

# CHAPTER 1: PURPOSE AND APPLICABILITY

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## CHAPTER 1: PURPOSE AND APPLICABILITY

### Section 1.1 Title

This Ordinance is officially titled as *Unified Development Ordinance of China Grove, North Carolina* and shall be known as the *Unified Development Ordinance* (UDO). The official map designating the various zoning districts shall be titled, *Town of China Grove Zoning Map*, and shall be known as the *Zoning Map*.

### Section 1.2 Authority

Zoning provisions enacted herein are under the authority of NCGS ~~160A-381~~ ~~160D-101~~, which extends to cities the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community. It is further authorized under NCGS ~~160A-382-160D-702~~, [Article 7](#) which authorizes cities to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district. The statutes also require that all such regulations shall be uniform for each class or type of building throughout each district, but that the regulations in one district may differ from those in other districts.

**Commented [BH1]:** It's good to cite all of Chapter 160D here. It may be helpful to also cite NCGS 160A, Article 8 – the general police power, just in case any part of 160D for some reason gets struck down.

**Commented [BH2]:** It may be helpful to cite all of the zoning article in 160D.

Subdivision provisions enacted herein are under the authority of NCGS ~~160A-372~~ ~~160D-801~~, [Article 8](#) which provide for the coordination of streets within proposed subdivisions with existing or planned streets and with other public facilities, the dedication or reservation or recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to acquire recreation areas serving residents of more than one neighborhood in the immediate area, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding. [among other provisions](#).

**Commented [BH3]:** It may be helpful to cite all of the subdivision article in 160D.

### Section 1.3 Applicability

#### 1.3.1 Jurisdiction

These regulations apply to the development and use of all land and structures within the corporate limits of the Town of China Grove, North Carolina and within the extraterritorial jurisdiction exercised by Ordinance and as now or hereafter fixed, said territory being indicated on the *Zoning Map* as is on file at the [in the Town Clerk's office at](#) China Grove Town ~~Hall~~. This map and its boundaries shall be incorporated and made part of this Ordinance.

**Commented [BH4]:** In which office in Town Hall is the map available for viewing? 160D-105 reads: "Zoning district maps that are so adopted shall be maintained for public inspection in the office of the local government clerk or such other office as specified in the development regulation."

#### 1.3.2 Exemptions

A. These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site-specific plan as required by the requirements previously adopted. Any preliminary or final subdivision plat approvals required for such approved and exempted site-specific plans shall be conducted in accordance with the requirements of the previous Zoning Ordinance or Subdivision Ordinance.

**Commented [FG5R4]:** Corrected

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- B. The provisions of this Ordinance shall not apply to existing bona fide farms. This ordinance does not exercise any controls over crop lands, timber lands, pasture lands, idle or other ~~farm lands~~ farmlands, nor over any farm house, barn, poultry house, or other farm buildings, including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this ordinance without the need for regulation. Residences for non-farm use or occupancy and other non-farm uses shall be subject to the provisions of this ordinance.

### Section 1.4 Relationship to Other Ordinances

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It is not intended that this ordinance repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, vested rights or building permits previously adopted or issued pursuant to law and currently effective.

### Section 1.5 Severability

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If any Section or specific provision or standard of this Ordinance or any regulating district boundary arising from it is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

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

### Section 1.6 Zoning Map Interpretation

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The map entitled *Town of China Grove Zoning Map*, as adopted by the China Grove Town Council and certified by the Town Clerk establishes the official zoning districts and overlay districts.

Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the Zoning Administrator shall employ the following rules of interpretation.

- A. **Centerline:** Where a boundary line lies within and follows a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated road bed or utility easement.
- B. **Edge Line:** Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the

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edge of the abandoned or vacated road bed or utility easement.

- C. **Lot Line:** Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.
- D. **Town Limits:** Boundaries indicated as approximately following town limits or extraterritorial boundary lines shall be construed as following the town limits or extraterritorial boundary lines.
- E. **Watercourses:** Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.
- F. **Extensions:** Boundaries indicated as parallel to or extensions of street or alley rights-of-way, utility easements, lot lines, city limits, county lines, or extraterritorial boundaries shall be so construed.
- G. **Scaling:** In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.
- H. Where the Zoning Administrator determines that physical features existing on the ground, or actual property lines or other man-made boundary lines used to depict zoning district boundaries, are at variance with those shown on the Official Zoning Map, the Board of Adjustment shall have the authority to interpret Zoning district boundaries.

### Section 1.7 Effective Date

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These regulations shall become effective on August 1, 2006. Upon such date, these regulations shall supersede, repeal, and replace the Town of China Grove Zoning Ordinance and the Town of China Grove Subdivision Ordinance.

**CHAPTER 2:  
GENERAL PROVISIONS**

**Section**

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## CHAPTER 2: GENERAL PROVISIONS

### Section 2.1 Applicability of General Provisions

The following provisions shall apply throughout the jurisdiction of this Ordinance, regardless of the underlying regulating district.

