existing structures on the lot;
3. The shape, dimensions, use and location of the accessory or agricultural structure(s) foundations as placed upon the lot;
4. All setback lines on the lot once the proposed accessory building is completed; and
5. Any other information that may be needed to ensure that the proposed accessory structure(s) will be in compliance with all applicable provisions of this chapter.

(b) Detached garages, in-ground pools and pool house accessory structures shall be required to submit a certified foundation survey if they are to be located within five feet of any setback line.

(3) Should the Zoning Administrator find that such foundation survey is not in compliance with the applicable provisions of this chapter; the applicant shall be so advised in writing within five days of receipt of such foundation survey. If corrective action is not taken by the applicant within five days of receipt of such notice, the Zoning Administrator may revoke the zoning permit; in which instance he or she shall so notify the county office that issued the building permit, and a violation of this chapter shall be deemed to exist, and any and all sanctions under § 156.999 of this chapter shall apply.

(4) The requirements for foundation survey submittal shall be waived if the structure is a single-family dwelling or manufactured home located on a tract of at least ten acres in area and the proposed dwelling is also at least 200 feet from the boundaries of the tract.

(Ord. passed 8-21-2000, § 10.3; Ord. passed 3-31-2001; Ord. passed 10-11-2004; Ord. passed 10-18-2011; Ord. passed 9-18-2012) Penalty, see § 156.999

§ 156.238 CERTIFICATE OF COMPLIANCE.

No building hereafter erected or structurally altered or changed in use shall be used or occupied until a certificate of compliance has been issued by the Zoning Administrator. Such certificate of compliance shall state that the building or portion of a building is in compliance with the provisions of this chapter, with the information stated on the zoning permit, and with the Foundation Survey.

(A) *Application for a certificate of compliance.* A certificate of compliance may only be issued after a fee has been paid in accordance with an adopted fee schedule and written application for same has been made in which the applicant must state that the building or structure erected or altered or changed complies in all respects with this chapter, and an approved zoning permit, and Foundation Permit and Survey (if applicable) has been submitted and approved. The requirements for a compliance certificate shall be waived for accessory buildings.

(B) *Review of certificate of compliance.* The Zoning Administrator shall take all necessary action to assure applicant's compliance with this chapter, or the zoning permit and/or the foundation survey (if any) prior to issuing a certificate of compliance and shall make written findings that applicant has complied with the zoning permit. After making such findings, the Zoning Administrator may issue a certificate of compliance. If review of an application for a certificate of compliance necessitates review by the Village Engineer, all costs incurred associated with said review shall be reimbursed by the applicant.

(C) *Denial of certificate of compliance.* In the event the Zoning Administrator finds that the applicant has not complied with this chapter, or the zoning permit previously issued, and/or the foundation survey (if any) previously submitted and accepted, he or she shall notify the applicant of same stating in writing the reasons therefor, by first class mail.

(D) *Appeal.* The applicant may appeal the Zoning Administrator's denial of any such certificate of compliance to the Board of Adjustment. Appeal of denial of a certificate of compliance must be made in duplicate written form, state the grounds thereof, and be received by the Zoning Administrator and the Village Clerk within ten days of applicant's receipt of written notice of denial of said certificate of compliance.

(Ord. passed 8-21-2000, § 10.6; Ord. passed 10-11-2004; Ord. passed 9-18-2012) Penalty, see § 156.999

§ 156.239 FEES.

A fee for processing each application for a zoning, foundation or compliance certificate permit shall be charged by the village and shall be in accordance with an adopted fee schedule. In the event of construction of multiple structures on a single lot at the same time, each structure is required to be permitted, approved and charged a separate fee for zoning, foundation and compliance permit applications. The fee shall be as established from time to time by resolution of the Village Council, and must be paid by check or cash at the time an application for a zoning permit is received by the village.

If processing of a zoning permit application necessitates plan review by the Village Engineer, all costs incurred associated with said review shall be reimbursed by the applicant.

(Ord. passed 8-21-2000, § 10.6; Ord. passed 10-11-2004; Ord. passed 9-18-2012) Penalty, see § 156.999

§ 156.240 REMEDIES.

Violation of this subchapter shall subject the violator to those enforcement and penalty provisions as set out in § 156.999 of this chapter.

(Ord. passed 8-21-2000, § 10.6; Ord. passed 10-11-2004; Ord. passed 9-18-2012) Penalty, see § 156.999

§ 156.241 COMPLAINTS REGARDING VIOLATIONS.

(A) Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint with the Zoning Administrator.

(B) Such complaint shall state fully the precise nature of the violation and shall be filed with the Zoning Administrator.

(C) The Zoning Administrator shall record properly such complaint, immediately investigate and take action as provided by this chapter.

(Ord. passed 8-21-2000, § 10.7; Ord. passed 9-18-2012)

§ 156.242 ZONING PERMIT NOT REQUIRED.

Notwithstanding any other provisions of this chapter, no zoning permit is necessary for the following uses:

(A) Street construction or repair;

(B) Electric power, telephone, telegraph, cable television, gas, water and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way;

(C) Specific signs exempted in § 156.160 of this chapter; and

(D) Mailboxes, newspaper boxes, freestanding or retaining walls less than 30 inches in height, fences, birdhouses, flag poles, pump covers and doghouses under 15 square feet of gross floor area.

(Ord. passed 8-21-2000, § 10.8; Ord. passed 9-9-2002; Ord. passed 9-18-2012; Ord. 2017-05, passed 10-12-2017)

§ 156.243 EARLY VESTING OF DEVELOPMENT RIGHTS UPON APPROVAL OF SITE PLAN.

Pursuant to G.S. § 160A-385.1 and notwithstanding any other provision of this chapter or amendment thereto, a landowner may apply for a site specific development plan approval which shall entitle said landowner to develop property in accordance with said site specific development plan. The procedure for establishing a vested right is set forth in this section.