### Section 2.2 General Lot Standards

- A. No building, land or portion thereof shall be erected, used, moved, or altered except in conformity with the regulations specified for the district in which it is located.
- B. No lot existing upon adoption of this Ordinance shall be reduced in size or area below the minimum requirements of the regulating district. Yards or lots created after the effective date of this Ordinance shall meet the minimum requirements established by this Ordinance. The location of required front, side and rear yards on irregularly shaped lots shall be determined by the Zoning Administrator. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.
- C. Orientation of Lot Lines: Side lot lines shall be substantially at right angles or radial to street lines. Substantially shall be known as a tolerance of plus or minus fifteen (15) degrees of a right angle or a radial line. Double-frontage lots shall be avoided wherever possible. Where side lot lines intersect at the rear of the lot the angle of intersection shall not be less than thirty (30) degrees.
- D. Front and side yard setbacks for infill lot development shall be equal to the average for similar principal structures on the same side of the street and within the same zoning district within 300 feet of either side of the lot in question.
- E. Corner lots shall be considered to have two (2) front yards and shall utilize the minimum front setback for each street frontage. The setback for the non-primary frontage on corner lots may be reduced upon approval of the Zoning Administrator to no less than the minimum side setback. No structure shall be located within the sight triangle as defined by this Ordinance.
- F. Only one (1) principal building and its customary accessory building(s) shall be located on any lot, except as allowed in individual districts for non-residential and mixed use developments.
- G. Nothing in this Ordinance shall require any change in the plans, construction, or designed use of any building or structure for which a building permit was secured prior to the adoption of this Ordinance, providing the building permit remains valid.
- H. All structures shall have access available from a public street via street frontage, access easement, alley, or other useable access for use by service or emergency vehicles.
- I. All lots shall front upon a street built in accordance with this Ordinance. Minimum street frontage is established for each zoning district in Chapter 3. Generally, all buildings shall front directly upon a street and shall be of sufficient design to allow for the provision of emergency services. Flag lots, which are only accessed by a narrow strip of land, are not permitted.
- J. Essential services as defined by this ordinance are not subject to the minimum setbacks set forth in the zoning districts.

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K. Canopies, awnings, bicycle parking, outdoor seating areas, and front porches may encroach into the front setback up to eight (8) feet.

### Section 2.3 Uses Not Expressly Permitted by Right or Conditionally

Uses designated as "permitted uses" and "uses permitted with supplemental regulations" are allowed in a district as a matter of right if other applicable regulations of this Ordinance are met. Uses classified as "~~conditional~~special uses" are permitted upon approval of a development plan by the Town Council.

The Board of Adjustment may after having held a public hearing determine if a use is permitted within a zoning district based on its interpretation of this Ordinance if the Zoning Administrator determines that the use's permissibility within a zoning district is unclear in the Ordinance.

Unless a use is allowed as a "permitted", "use permitted with special requirements", "~~conditional~~special use", "nonconforming use", or "temporary use", then such use is prohibited.

### Section 2.4 Conformance with Adopted Plans

~~In accordance with the requirement of NCGS 160A-383160D-701,~~ The regulations adopted pursuant to this Ordinance shall be consistent with the Comprehensive Plan and any specific plans adopted by the Town Council. All new developments shall be designed in conformance with adopted plans including but not limited to the Comprehensive Plan, small area plans, land use plans, parks and recreation plans, thoroughfare plans, and school plans.

**Commented [BH1]:** 160D-701 doesn't require new projects to be consistent with adopted plans. It simply requires them to be reviewed for consistency with such plans. However, the Town can set consistency as a requirement. As a result, just strike the statutory reference.

# CHAPTER 3: ZONING DISTRICTS

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**Commented [BH1]:** Consider changing the Conditional Zoning district abbreviation to “CZ”.



## CHAPTER 3: ZONING DISTRICTS

### Section 3.1 Purpose Statement and Interpretation

#### Section 3.1.1 Purpose Statement

In accordance with the ~~requirement~~ provision of NCGS ~~160A-382-160D-703~~ that zoning regulation may be by districts, the Town, as shown on the Zoning Map accompanying this Ordinance, is hereby divided into the following districts which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.

**Commented [BH2]:** This is not a requirement but rather an authorization in the statutes.

The purposes of establishing the following zoning districts are:

- To implement adopted plans;
- To promote public health, safety, and general welfare;
- To provide for orderly growth and development;
- To provide for the efficient use of resources;
- To facilitate the adequate provision of services.

#### Section 3.1.2 Interpretation

Each zoning district has uses permitted by right, uses permitted with special requirements, and ~~conditional~~ special uses. Tables are shown for each district placing uses under one of the three categories. In addition to the individual district tables, is a detailed permitted uses table showing the uses allowed in each district. The following describes the processes of each of the three categories that the uses are subject to:

- **Permitted by Right:** Administrative review and approval subject to district provisions and other applicable requirements only.
- **Permitted with Special Requirements:** Administrative review and approval subject to district provisions, other applicable requirements, and special requirements outlined in Chapter 4.
- ~~Conditional-Special~~ Special Uses: Administrative review and recommendation, Planning Board review and recommendation, Town Council review and approval of ~~Conditional-Special~~ Use Permit subject to district provisions, other applicable requirements, and conditions of approval. Some ~~Conditional-Special~~ Uses may also be subject to special requirements outlined in Chapter 4.

## CHAPTER 3: ZONING DISTRICTS

### Section 3.2 R-P Rural Preservation District

#### 3.2.1 Intent

The R-P Rural Preservation is provided to accommodate very ~~low-density~~ low-density residential development and agricultural uses and to protect natural vistas and landscape features that define rural areas.

#### 3.2.2 Uses

The chart below indicates the uses generally permitted in the R-P zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

PERMITTED BY RIGHT	SPECIAL REQUIREMENTS (see Chapter 4)	<del>CONDITIONAL</del> SPECIAL USES
<u><b>Residential</b></u> Single-Family Detached  <u><b>Commercial</b></u> None  <u><b>Other</b></u> Essential Utility Services Class 1 & 2 Private Swimming Pools (principal use) Public Parks Public Recreation Facilities	<u><b>Residential</b></u> Accessory Dwellings Family Care Homes Home Occupations Manufactured Homes (on individual lots) Rural Family Occupations  <u><b>Commercial</b></u> Produce Stands  <u><b>Other</b></u> Agricultural Uses (with associated accessory uses/outdoor storage) Cemeteries Temporary Uses	<u><b>Residential</b></u> None  <u><b>Commercial</b></u> Animal Services (no outdoor kennels) Bed and Breakfast Inns Family Campgrounds Farmers Markets Nurseries  <u><b>Other</b></u> Civic Uses Private Recreational Facilities

**Exclusions:** Automotive/Boat/Heavy Equipment/Manufactured Home Sales and Service, Outdoor Kennels, and other uses not enumerated

#### 3.2.3 Dimensional Requirements

Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Max. Density (units per acre)	Min. Width (ft.)	Min. Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
	0.5 (1 per 2 acres)	100	35	30	15	50	3 stories
Other Uses (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size (sq. ft.)	Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	21,780 (1/2 acre)	100	35	30	15	50	45

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**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

### 3.2.4 Location of Accessory Buildings and Structures

No accessory building shall be erected in any front yard unless the accessory structure is set back at least 150 feet from the street right-of-way. See Section 4.3 for additional accessory structure requirements.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 15 feet

Side (corner): 20 feet for garages, 15 feet for other accessory structures

Rear: 15 feet

### 3.2.5 Other Requirements

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.

## CHAPTER 3: ZONING DISTRICTS

### Section 3.3 R-S Suburban Residential District

#### 3.3.1 Intent

The R-S Suburban Residential District is established for new development on the edges of Town in which the principal use of land is low density single-family residences along with their customary accessory uses.

#### 3.3.2 Uses

The chart below indicates the uses generally permitted in the R-S zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

PERMITTED BY RIGHT	SPECIAL REQUIREMENTS (see Chapter 4)	<del>CONDITIONAL</del> SPECIAL USES
<p><b>Residential</b> Single-Family Detached</p> <p><b>Commercial</b> None</p> <p><b>Other</b> Essential Services Class 1 &amp; 2 Private Swimming Pools (principal use) Public Parks</p>	<p><b>Residential</b> Accessory Dwellings Family Care Homes Home Occupations Rural Family Occupations</p> <p><b>Commercial</b> None</p> <p><b>Other</b> Cemeteries (accessory use)</p>	<p><b>Residential</b> None</p> <p><b>Commercial</b> None</p> <p><b>Other</b> Agricultural Uses (with associated accessory uses/outdoor storage) Civic Uses Private Recreational Facilities Public Recreation Facilities</p>

**Exclusions:** Outdoor Storage (non-residential or agricultural), and other uses not enumerated.

#### 3.3.3 Dimensional Requirements

Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Max. Density (units per acre)	Min. Width (ft.)	Min. Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
	3	70	35	30	10	35	3 stories
Other Uses (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size (sq. ft.)	Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	21,780 (1/2 acre)	70	35	30	10	35	45

**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

## CHAPTER 3: ZONING DISTRICTS

### 3.3.4 Location of Accessory Buildings and Structures

No accessory building shall be erected in any front yard. See Section 4.3 for additional accessory structure requirements.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 10 feet

Side (corner): 20 feet for garages, 10 feet for other accessory structures

Rear: 10 feet

### 3.3.5 Other Requirements

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.

**CHAPTER 3: ZONING DISTRICTS**

## CHAPTER 3: ZONING DISTRICTS

### Section 3.4 R-T Town Residential District

#### 3.4.1 Intent

The R-T Town Residential District is intended for more established residential areas within the Town primarily for medium density single-family residential along with their customary accessory uses.

#### 3.4.2 Uses

The chart below indicates the uses generally permitted in the R-T zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

PERMITTED BY RIGHT	SPECIAL REQUIREMENTS (see Chapter 4)	<del>CONDITIONAL</del> SPECIAL USES
<p><b>Residential</b> Single-Family Detached</p> <p><b>Commercial</b> None</p> <p><b>Other</b> Essential Services Class 1 &amp; 2 Private Swimming Pools (principal use) Public Parks</p>	<p><b>Residential</b> Accessory Dwellings Family Care Homes Home Occupations Rural Family Occupations</p> <p><b>Commercial</b> None</p> <p><b>Other</b> Cemeteries (accessory use)</p>	<p><b>Residential</b> None</p> <p><b>Commercial</b> None</p> <p><b>Other</b> Civic Uses Private Recreational Facilities Public Recreation Facilities</p>

**Exclusions:** Outdoor Storage (non-residential), and other uses not enumerated.

#### 3.4.3 Dimensional Requirements

Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Max. Density (units per acre)	Min. Width (ft.)	Min. Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
Single-Family Detached	5	70	35	30	10	35	3 stories
Other Uses (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size	Width (ft.)	Min. Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	21,780	70	35	30	10	35	45

**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

## CHAPTER 3: ZONING DISTRICTS

### 3.4.4 Location of Accessory Buildings and Structures

No accessory building shall be erected in any front yard. See Section 4.3 for additional accessory structure requirements.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 10 feet

Side (corner): 20 feet for garages, 10 feet for other accessory structures

Rear: 10 feet

### 3.4.5 Other Requirements

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.



## CHAPTER 3: ZONING DISTRICTS

### Section 3.5 R-M Mixed Residential District

#### 3.5.1 Intent

The R-M Mixed Residential District is intended primarily to create higher density residential areas providing for and encouraging a mix of housing types including single-family, two-family, and multi-family dwellings along with their customary accessory uses.