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

LANDOWNER. Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The **LANDOWNER** may allow a person holding a valid option to purchase to act as his or her agent or representative for purposes of submitting a proposed site specific development plan in the manner allowed by this chapter.

PROPERTY. All real property subject to zoning regulations and restrictions and within the jurisdiction of the village.

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.

(B) *Submission of a site specific development plan.*

(1) To apply for a vested right, a landowner shall first submit to the Zoning Administrator a site specific development plan. The plan shall be submitted in completed form (i.e., contain all information as herein prescribed) with a fee (in accordance with a fee schedule adopted by the Village Council) and an accompanying application which, at a minimum, shall contain the following information: all information listed in § 156.082 of this chapter.

(2) Once the Zoning Administrator deems the site specific development plan to be complete, he or she shall schedule it to be reviewed by the Planning Board at its next regularly scheduled meeting. The Zoning Administrator must receive the complete plan at least ten days prior to the Planning Board's next meeting date to place it on its agenda.

(C) *Planning Board review and recommendation.* Once the site specific development plan is forwarded, the Planning Board shall review the application and make a recommendation to the Village Council. The Planning Board shall have up to 45 days from their first meeting date to make such recommendation. Alternatively, the Planning Board may request additional information of the applicant in order to aid it in its review of the application. Such request may include additional data in addition to that listed in § 156.082 of this chapter as deemed necessary. If no recommendation is made during said 45-day period (except as herein provided), the application shall forthwith be forwarded to the Village Council without a recommendation.

(D) *Public hearing.*

(1) Upon receipt of the plan and the recommendation from the Planning Board, if one is forthcoming, the Village Council shall schedule a public hearing.

(2) Notice of the Village Council public hearing shall be given as follows.

(a) A notice shall be published in a newspaper having general circulation in the village once a week, for two successive weeks, the first notice to be published not less than ten days, nor more than 25 days, prior to the date established for the hearing.

(b) At least one notice shall be conspicuously posted on the subject property at least ten days prior to the public hearing. Such notice shall state the nature of the public hearing and the date, time and location at which it is to be held. The notice shall be removed only after the public hearing has been held.

(c) A notice of the public hearing shall be sent by first class mail by the Zoning Administrator to all contiguous property owners at least ten days prior to the public hearing.

(E) *Village Council action.*

(1) Once the public hearing has been conducted and concluded, the Village Council shall determine whether or not to approve the site-specific development plan and accord the vested right. In approving an application for vested rights of a site specific development plan, the Village Council may attach fair and reasonable ad hoc conditions which tend to support the requiring finding of facts as herein listed.

(2) The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Village Council. The Village Council may not require the landowner to waive his or her vested right as a condition of developmental approval.

(3) The Village Council may approve the site specific development plan if it has evaluated an application and determined that:

(a) The use meets all required specifications of this chapter;

(b) The use will not materially endanger the public health, safety or general welfare, and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site specific development plan by the Village Council shall be adequate to fully satisfy this requirement; and

(c) If the site specific development plan is vested for a period of greater than two years, this decision shall be based on one or more factors so described in division (F) below.

(4) The burden of proof of producing evidence to support these findings (and to overcome any challenges that approval of the site plan would be contrary to one or more of these findings) shall rest entirely with the landowner.

(5) If the use or development for which the site specific development plan is submitted is a conditional use, the Village Council may approve the site specific development plan contemporaneously with the approval of the conditional use permit. In no case, however, may a site specific development plan be approved for a use or development which requires the issuance of a conditional use permit without the conditional use permit having first been issued.

(F) *Effect of approval.*

(1) The effect of the Village Council approving a site-specific development plan shall be to vest such site plan for a period of two years from the date of approval. If the landowner requests, however, the Village Council may approve a vesting period not to exceed five years from the date of approval. The vesting of any site plan beyond a two-year period may only be authorized by the Village Council where it is found that due to:

(a) The sizing and phasing of the development;

(b) The level of investment;

(c) The need for the development;

(d) Economic cycles; or

(e) Market conditions, building permits for all phases of the development cannot be secured within two years.

(2) A vested right shall confer upon the landowner the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan as provided for in this section. Failure to abide by the terms and conditions placed upon such approval will result in the forfeiture of the vested right previously accorded.

(3) A vested right, once established as herein provided, shall preclude any zoning action by the village which would change, alter, impair, prevent, diminish or otherwise delay the development or use of the property as set forth in the approved site specific development, except under the following conditions:

(a) The affected landowner provides written consent to the village of his or her desire to terminate the vested right;

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(b) The village determines, after having advertised and held a public hearing, that natural or human-made hazards exist on or in the immediate vicinity of the property which pose a serious threat to the public health, safety and welfare if the project were to proceed as indicated in the site specific development plan;

(c) Compensation is made by the village to the landowner for all costs, expenses, and other losses incurred including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal and any other consultant's fees incurred after approval together with interest thereon at the legal rate until paid;

(d) The village determines, after having advertised and held a public hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the village of the site specific development plan; or

(e) Upon the enactment or promulgation of a state or federal law or regulations which precludes development as contemplated in the site-specific development plan. In such case, the village may (after having advertised and conducted a public hearing) modify the affected provisions upon a finding that the change in state or federal law has a fundamental effect on the plan.

(4) Any public hearing called for in divisions (F)(4) and (F)(5) herein shall be conducted by the Village Council and advertised as indicated in division (D) above. Recommendation by the Planning Board and final action by the Village Council shall be undertaken provided in divisions (C) and (E) above, respectively.

(5) Once a vested right is granted to a particular site-specific development plan, nothing in this section shall preclude the village from conducting subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval; provided, such reviews and approvals are not inconsistent with the original approval.

(G) *Revocation or expiration of a vested right.* The vested right resulting from the approval of a site-specific development plan may be revoked by the Village Council as provided for in division (F) above. In addition, a revocation may occur if the Village Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of this chapter. The vested right shall otherwise expire at the end of the approval period established by the Village Council.

(H) *Revocation of building permit.* A building permit issued by the county's Building Inspector pursuant to G.S. § 160A-417 may not be revoked because of the passage of time regarding a piece of property for which a site-specific development plan has been approved and the vested right period has not otherwise expired.

(Ord. passed 8-21-2000, § 10.9; Ord. passed 9-18-2012)

§ 156.244 AMENDMENTS.*(A) Amendments to text and map.*

(1) (a) Zoning regulations and restrictions and district boundaries may from time to time be amended, supplemented, changed, modified or repealed in the following manner.

1. The Planning Board, the Council of the village or any person may institute an application for a change in the text of this chapter.

2. The Planning Board, Council of the village or owner(s) of the subject property and/or their authorized agent, may petition for a zoning map change.

(b) Note: Additional requirements for submittal of petitions for a Conditional Zoning (CD) District are found in division (C) below.

(2) (a) The application for a rezoning of a particular piece(s) of property and change in the zoning map shall be made in duplicate on a form provided by the Zoning Administrator. All expenses incurred by the village for the processing of a rezoning application shall be paid by the applicant prior to the issuance of a final notification of action taken.

(b) Each non-contiguous parcel of land for which rezoning is requested shall be considered as a separate application, and a fee (as established by the Village Council) shall accompany each such application. There shall be no fee for applications initiated by any village governmental agency. For the purpose of this section, land traversed and/or adjoining property shall be construed to mean and include property on the opposite side of any street, stream, railroad, road or highway from the property sought to be rezoned. In the event the owner of the property, sought to be rezoned owns additional property or properties adjoining the property in question said additional property shall also be construed to mean and be included in the property of the owner sought to be rezoned. Said additional property may or may not be included in the rezoning application, at applicant's discretion.

(3) The application for a change in the text shall be made in duplicate, on a form provided by the Zoning Administrator and the filing fee and the disposition of associated expenses shall be the same as stated in division (A)(2) above. The application shall contain a reference to the specific section, division, paragraph or item proposed to be changed, as well as exact wording of the proposed change and the reasons therefor.

(4) (a) Once a completed application has been received by the Zoning Administrator, he or she shall promptly review it and, if complete, he or she shall refer the application to the Planning Board for consideration at its next regularly scheduled meeting occurring at least 15 days after the application has been filed.

(b) The Planning Board shall have 30 calendar days from the date of referral by the Zoning Administrator to review the application and to submit its recommendation to the Village Council. If a

recommendation is not made during said time period, the application shall be forwarded to the Village Council without a recommendation.

(c) A Planning Board member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable impact on the member.

(5) (a) The Planning Board may make one of the following recommendations to the Village Council. If the petition is for rezoning and change in the zoning map, then the Planning Board may make one of the following recommendations:

1. Grant the rezoning as requested;
2. Grant the rezoning with a reduction of the area requested;
3. Grant the rezoning to a more restricted district or districts (for the purposes of this subchapter, the zoning districts of this chapter are listed in the following order from most restrictive to least restrictive): R-80, R-60, R-40, R-A40, R-20, R-A20, B-1, B-2, L-I; or
4. Deny the application.

(b) Upon making a recommendation, the Planning Board shall advise and comment on whether the proposed amendment 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 Village Council 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 governing board.

(6) If the petition is to amend the text of this chapter, the Planning Board may make one of the following recommendations to the Village Council:

- (a) Adopt the proposed amendment as written;
- (b) Adopt the amendment as revised by the Planning Board; or
- (c) Reject the amendment.

(7) The Zoning Administrator shall transmit any decision of the Planning Board to the Village Council. Once action has been taken by the Planning Board or the time for action by the Planning Board has expired, the Village Council shall, no later than their next regular scheduled meeting, consider

calling for a public hearing on a requested conditional use permit, zoning change or other matter requiring a public hearing under this chapter. Notification of the public hearing shall be made in the following manner.

(a) A notice shall be published in at least one newspaper having general circulation in the area once a week for two successive weeks, the first notice to be published not less than ten calendar days nor more than 25 calendar days prior to the date established for the hearing. In computing such time, the date of publication is not to be included but the date of the hearing shall be included.

(b) A notice shall be placed at a conspicuous public place within the corporate limits of the village not less than ten calendar days, nor more than 25 calendar days, before the date established for the public hearing.

(c) A notice shall be posted in a conspicuous place on the subject property or on an adjacent street or highway right-of-way at least ten calendar days prior to the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the village shall post sufficient notices to provide reasonable notice to interested parties.

(d) At least ten calendar days prior to the public hearing, a notice of the proposed zoning change shall be sent by first class mail to all adjacent and abutting property owners. In the case of large-scale rezonings (more than 50 properties owned by a total of at least 50 different property owners), the village may elect to publish notice of the hearing per division (A)(7)(a) above; provided that, each of the advertisements shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulations of the newspaper which 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 by first class mail.

(e) The Zoning Administrator shall certify that the requirements of divisions (A)(7)(b), (A)(7)(c) and (A)(7)(d) above have been met. The village shall charge the petitioner a separate fee to cover costs incurred.

(8) (a) After the public hearing has been conducted and officially closed, the Village Council shall render a decision concerning the proposal. The Village Council reserves the right to render such decision immediately following the closing of the public hearing or at a meeting held at a later date. The decision shall be made in any one of the methods provided in divisions (A)(5) or (A)(6) above. A Village Council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.

(b) The Zoning Administrator shall transmit to the applicant(s) by first class mail, the decision of the Village Council within five days of the Council's decision.

(9) Prior to adopting or rejecting any zoning amendment, the Village Council shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the Village Council considers the action taken to be reasonable and in the public interest.

(10) If the Village Council has denied an application for the change of any zoning district or change in zoning text, it shall not thereafter accept any application for the same property or any portion thereof or similar change in the zoning text until the expiration on one year from the date of such previous denial (except as permitted in § 156.086 of this chapter).