#### 3.5.2 Uses

The chart below indicates the uses generally permitted in the R-M zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

PERMITTED BY RIGHT	SPECIAL REQUIREMENTS (see Chapter 4)	<del>CONDITIONAL</del> SPECIAL USES
<u><b>Residential</b></u> Single-Family Detached  <u><b>Commercial</b></u> None  <u><b>Other</b></u> Civic Uses Essential Services Class 1 & 2 Private Swimming Pools (principal use) Public Parks	<u><b>Residential</b></u> Boarding Houses Family Care Homes Home Occupations Mixed Residential Developments Two-Family Attached (Duplex)  <u><b>Commercial</b></u> None  <u><b>Other</b></u> Cemeteries (accessory use)	<u><b>Residential</b></u> Multi-Family Developments Residential Care Facilities  <u><b>Commercial</b></u> Bed and Breakfast Inns Daycare Centers  <u><b>Other</b></u> Private Recreation Facilities Public Recreation Facilities

**Exclusions:** Outdoor Storage (non-residential), and other uses not enumerated.

#### 3.5.3 Dimensional Requirements

Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Max. Density (units per acre)	Min. Width (ft.)	Min. Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
Single-Family Detached	15	50 (35 for alley loaded)	35	10 min. 25 max.	5	25	3 stories
Two-Family Attached (Duplex)	15	50 (35 for alley loaded)	35	10 min. 25 max.	0 interior 5 exterior	25	3 stories
Multi-Family	15	n/a	15	0 min. 25 max.	0 interior 10 exterior	25	3 stories
Other Uses (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size (square feet)	Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	21,780	60	35	20	10	25	45

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**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

### 3.5.4 Location of Accessory Buildings and Structures

No accessory building shall be erected in any front yard. See Section 4.3 for additional accessory structure requirements.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 5 feet

Side (corner): 20 feet for garages, 10 feet for other accessory structures

Rear: 5 feet

Garages: minimum setback of garage door is 20 feet from street right-of-way or alley.

### 3.5.5 Other Requirements

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.

## CHAPTER 3: ZONING DISTRICTS

### Section 3.6 R-MH Manufactured Home District

#### 3.6.1 Intent

The R-MH district is established in order to provide for the proper location and planning of attractive manufactured home developments. Development standards and requirements are included. For the purpose of occupancy, all manufactured homes, mobile homes, and trailers shall be located within a manufactured home development within the R-MH district.

#### 3.6.2 Uses

The chart below indicates the uses generally permitted in the R-MH zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

PERMITTED BY RIGHT	SPECIAL REQUIREMENTS (see Chapter 4)	<del>CONDITIONAL</del> SPECIAL USES
<u><b>Residential</b></u> Single-Family Detached Two-Family Attached (Duplex)  <u><b>Commercial</b></u> None  <u><b>Other</b></u> Essential Services Class 1 & 2 Private Swimming Pools (principal use) Public Parks	<u><b>Residential</b></u> Boarding Houses Family Care Homes Manufactured Homes (on individual lots)  <u><b>Commercial</b></u> Home Occupations  <u><b>Other</b></u> Cemeteries (accessory use)	<u><b>Residential</b></u> Manufactured Home Parks  <u><b>Commercial</b></u> None  <u><b>Other</b></u> Cemeteries Civic Uses Public Recreation Facilities

**Exclusions:** Outdoor Storage (non-residential), and other uses not enumerated.

#### 3.6.3 Dimensional Requirements

Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Max. Density (units per acre)	Min. Width (ft.)	Min. Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
Single-Family Detached	5	60	35	25	8	25	2 stories
Two-Family Attached (Duplex)	5	80	35	25	0 interior 8 exterior	25	2 stories
Manufactured Homes (individual lots)	5	60	35	25	8	25	30 feet
Manufactured Homes (in parks-space sizes)	5	40	35	25	5	25	30 feet

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Other Uses (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size (square feet)	Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	21,780	70	35	25	15	25	35

**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

### 3.6.4 Location of Accessory Buildings and Structures

No accessory building shall be erected in any front yard. See Section 4.3 for additional accessory structure requirements.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 5 feet

Side (corner): 20 feet for garages, 10 feet for other accessory structures

Rear: 5 feet

### 3.6.5 Other Requirements

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.

**CHAPTER 3: ZONING DISTRICTS**

**Section 3.7 O-I Office and Institutional District**

**3.7.1 Intent**

The O-I district is intended to accommodate a variety of office uses, related low intensity retail uses, and some higher density multi-family uses. In addition, this district can create areas to serve as transitional buffers between residential districts and commercial districts, the number and type of retail uses permitted is limited. The primary purpose of this district is to accommodate existing and new office and institutional areas.

**3.7.2 Uses**

The chart below indicates the uses generally permitted in the O-I zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

<b>PERMITTED BY RIGHT</b>	<b>SPECIAL REQUIREMENTS</b> (see Chapter 4)	<del>CONDITIONAL</del> <b>SPECIAL USES</b>
<p><b><u>Residential</u></b> None except as part of a mixed use building</p> <p><b><u>Commercial</u></b> Animal Services (no outdoor kennels) Daycare Center Funeral Homes Office uses Restaurant (in multi-tenant buildings) Retail &amp; service uses not exceeding 5,000 sq ft in total floor area</p> <p><b><u>Other</u></b> Civic Uses Institutional Uses Essential Utility Services Class 1 &amp; 2 Mixed Use Buildings Private Recreation Facilities Private Swimming Pools (principal use) Public Parks Public Recreation Facilities</p>	<p><b><u>Residential</u></b> Home Occupations</p> <p><b><u>Commercial</u></b> Bed and Breakfast Inns</p> <p><b><u>Other</u></b> Cemeteries (accessory use) Temporary Uses</p>	<p><b><u>Residential</u></b> Multi-Family Development Residential Care Facilities</p> <p><b><u>Commercial</u></b> Hotel/Motel Restaurant (free-standing)</p> <p><b><u>Other</u></b> Cemeteries (principal use) Correctional Facilities</p>