(11) Following adoption of rezoning and change to the zoning map, and/or amendment to this chapter, the Village Clerk shall modify all affected documents, record said modifications on the appropriate record(s) of change and issue replacement pages to all holders of record. The Zoning Administrator shall, from time to time, audit record copies to assure compliance. (Ord. passed 8-21-2000, § 12.1; Ord. passed 3-12-2001; Ord. passed 1-5-2006; Ord. passed 4-13-2015; Ord. 2016-01, passed 4-11-2016; Ord. passed 2016-08, passed 6-13-2016)

(B) *Additional provisions pertaining to parallel conditional use zoning amendments.* The procedures in this section exist to supplement the procedures set forth in division (A) above, to clarify special requirements for parallel conditional use rezonings and to relate the issuance of the conditional use permit to the zoning map amendment process.

(1) *Purpose.* The conditional rezoning process allows particular uses to be established, but only in accordance with a specific development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and/or on the entire community which cannot be predetermined and controlled by general district standards or the criteria governing planned developments. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property and be consistent with the objectives of these regulations, the adopted Land Use Plan, and other plans for the physical development of the village as adopted by the Village Council. The review process established herein provides for the accommodation of such uses by a reclassification of property into a "parallel conditional use" district approval process is also established to address those situations when a particular use may be acceptable, but the general zoning districts which would allow that use would not be acceptable.

(2) *Reclassification and conditional use permit required prior to development.*

(a) In order for a property owner to secure privileges for developing property under the parallel conditional use process, the property must first be rezoned by the Village Council to a parallel conditional use district, and secondly the owner must secure a conditional use permit in accordance with §§ 156.080 through 156.092 of this chapter from the Village Council. Specific conditions applicable to

the conditional use permit may be proposed by the petitioner or the village or its agencies, but only those conditions mutually approved by the village and the petitioner may be incorporated into the permit requirements. Conditions and site-specific standards imposed in the conditional use permit subsequent to a conditional use district rezoning shall be limited to those that address the conformance of the development and use of the site to village ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. Any use permitted under this process must also conform to the development regulations for the corresponding general zoning district, unless as otherwise approved by the Village Council under § 156.083(B) of this chapter.

(b) Thus, if a property were rezoned to a CU-B-1 District and a conditional use permit authorized the development of a particular use, that use must:

1. Be a use allowed in the B-1 District; and
2. Meet all dimensional, screening and related requirements of the B-1 District.

(c) Rezoning of property to a parallel conditional use district is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals which may not be undertaken for some time. No parallel conditional use district shall be established until the owner(s) of the property(ies) in question (or his or her authorized agent) proposing the district has submitted an application for the rezoning of the property and issuance of a conditional use permit and the Village Council has approved such application in accordance with the procedures stated herein.

(3) *Plans and other information to accompany petition.* Every application for the rezoning of property to a parallel conditional use district and issuance of a conditional use permit shall be accompanied by a site plan, drawn to scale and any necessary supporting information together which conform to all the requirements set forth in § 156.082(B) of this chapter.

(4) *Submittal to the Zoning Administrator.* Submittal to the Zoning Administrator of an application for a parallel conditional use rezoning shall be in accordance with the schedule set forth in § 156.082(B) of this chapter. Normally, an application for a conditional use permit is submitted at the same time and is reviewed by the Zoning Administrator, Planning Board and Village Council, and is approved by the Village Council contemporaneously with review and approval of the rezoning application.

(5) *Village Council decision.*

(a) A rezoning, under the parallel conditional use rezoning process, does not confer upon the applicant any privileges for development under that zoning district unless and until a conditional use permit is approved for the property in question by the Village Council.

(b) Prior to issuance of a conditional use permit, the application shall be subject to all of the procedures, hearing and findings as set forth in §§ 156.082, 156.083 and 156.089 (if applicable) of this chapter and division (A)(7) above.

(6) *Effect of approval.*

(a) If a petition for a parallel conditional district rezoning and conditional use permit are both approved under this section, the district that is established, the approved conditional use permit, and all conditions which may have been attached to the approval are binding on the property as an amendment to these regulations and to the zoning map. All subsequent development and use of the property shall be in accordance with the standards for the approved conditional use district, the conditional use permit and all conditions attached to the approval.

(b) If a petition is approved subject to conditions, the Zoning Administrator shall record with the Register of Deeds a notice that development of the subject property is subject to conditions and that such conditions are on file at the Zoning Administrator's office.

(c) Following the approval of the petition for a parallel conditional use district, the subject property shall be identified on the zoning map by the appropriate district designation. A parallel conditional use district shall be identified by the same designation as the underlying general zoning district preceded by the letters CU (e.g., "CU-B-I").

(d) Any conditional use permit issued in relation to a parallel conditional use rezoning shall be subject to the same requirements as any other conditional use permit as set forth in §§ 156.080 through 156.092 of this chapter.

(7) *Alterations to approval.*

(a) Except as provided in division (B)(7)(b) below, changes to the approved petition or to the conditions attached to the approval shall be treated the same as amendments to these regulations or to the zoning map and shall be processed in accordance with the procedures in this section.

(b) Minor changes in the detail of the approved application, which are in accordance with § 156.084 of this chapter, may be made with the approval of the Zoning Administrator.

(8) *Change in parallel conditional use zoning.* Once a petition for rezoning to a parallel conditional use district and issuance of a conditional use permit has been approved by the Village Council, any request to materially change (any change not authorized by division (B)(7)(b) above) the parallel conditional use district or conditional use permit for a property may only be made by the property owner or his or her authorized agent only after a public hearing has been duly advertised and held in accordance with division (A)(7) above. Any amendment to the conditional use permit shall also be subject to the same considerations as set forth in § 156.087 of this chapter.

(9) *Revocation of approval of a parallel conditional use district.* It is intended that property shall be reclassified to a parallel conditional use district and conditional use permit issued only in light of firm plans to develop the property. Therefore, after the date of approval of the conditional use permit, the Zoning Administrator shall periodically examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Zoning Administrator determines that a building permit has not been secured within one year (unless a greater time period was listed as one of the conditions contained in the Village Council's approval) following the date of the approval of the conditional use permit, the Zoning Administrator shall notify the applicant of such a finding, and within 60 days of said notification, the Planning Board shall make a recommendation to the City Council concerning the recession of the conditional use permit and rezoning of the property to a general zoning district classification. The Planning Board shall recommend to allow the applicant to extend the life of the conditional use permit or have it rescinded. The Village Council may then vote to rezone the property to a general zoning district. Notice of said public hearing shall be per division (A)(7) above.

(Ord. passed 8-21-2000, § 12.2; Ord. passed 3-8-2004)

(C) *Conditional zoning district map amendments.*

(1) *Application procedures.* The procedures for submittal of a Conditional Zoning District application shall be as found in § 156.025 of this chapter.

(2) *Planning Board review.*

(a) The Planning Board will review the application for consistency with this chapter and all adopted village plans.

(b) The Planning Board will consider applications in a timely fashion and will forward a written recommendation to the Village Council for its consideration within the time frame authorized. Prior to making a recommendation, the Planning Board may request additional information from the applicant.

(c) In response to suggestions made by the Planning Board, the applicant may revise the application before it is submitted to the Village Council.

(d) The Planning Board shall have up to 62 days from the date it first heard the application to make a recommendation to the Village Council. Unless mutually agreed by the applicant and the Planning Board for an extended review period, if a recommendation is not made by the Planning Board during this period, the application shall be forwarded to the Village Council without a recommendation.

(e) Any recommendation made by the Planning Board shall be accompanied by a statement that outlines the consistency of the petition with the village's comprehensive plan and other related and adopted plans that affect growth and development in the village.

(3) *Village Council public hearing and decision.*

(a) A public hearing shall be called for and held by the Village Council. Said public hearing shall be advertised per division (A)(7) above; except that, public hearing notices shall be mailed to all property owners within a 1,320 foot (i.e., one-quarter mile) radius of the subject property. Once the public hearing has been concluded, the Village Council shall take action on the petition. The Village Council shall have the authority to:

1. Approve the application as submitted;
2. Deny approval of the application;
3. Approve the application with modifications that are agreed to by the applicant; and

4. Submit the application to the Planning Board for further study. The Planning Board shall have up to 30 days from the date of such submission to make a report to the Village Council. Once the Planning Board issues its report, or if no report is issued within that time period, the Village Council may take action on the application.

(b) The Village Council shall also follow the procedures contained in divisions (A)(10) through (A)(12) above.

(c) In approving a petition for the reclassification of a piece of property to a Conditional Zoning District, the Planning Board may recommend, and the Village Council may request that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions shall relate to the relationship of the proposed use to the surrounding property, proposed support facilities (e.g., parking areas, pedestrian circulation systems), screening and landscaping, timing of development, street and right-of-way improvements, water and sewer improvements, provision of open space and other matters that the Planning Board or Village Council may find appropriate or the applicant may propose. In no instance shall any of these conditions be less restrictive than any requirements of Ch. 155 of this code of ordinances and this chapter. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in this chapter that apply to that development. The applicant shall have notice of and a reasonable opportunity to consider and respond to any such conditions prior to final action being taken by the Village Council.

(d) An order of the Village Council's decision shall be prepared by the Planning Director and sent to the applicant per division (A)(9) above. The applicant shall record the decision (including all applicable site plans approved as part of the Village Council's decision) with the county's Register of Deeds. No zoning permit shall be issued by the village for any development subject to conditional zoning without evidence that such recordation has occurred.

(4) *Effect of approval; zoning map designation.* If a petition for a Conditional Zoning District is approved, the development and use of the property shall be governed by the ordinance requirements applicable to the district's zoning classification, the approved conceptual plan for the district and any

additional approved rules, regulations and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning map.

(5) *Changes to an approved Conditional Zoning District.*

(a) Except as provided in this division (C), a request to change the conceptual plan or the conditions governing an approved Conditional Zoning District shall be processed in accordance with this chapter as a new application to rezone property to a Conditional Zoning District. The Planning Director shall have the authority to approve an administrative amendment to an approved Conditional Zoning District conceptual plan or to the governing conditions without the requested change having to be approved as a new application in accordance with this chapter.

(b) Such administrative amendments shall include only those minor changes that:

1. Do not significantly alter the conceptual plan or its conditions;
2. Do not significantly impact abutting properties; and
3. Do not increase the amount of development or impervious surface coverage.

(c) Any request for an administrative amendment shall be in writing, signed by the property owner(s) and it shall detail the requested change. The applicant must provide any additional information requested by the Planning Director. Accompanying the written request must be the applicable fee for administrative review that is required by the village fee schedule. Any decision by the Planning Director to approve or deny a request for an administrative amendment must be in writing and must state the grounds for approval or denial. The Planning Director shall always have the discretion to decline to exercise the authority delegated by this section if he or she is uncertain if the requested change would qualify as an administrative amendment or because the Planning Director determines that a public hearing and Village Council consideration is appropriate under the circumstances. If the Planning Director declines to exercise the authority delegated by this section, the applicant can only apply for such changes through a new rezoning petition.

(6) *Revocation of Conditional Zoning District.*

(a) The purpose of this section is to put a time limit on the approval if the project does not move forward in a timely manner.

(b) The Village Council may act to revoke the Conditional Zoning District designation, with Planning Board review and a public hearing being held by the Village Council, if a building permit has not been applied for within two years of the rezoning approval date.
(Ord. passed 8-21-2000, § 12.3; Ord. passed 4-13-2015)

BOARD OF ADJUSTMENT**§ 156.255 POWERS, DUTIES AND PROCEDURE.**

(A) A Board of Adjustment is hereby established, which board shall have all the powers and duties as authorized by G.S. § 160A-388, and as otherwise provided for in this chapter. Generally, such powers and duties shall include, but not be restricted to, the following:

- (1) Hearing and deciding all appeals from decisions made by the Zoning Administrator; and
- (2) Hearing and granting variances from the provisions of this chapter.