**Exclusions:** Automotive/Boat/Heavy Equipment/Manufactured Home Sales and Service, Drive-through uses, Gas Stations, Entertainment uses, Outdoor Kennels, and other uses not enumerated

## CHAPTER 3: ZONING DISTRICTS

### 3.7.3 Dimensional Requirements

Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Max. Density (units per acre)	Min. Width (ft.)	Min. Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
Multi-Family	10	n/a	15	20	0 (interior) 15 (exterior)	25	3 stories
Other Uses (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size (square feet)	Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
	n/a	70	35	20	0 (interior) 15 (exterior)	25	3 stories or 45 feet

**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

### 3.7.4 Location of Accessory Buildings and Structures

No accessory building shall be erected in any front yard. The total area of all accessory structures shall not exceed ½ the gross floor area of the principal structure. See Section 4.3 for additional residential accessory structure requirements.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 5 feet

Side (corner): 20 feet for garages, 10 feet for other accessory structures

Rear: 5 feet

### 3.7.5 Other Requirements

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.

**CHAPTER 3: ZONING DISTRICTS**

**Section 3.8 N-C Neighborhood Center District**

**3.8.1 Intent**

The N-C district is intended primarily for local centers designed to serve relatively small trading areas in developed or developing portions of China Grove. Incentive is given to encourage mixed use development. As a result, the list of commercial establishments allowed in this district is more limited than in other districts. The standards for these areas are designed to promote sound, permanent mixed-use development and to serve surrounding residential areas. All N-C districts shall be a minimum of three (3) acres and a maximum of 50 acres.

**3.8.2 Uses**

The chart below indicates the uses generally permitted in the N-C zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

<b>PERMITTED BY RIGHT</b>	<b>SPECIAL REQUIREMENTS</b> (see Chapter 4)	<del>CONDITIONAL</del> <b>SPECIAL USES</b>
<p><b><u>Residential</u></b> Single-family Detached Two-Family Attached (Duplex)</p> <p><b><u>Commercial</u></b> Animal Services (no outdoor kennels) Office uses up to 5,000 square feet Retail up to 5,000 square feet Restaurants Service uses up to 5,000 square feet</p> <p><b><u>Other</u></b> Civic Uses Mixed Use Buildings Essential Utility Services Class 1 &amp; 2 Private Recreation Facilities Public Parks Public Recreation Facilities</p>	<p><b><u>Residential</u></b> Family Care Homes Home Occupations Mixed Residential Development</p> <p><b><u>Commercial</u></b> Bed and Breakfast Inns Daycare Centers</p> <p><b><u>Other</u></b> Cemeteries (accessory use) Temporary Uses</p>	<p><b><u>Residential</u></b> Cluster Development Multi-Family Development</p> <p><b><u>Commercial</u></b> Office, retail, or service uses over 5,000 sq ft in total floor area (max. 15,000 square feet with the addition of 1 dwelling unit per 1,000 square feet in excess of 5,000 square feet)</p> <p><b><u>Other</u></b> Buildings over 3 stories or 45 feet Institutional Uses</p>

**Exclusions:** Automotive/Boat/Heavy Equipment/Manufactured Home Sales and Service, Colleges & Universities, Correctional Facilities, Drive-through uses, Entertainment uses, Hospitals, Hotels/Motels, Museums, Outdoor Kennels, Research Facilities, and other uses not enumerated

## CHAPTER 3: ZONING DISTRICTS

### 3.8.3 Dimensional Requirements

Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Max. Density (units per acre)	Min. Width (ft.)	Min. Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
Single-Family Detached	15	50 (35 for alley loaded)	35	10 min. 25 max.	5	25	3 stories
Two-Family Attached (Duplex)	15	50 (35 for alley loaded)	35	10 min. 25 max.	0 interior 5 exterior	25	3 stories
Multi-Family	15	n/a	15	0 min. 25 max.	0 interior 10 exterior	25	3 stories
Other Uses (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size (square feet)	Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
	n/a	n/a	20	0 min. 25 max.	0 interior 10 exterior	25	3 stories or 45 feet (may be higher with a CUP)

**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

### 3.8.4 Location of Accessory Buildings and Structures

No accessory building shall be erected in any front yard. The total area of all accessory structures shall not exceed ½ the gross floor area of the principal structure. See Section 4.3 for additional residential accessory structure requirements.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 5 feet

Side (corner): 20 feet for garages, 5 feet for other accessory structures

Rear: 5 feet

### 3.8.5 Other Requirements

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.



**CHAPTER 3: ZONING DISTRICTS**

**Section 3.9 C-B Central Business District**

**3.9.1 Intent**

The C-B district is established as the centrally located trade and commercial service area of China Grove. The regulations of this district are designed to encourage the continued use of land for community trade and commercial service uses and to permit a concentrated development of permitted uses while maintaining a substantial relationship between the intensity of land uses and the capacity of utilities and streets.

**3.9.2 Uses**

The chart below indicates the uses generally permitted in the C-B zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

<b>PERMITTED BY RIGHT</b>	<b>SPECIAL REQUIREMENTS</b> (see Chapter 4)	<del>CONDITIONAL</del> <b>SPECIAL USES</b>
<p><b><u>Residential</u></b> None except as part of a Mixed Use Building</p> <p><b><u>Commercial</u></b> Animal Services (no outdoor kennels) Office uses up to 15,000 square feet Retail up to 15,000 square feet Restaurants Service uses up to 15,000 square feet Shopping Center up to 30,000 square feet</p> <p><b><u>Other</u></b> Civic Uses Institutional Uses Mixed Use Buildings Essential Utility Services Class 1 &amp; 2 Private Recreation Facilities Public Parks Public Recreation Facilities</p>	<p><b><u>Residential</u></b> Home Occupation</p> <p><b><u>Commercial</u></b> Bed and Breakfast Inns Daycare Centers</p> <p><b><u>Other</u></b> Cemeteries (Accessory Use only) Temporary Uses</p>	<p><b><u>Residential</u></b> None</p> <p><b><u>Commercial</u></b> Drive-through uses Farmers Markets Office uses 15,000-30,000 square feet Hotels/Motels Retail 15,000-30,000 square feet Shopping Center 30,000-60,000 square feet</p> <p><b><u>Other</u></b> Buildings over 3 stories or 45 feet Tattoo Parlors</p>

**Exclusions:** Automotive/Boat/Heavy Equipment/Manufactured Home Sales and Service, Correctional Facilities, Entertainment uses, Outdoor Kennels, Research Facilities, and other uses not enumerated

## CHAPTER 3: ZONING DISTRICTS

### 3.9.3 Dimensional Requirements

Residential Uses	Density & Lot Size			Minimum Yard Requirements			Max. Height
	Max. Density (units per acre)	Min. Width (ft.)	Min. Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
Mixed Use Building Residential (2 <sup>nd</sup> floor only)	15	n/a	n/a	0 min. 25 max.	0 (interior) 10 (exterior)	25	3 stories or 45 feet (may be higher with a CUP)
Other Uses (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size (square feet)	Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
	n/a	n/a	20	0 min. 25 max.	0 (interior) 10 (exterior)	25	3 stories or 45 feet (may be higher with a CUP)

**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

### 3.9.4 Location of Accessory Buildings and Structures

No accessory building shall be erected in any front yard. The total area of all accessory structures shall not exceed ½ the gross floor area of the principal structure. See Section 4.3 for additional residential accessory structure requirements.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 0 feet

Side (corner): 20 feet for garages, 5 feet for other accessory structures

Rear: 5 feet

### 3.9.5 Other Requirements

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.

**CHAPTER 3: ZONING DISTRICTS**

**Section 3.10 H-B Highway Business District**

**3.10.1 Intent**

The H-B district is established to provide a wide array of primarily retail and service uses to a large trading area for persons residing in and/or traveling through the China Grove area. Such uses shall be located and designed in such a manner so as to promote aesthetics, the safe and efficient movement of traffic, and to not unduly burden adjoining thoroughfares. Given the large traffic volumes generated by uses located in such a district, any area so zoned shall have access onto an arterial or collector thoroughfare.

**3.10.2 Uses**

The chart below indicates the uses generally permitted in the H-B zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

PERMITTED BY RIGHT	SPECIAL REQUIREMENTS (see Chapter 4)	<del>CONDITIONAL</del> SPECIAL USES
<p><b><u>Residential</u></b> None</p> <p><b><u>Commercial</u></b> Animal Services (no outdoor kennels) Office uses up to 30,000 square feet Retail up to 30,000 square feet Restaurants Service uses up to 15,000 square feet Shopping Center up to 60,000 square feet Warehousing (accessory use)</p> <p><b><u>Other</u></b> Civic Uses Institutional Uses Essential Utility Services Class 1 &amp; 2 Private Recreation Facilities Public Parks Public Recreation Facilities</p>	<p><b><u>Residential</u></b> None</p> <p><b><u>Commercial</u></b> Daycare Centers</p> <p><b><u>Other</u></b> Cemeteries (Accessory Use only) Temporary Uses</p>	<p><b><u>Residential</u></b> None</p> <p><b><u>Commercial</u></b> Adult Establishments Animal Services (with outdoor kennels) Automotive/Boat/Heavy Equipment sales and service Bars &amp; Nightclubs Drive-through uses Electronic gaming operations Entertainment uses Essential Services Class 3 Farmers Market Hazardous Materials Use/Storage Hotel/Motel Mini Warehousing Nurseries Office uses over 30,000 square feet Outdoor Storage Retail over 30,000 square feet Service uses over 15,000 square feet Shopping Center over 60,000 square feet Wholesale Trade Wireless Telecommunications Towers <b><u>Other</u></b> Tattoo Parlors</p>

**Exclusions:** Correctional Facilities, and other uses not enumerated

## CHAPTER 3: ZONING DISTRICTS

### 3.10.3 Dimensional Requirements

All Uses (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Min. Lot Size (square feet)	Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
	n/a	n/a	35	20	0 (interior) 10 (exterior)	25	3 stories or 45 feet

**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

### 3.10.4 Location of Accessory Buildings and Structures

No accessory building shall be erected in any front yard. The total area of all accessory structures shall not exceed ½ the gross floor area of the principal structure.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 0 feet (10 feet adjacent to residential district)

Side (corner): 20 feet for garages, 10 feet for other accessory structures

Rear: 5 feet (10 feet adjacent to residential district)

### 3.10.5 Other Requirements

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.

**CHAPTER 3: ZONING DISTRICTS**

**Section 3.11 C-P Corporate Park District**

**3.11.1 Intent**

The C-P Corporate Park District is established for a high quality mixture of employment and/or institutional uses of varying type, as well as limited retail and service uses supported by such clientele in a single coordinated development which will create a self-supporting advantageous business environment in an attractive corporate park setting.