(B) (1) The Board of Adjustment shall consist of five regular members who are residents of the village and shall be appointed by the Village Council. In addition, two alternate members who are residents of the village and appointed by the Village Council shall serve on the Board of Adjustment in the absence of any regular member.

(2) Additionally, the Board of Adjustment will include two members from the extraterritorial jurisdiction (ETJ) area. This number is based on proportionate population representation and should be annually reviewed by the Village Council to ensure adequacy. ETJ members shall have and may exercise all powers and duties of regular members. The initial appointment of the ETJ members will consist of one member for an initial two-year term and one for an initial three-year term. Thereafter, members shall be appointed for three years each.

(3) The terms of office of the members of the Board of Adjustment shall be for overlapping terms of three years. Initial appointment of the members shall be as follows.

(a) One regular member shall be appointed by the Village Council for a one-year term; two for two-year terms; and two for three-year terms. Thereafter, members shall be appointed for three years each. Alternate members shall be appointed for a term of three years each. Nothing herein contained shall be so interpreted as to forbid any member from being appointed to succeed himself or herself.

(b) Vacancies occurring for any reason other than expiration of term shall be filled as soon as is reasonably possible after such vacancy occurs by the Village Council making the appointment, and such appointment shall only be for the period of the unexpired term. Members may be removed for cause by the Village Council upon written charges and after public hearing.

(c) At time of appointment, the Council shall designate one regular member as Chairperson. Such alternate member(s), while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member shall have and may exercise all the powers and duties of such regular members.

(C) *Jurisdiction.* Each member of the Board of Adjustment shall have equal rights, privileges and duties in all matters coming under the Board's purview.
(Ord. passed 8-21-2000, § 11.1; Ord. passed 2-12-2007; Ord. passed 11-11-2013)

§ 156.256 ADMINISTRATIVE REVIEW.

The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of this chapter, and apply such interpretation to particular fact situations.

(A) A written appeal may be taken by the village or by any person with standing per G.S. § 160A-393(d), who has first requested and received a written ruling from the Zoning Administrator. All applications for appeals shall be filed with the Village Clerk. An appeal to the Board of Adjustment shall be made by the property owner of the lot(s) in question within 30 days of receipt of the written decision made by the Zoning Administrator. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. One means of constructive notice of the decision shall be if the person receiving a written decision from the Zoning Administrator posts a sign that says "zoning decision" or "subdivision decision" in letters that are at least six inches high. Said sign shall be prominently posted on the property that is subject to the decision and shall remain posted for at least ten days. Verification of the posting shall be provided to the official who made the decisions. All applications for appeals shall be filed with the Village Clerk.

(B) An appeal of a notice of violation or other enforcement order stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment, after notice of appeal has been filed with him or her, that because of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature a stay would seriously interfere with enforcement of this chapter. In such cases, enforcement proceedings shall not be stayed, except by a restraining order, which may be granted by the Board of Adjustment or by a court.

(C) The official whose decision is being appealed shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the action appealed from is being taken. Said information shall also be given to the appellant and to the owner of the property that is subject to the appeal if the appellant is not the property owner.

(D) The Board of Adjustment must conduct a public hearing of the appeals application within 40 calendar days of receipt of the notice of appeal. However, if enforcement proceedings are not stayed, the appellant may file with the Village Clerk a request for an expedited hearing to occur within 15 days of the date such request is made.

(E) (1) Notice of the public hearing of the subject appeal shall be given in the following manner: Notice shall be given to:

- (a) The appellant;
- (b) To the owner of the property that is subject to the appeal if the owner did not initiate the appeal; and
- (c) To the owners of all parcels of land abutting the parcel that is the subject of the appeal.

(2) Said notice shall be deposited in the mail at least ten, but not more than 25, days prior to the date of the hearing. During this same time period, the village shall place prominent notice of the hearing on the site that is subject to the hearing or on an adjacent street or highway right-of-way.

(F) The official whose decision is being appealed shall be present at the public hearing as a witness. The appellant shall not be limited to matters stated in the notice of appeal. If any party or the village would be unduly prejudiced by the presentation of matters not on the public hearing notice, the Board of Adjustment may continue the public hearing.

(G) The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination with reference to the appeal. A motion to approve such modification must be approved by a minimum of three sitting members of the Board of Adjustment.

(H) The parties to the appeal may agree to mediation of other forms of alternative dispute resolution. (Ord. passed 8-21-2000, § 11.2; Ord. passed 11-11-2013)

§ 156.257 VARIANCES.

(A) (1) A petition for a variance may only be initiated by the owner of the affected property, an agent authorized in writing to act on the owner's behalf, or an individual having a written contractual interest in the affected property. Under no circumstances shall the Board of Adjustment grant a variance to allow a use of land or structures not permitted under the terms of this chapter in the district involved or for a use expressly, or by inference, prohibited in said district. No variances shall be granted by the Board of Adjustment for the following:

- (a) Setbacks for signs, or the square foot area limitation(s) for such signs;
- (b) Setbacks for essential services - Class III; and
- (c) Use variance.

(2) No variance for setbacks shall be granted which allows the applicant to reduce the applicable setback by more than 50%.

(B) The Board of Adjustment, before granting a variance, shall make the following findings:

(1) The hardship is peculiar to the applicant's property. Unnecessary hardship would result from the strict application of the ordinance; (Note: it shall not be 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; (Note: 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.)

(3) The hardship did not result from actions taken by the applicant or the property owner; and (Note: the act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.)

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

(C) Any order of the Board of Adjustment in granting a variance shall expire if a zoning permit or certificate of compliance for such use (if a zoning permit is not required) has not been obtained within one year from the date of the decision.