**3.11.2 Uses**

The chart below indicates the uses generally permitted in the C-P zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

PERMITTED BY RIGHT	SPECIAL REQUIREMENTS (see Chapter 4)	<del>CONDITIONAL</del> SPECIAL USES
<u><b>Residential</b></u> None  <u><b>Commercial</b></u> Light Manufacturing Office uses Retail up to 5,000 square feet Service uses up to 5,000 square feet Warehousing Wholesale Trade  <u><b>Other</b></u> Civic Uses Institutional Uses Essential Services Class 1 &2 Private Recreation Facilities Public Parks Public Recreation Facilities	<u><b>Residential</b></u> None  <u><b>Commercial</b></u> Daycare Centers  <u><b>Other</b></u> Cemeteries (Accessory Use only)	<u><b>Residential</b></u> None  <u><b>Commercial</b></u> Distribution  <u><b>Other</b></u> Buildings over 35 feet in height

**Exclusions:** Correctional Facilities, Museums, Residential Care Facilities, and other uses not enumerated

**3.11.3 Dimensional Requirements**

Overall District	District Size Requirements			District Setback Requirements			Max. Height
	Min. Size (acres)	Min. Width (ft.)	Min. Primary Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height
	15	n/a	60	30	30	30	3 stories or 45 feet (may be higher)

**CHAPTER 3: ZONING DISTRICTS**

							with a CUP)
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All Uses (interior lots) (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Lot Size (square feet)	Lot Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	21,780	n/a	20	20	0	0	3 stories or 45 feet (may be higher with a CUP)

**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

**3.11.4 Location of Accessory Buildings and Structures**

No accessory building shall be erected in any front or side yard. The total area of all accessory structures shall not exceed ½ the gross floor area of the principal structure.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 5 feet (30 feet adjacent to residential district)

Side (corner): 20 feet

Rear: 10 feet (30 feet adjacent to residential district)

**3.11.5 Other Requirements**

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.

**CHAPTER 3: ZONING DISTRICTS**

**Section 3.12 L-I Light Industrial District**

**3.12.1 Intent**

The L-I Light Industrial District is established for industrial and related uses that do not create serious negative impacts for surrounding properties.

**3.12.2 Uses**

The chart below indicates the uses generally permitted in the L-I zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

PERMITTED BY RIGHT	SPECIAL REQUIREMENTS (see Chapter 4)	<del>CONDITIONAL</del> SPECIAL USES
<u><b>Residential</b></u> None  <u><b>Commercial</b></u> Animal Services Entertainment uses Gas Stations Light Manufacturing Office uses Service uses Warehousing Wholesale Trade  <u><b>Other</b></u> Civic Uses Institutional Uses Essential Services Class 1 & 2 Private Recreation Facilities Public Parks Public Recreation Facilities	<u><b>Residential</b></u> None  <u><b>Commercial</b></u> None  <u><b>Other</b></u> Cemeteries (Accessory Use only)	<u><b>Residential</b></u> None  <u><b>Commercial</b></u> Automotive/Boat/Heavy Equipment sales and service Distribution Hazardous Materials Use/Storage Outdoor Storage  <u><b>Other</b></u> Wireless Telecommunications Towers

**Exclusions:** Correctional Facilities, Daycare Centers, Museums, Public Schools, Residential Care Facilities and other uses not enumerated

**3.12.3 Dimensional Requirements**

Overall District	District Size Requirements			District Setback Requirements			Max. Height
	Min. Size (acres)	Min. Width (ft.)	Min. Primary Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	2	n/a	60	30	30	30	45

**CHAPTER 3: ZONING DISTRICTS**

All Uses (interior lots)  (Except Essential Services)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Lot Size (square feet)	Lot Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	21,780	n/a	20	20	0	0	45

**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

**3.12.4 Location of Accessory Buildings and Structures**

No accessory building shall be erected in any front or side yard. The total area of all accessory structures shall not exceed ½ the gross floor area of the principal structure.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 5 feet (30 feet adjacent to residential district)

Side (corner): 20 feet

Rear: 10 feet (30 feet adjacent to residential district)

**3.12.5 Other Requirements**

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.



**CHAPTER 3: ZONING DISTRICTS**

**Section 3.13 H-I Heavy Industrial District**

**3.13.1 Intent**

The H-I Heavy Industrial District is established for industrial and related uses that require isolation from many other kinds of land uses.

**3.13.2 Uses**

The chart below indicates the uses generally permitted in the H-I zoning district. For a detailed table of specified permitted uses see **Section 3.14**:

PERMITTED BY RIGHT	SPECIAL REQUIREMENTS (see Chapter 4)	<del>CONDITIONAL</del> SPECIAL USES
<u><b>Residential</b></u> None  <u><b>Commercial</b></u> Distribution Light Manufacturing Office uses (accessory use) Outdoor Storage Warehousing Wholesale Trade  <u><b>Other</b></u> Essential Services Class 1 & 2 Public Parks Public Recreation Facilities	<u><b>Residential</b></u> None  <u><b>Commercial</b></u> None  <u><b>Other</b></u> None	<u><b>Residential</b></u> None  <u><b>Commercial</b></u> Essential Services Class 3 Hazardous Materials Use/Storage Heavy Manufacturing  <u><b>Other</b></u> Wireless Telecommunications Towers

**Exclusions:** Uses not enumerated.

**3.13.3 Dimensional Requirements**

Overall Development	Development Size Requirements			Development Setback Requirements			Max. Height
	Min. Size (acres)	Min. Width (ft.)	Min. Primary Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	5	100	60	50	50	50	45
All Uses (interior lots) (Except Essential Services Class 1 & 2)	Minimum Lot Size			Minimum Yard Requirements			Max. Height
	Lot Size (acres)	Lot Width (ft.)	Street Frontage (ft.)	Front Setback (ft.)	Side Setback (ft.)	Rear Setback (ft.)	Structure Height (ft.)
	1	n/a	35	30	0	0	45

## CHAPTER 3: ZONING DISTRICTS

**Infill Lots:** Front and side setbacks for infill lot development shall be an average for similar uses and structures on the same side of the street within the same zoning district within 300 to either side of the lot.