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

(E) The Board of Adjustment shall hold a public hearing to review any variance application no later than 40 calendar days after the complete application has been received by the village.

(F) (1) Notice of the variance public hearing shall be given in the following manner: notice shall be given to:

(a) The appellant;

(b) To the owner of the property that is subject to the application if the owner did not initiate the application; and

(c) To the owners of all parcels of land abutting the parcel that is the subject of the application.

(2) Said notice shall be deposited in the mail at least ten, but not more than 25, days prior to the date of the hearing. During this same time period, the village shall place prominent notice of the hearing on the site that is subject to the hearing or on an adjacent street or highway right-of-way.

(G) A motion to approve a variance must receive a “yea” vote by a minimum of four sitting members of the Board of Adjustment.

(Ord. passed 8-21-2000, § 11.3; Ord. passed 1-5-2006; Ord. passed 11-11-2013)

§ 156.258 APPLICATION PROCEDURE.

The following regulations apply to all applications submitted to the Board of Adjustment.

(A) Before a petition for an appeal or variance shall be considered, a completed application on a form provided by the village accompanied by a fee (as established by the Village Council) shall be submitted to the village as set forth in § 156.256(C) of this chapter. The fee shall be waived for any petition initiated by the village. The application shall contain the name, address and telephone number of the applicant(s), and property owners if different from applicant(s), a description of the subject property with reference to deed book and page. The application shall also contain a list of names and addresses of adjoining and contiguous property owners on all sides and across any street and public right-of-way from the subject property. This information shall be based upon the current year’s county tax records. The application shall be accompanied by a map clearly showing the subject property and all contiguous property on either side and all property across any street or public right-of-way from the subject property.

(B) In all matters before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application. Hearings may be continued, at the sole discretion of the Board and as provided in § 156.256(F) of this chapter, to permit the applicant to provide additional, missing or incomplete information, when requested, to aid the Board of Adjustment in reaching a proper determination and/or to permit the Board to independently obtain such information. All reasonable expenses incurred by the village for investigating and processing the matters before the Board of Adjustment are the responsibility of the applicant. These expenses may include, but are not limited to, the solicitation of professional engineers’ services, legal advice, expenses of public hearing(s) and the like; and shall be paid in full prior to delivery of the final notification of Board action for the subject matter.

(C) The Board of Adjustment shall have no authority to issue a variance for a waiver of a setback or bulk requirement for a building or structure if the applicant had not first submitted a foundation survey (in accordance with § 156.237(I) of this chapter) subsequent to the construction of the foundation and prior to the application for a certificate of compliance.

(Ord. passed 8-21-2000, § 11.4; Ord. passed 11-11-2013)

§ 156.259 ACTION BY BOARD OF ADJUSTMENT.

(A) No motion regarding approval or denial of a variance or an appeal may be made unless one of the sitting members present at the time the motion is made is either the Chairperson or the Vice-Chairperson. If neither the Chairperson, nor Vice-Chairperson, is present, the public hearing shall

be continued. For the purposes of this division (A), vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered “members of the Board” for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

(B) Any member(s) of the Board who declares that a potential conflict of interest may exist with respect to any petition or application before the Board may be excused and replaced by an alternate. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member’s participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection. In the event fewer than three members remain, no reversal of any prior decision may be made.

(C) All decisions of the Board of Adjustment shall be reduced to writing and be made within 30 days following conclusion of the public hearing or at the next regularly scheduled meeting of the Board of Adjustment following the hearing conclusion, whichever occurs later. All decisions shall reflect the Board’s determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chairperson or other duly authorized member of the Board.

(D) (1) All decisions of the Board of Adjustment shall be filed with the Zoning Administrator and a written copy thereof shall be sent by the village to the applicant, the property owner and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. Said notice shall be sent by personal delivery, electronic mail or by first class mail within 14 calendar days following the decision, or after receipt of payment for processing per § 156.258 of this chapter, whichever occurs later.

(2) The person who makes such delivery shall certify that proper notice has been made. The Board’s decision shall not become effective until it is filed in the office of the Village Clerk.
(Ord. passed 8-21-2000, § 11.5; Ord. passed 1-5-2006; Ord. passed 11-11-2013)

§ 156.260 APPEALS FROM BOARD OF ADJUSTMENT.

(A) (1) A written application for a rehearing shall be made in the same manner as provided for an original hearing within a period of 15 days after the date of denial of the original application. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in fact, evidence or conditions in the case, shall be presented in writing, and/or graphically. A rehearing shall be denied by the Board, if, in its sole judgment, such change in facts, evidence of conditions has not been proven. In the event that the Board finds that a rehearing is warranted, it shall thereupon proceed in the same manner as prescribed for in the original hearing.

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(2) Each such application for rehearing shall be signed by the applicant, shall be submitted in duplicate and shall contain the following information:

(a) The applicant's full name, address and telephone number; the property owner's full name, address and telephone number if different from applicant;

(b) The applicant's interest in the property;

(c) The current zoning of the property, and the type of rezoning and/or variance requested;

(d) If the proposed change would require a change in the zoning map, an accurate diagram of the property proposed for rezoning; and

(e) Reference to a specific section, division and paragraph item of text proposed to be changed as well as the wording of the proposed change.

(3) Any such rehearing application shall be accompanied by two copies of a map, drawn to an appropriate scale. Said map shall be prepared by an engineer or surveyor registered with the state and shall be signed and certified to be correct by the preparer. The map shall contain the following:

(a) If not in a subdivision of record, the subject property plus such additional property as to show the location of the subject property with reference to the nearest street intersection, railroad, stream or other features easily identifiable on the ground. In addition, all property lines which abut the property shall be shown as well as the names and addresses of all abutting property owners;

(b) If the property is in a subdivision of record, a map of such portion of the subdivision drawn to scale, that would relate the subject property to the closest street intersection and, in addition, the name of the subdivision and the plat book and page number on which the plat is recorded. In addition the names of all abutting property owners shall be indicated;

(c) All property lines with dimensions, distances of lot from the nearest street intersection and north arrow;

(d) Adjoining streets with rights-of-way and paving widths;

(e) Existing location of buildings on lot and a listing of uses of all structures; and

(f) Zoning classification of all abutting lots.

(B) Upon the denial of the most recent application, or upon the denial of an application for which a rehearing has been conducted, a similar application may not be filed for a period of one year after the date of denial of the original application.

(C) (1) Every decision of the Board of Adjustment shall be subject to review by the Superior Court Division of the General Courts of Justice of the state by proceedings in the nature of certiorari per G.S. § 160A-393.

(2) Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court by the later of 30 days after the decision becomes effective or after written copy of the decision is given in accordance with § 156.259(D) of this chapter.
(Ord. passed 8-21-2000, § 11.6; Ord. passed 11-11-2013)

§ 156.261 ADMINISTRATION OF OATH TO WITNESSES.

The Chairperson of the Board of Adjustment or the Vice-Chairperson, when temporarily acting as Chairperson, or the Clerk to the Board of Adjustment shall be authorized in his or her official capacity to administer oaths to witnesses in any matter coming before the Board.
(Ord. passed 8-21-2000, § 11.7; Ord. passed 11-11-2013)

§ 156.262 RULES OF PROCEDURE.

(A) All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and supplemental rules of procedure adopted by the Board of Adjustment. Such rules of procedures may be amended by the Board of Adjustment membership at any time.

(B) The rules of procedure adopted by the Board of Adjustment to govern its actions shall be kept on file at the offices of the Zoning Administrator and the Village Clerk, and shall be made available to the public at any meeting or hearing of the Board of Adjustment.
(Ord. passed 8-21-2000, § 11.8)

§ 156.263 STAFF.

The Zoning Administrator shall serve as staff to the Board of Adjustment and shall provide technical assistance to the Board of Adjustment as requested.
(Ord. passed 8-21-2000, § 11.9)

PLANNING BOARD**§ 156.275 ESTABLISHMENT.**

(A) (1) The village's Planning Board, having been created by the Village Council, shall be hereafter referred to as the "Planning Board".

(2) The Planning Board shall be considered a "public body" and is subject to all rules and regulations for public bodies contained in the state's open meetings regulations.

(B) The primary objective of the Planning Board is to develop and maintain a continuing, cooperative planning program to benefit the residents of the village.
(Ord. passed 8-21-2000, § 15.1; Ord. passed 12-13-2010)

§ 156.276 POWERS AND DUTIES.

The Planning Board may perform the following duties:

(A) Make studies of the area within its jurisdiction and surrounding areas and provide supporting research and documentation;

(B) Determine objectives to be sought in the development of the study area, in accordance with any applicable officially adopted plan;

(C) Prepare and adopt plans for achieving these objectives and provide written recommendations for Village Council with supporting research and documentation;

(D) Develop and recommend policies, ordinances, administrative procedures, and other means, not already adopted by Council, for carrying out plans in a coordinated and efficient manner, with supporting research and documentation;

(E) Advise the Council concerning the use and amendment of means for carrying out plans;

(F) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Council may direct;

(G) Provide recommendations regarding vested rights, in accordance with § 156.243(C) of this chapter;

(H) Provide recommendations regarding conditional uses, in accordance with § 156.125(C) of this chapter;

(I) Provide recommendations regarding zoning text and map amendments, in accordance with § 156.244(A)(4), (A)(5) and (A)(6) of this chapter;

(J) Review and comment on subdivision plats; and

(K) Perform any other related duties that the Council may direct.
(Ord. passed 8-21-2000, § 15.2; Ord. passed 12-13-2010)

§ 156.277 DIRECT, SUBSTANTIAL AND READILY IDENTIFIABLE FINANCIAL IMPACT.

A Village Council member shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member. Members of appointed boards providing advice to the Village Council shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member. Members shall also abide by the village's Ethics Policy for Officials.
(Ord. passed 8-21-2000, § 15.3; Ord. passed 12-13-2010)

§ 156.278 RULES OF PROCEDURE.

All meetings and hearings shall be open to the public and shall be conducted in accordance with the procedure set forth in these regulations and supplemental Planning Board rules of procedure adopted by the Village Council. Meetings shall have an item for public comment. Such rules of procedures may be amended by the Village Council at any time. The rules of procedure shall be kept on file at the offices of the Zoning Administrator and the Village Clerk, and shall be made available to the public at any meeting of the Planning Board.
(Ord. passed 8-21-2000, § 15.4; Ord. passed 12-13-2010)

§ 156.279 STAFF.

The Zoning Administrator shall serve as staff to the Planning Board and shall provide technical assistance to the Planning Board as requested.
(Ord. passed 8-21-2000, § 15.5; Ord. passed 12-13-2010)

§ 156.999 PENALTY.

(A) Pursuant to G.S. §§ 160A-175, 160A-365 and 160A-389, any person, firm or corporation violating any provision of this chapter shall be subject to a civil penalty of \$50 per day for each calendar day that the violation exists.

(B) Pursuant to G.S. § 160A-175, the village may file a civil action to recover said penalty, if the offender does not pay said penalty within five days after the offender has been cited for violation of this chapter.

(C) Pursuant to G.S. §§ 160A-175, 160A-365 and 160A-389, the village may also seek any appropriate equitable relief issuing from a court of competent jurisdiction that it deems necessary to ensure compliance with the provisions of this chapter. 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 village for equitable relief that there is an adequate remedy at law.

(D) Pursuant to G.S. § 160A-389, if a building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter or other regulation made under authority conferred thereby, the village in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, 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.

(E) Pursuant to G.S. § 160A-175, the village may seek a mandatory or prohibitory injunction and an order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises. 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.

(F) The above remedies are cumulative and the village may pursue any or all of the same as its direction. Each calendar day that the violation exists shall constitute a separate and distinct offense. (Ord. passed 8-21-2000, § 1.5)