### 3.13.4 Location of Accessory Buildings and Structures

No accessory building shall be erected in any front or side yard. The total area of all accessory structures shall not exceed  $\frac{1}{2}$  the gross floor area of the principal structure.

Minimum Setbacks for Accessory Structures are as follows:

Side (interior): 5 feet (30 feet adjacent to residential district)

Side (corner): 20 feet

Rear: 10 feet (30 feet adjacent to residential district)

### 3.13.5 Other Requirements

- A. See Chapter 5 for building design requirements.
- B. See Chapter 6 for open space requirements.
- C. See Chapter 7 for landscaping and buffering requirements.
- C. See Chapter 8 for off-street parking and loading requirements.
- D. See Chapter 11 for sign requirements.

## CHAPTER 3: ZONING DISTRICTS

### Section 3.14 Permitted Uses Table

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#### 3.14.1 Intent

The Permitted Uses Table contains a listing of uses which may be permitted in one or more of the various zoning districts. Uses are listed in alphabetical order within seven (7) categories as follows:

- Residential
- Civic
- Institutional
- Office & Service
- Retail
- Manufacturing, Warehousing, Distribution
- Other

#### 3.14.2 Table Key

The following is a list of the meanings of table entries:

- “X”-indicates that the use is permitted by right in the zoning district
- “CS”-indicates that the use is permitted with a ~~Conditional~~ Special Use Permit in the zoning district
- “SR”-a section number listed in the column indicates that the use has special requirements for the zoning district in which it is permitted. The section number refers to the regulations in Chapter 4.

**Commented [BH3]:** Change “Conditional Use” to “Special Use” and change the “C”s to “S”s if you want to require a Special Use Permit for these activities.

**SECTION 3.14 PERMITTED USES TABLE**

X- Permitted by Right C- Conditional Use		Zoning Districts													
SIC Code	Use	Residential					Nonresidential						Special Requirements		
		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI		HI	
	Single Family Dwelling, Site Built	X	X	X	X	X	X	X							
	Manufactured Homes (on individual lots)	X				X									4.17
	Manufactured Home Park					C									4.18
	Duplex			X	X	X	X	X							4.25
	Accessory Dwellings	X	X	X											4.2
	Accessory Structures	X	X	X	X	X	X	X							4.3
	Multi-family				C		C	C							
	Home Occupation	X	X	X	X	X	X	X	X						4.16
	Rural Family Occupation	X	X	X											4.23
	Mix Residential Development				X		X								4.2
	Major Residential Subdivisions		X	X	X	C									

Agriculture, Forestry, and Fishing		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
07	Agricultural Services; all except	X	C							C		X		4.5
0742	Veterinary Services							X	X	X		X		
0752	Grooming						X	X	X	X				
0752	Animal Services with Indoor Boarding Kennels							X	X	X		X		
0752	Animal Services with Outdoor Boarding Kennels									C		X		4.6
8	Forestry	X												
9	Fishing, Hunting, and Trapping	X												

Mining		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
10	Metal Mining												C	
13	Oil and Gas Extraction												C	
14	Mining and Quarrying												C	

**SECTION 3.14 PERMITTED USES TABLE**

Construction		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
15	Building Construction-general contractors and operative builders (Less than 5,000 sq. ft.)							X		X		X		
	Building Construction-general contractors and operative builders (greater than 5,000 sq. ft.)									X		C	X	
16	Heavy Construction - other (any size)											C	C	
17	Construction- special trade (less than 5,000 sq. ft.)							X		X	X	X		
17	Construction- special trade (greater than 5,000 sq. ft.)											C	C	

Manufacturing		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
20	Food and Kindred Products											X	X	
22	Textile Mill Products											X	X	
23	Apparel and other products											X	X	
24	Lumber and Wood Products <i>except</i> Furniture												C	
241	Logging	P										C	P	
242	Sawmills	C										C	P	
25	Furniture and Fixtures											X	X	
26	Paper and Allied Products												C	
27	Printing, Publishing, and Allied Industries											X	X	
28	Chemicals and Allied Products												C	
29	Petroleum Refining and Related Industries												C	
30	Rubber and Misc. Plastics Products											X	X	
31	Leather and Leather Products											X	X	
32	Stone, Clay, Glass, and Concrete Products												C	
33	Primary Metal Industries											X	X	
34	Fabricated Metals Products											X	X	
35	Industrial and Commercial Machinery and Computer Equipment											X	X	
36	Electronic and other electrical equipment											X	X	
37	Transportation Equipment											X	X	

**SECTION 3.14 PERMITTED USES TABLE**

<b>Manufacturing cont.</b>		<b>R-P</b>	<b>R-S</b>	<b>R-T</b>	<b>R-M</b>	<b>RMH</b>	<b>NC</b>	<b>O &amp; I</b>	<b>CB</b>	<b>HB</b>	<b>CP</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
38	Measuring, Analyzing, and Controlling Instruments											X	X	
39	Misc. Manufacturing Industries											X	X	
3993	Signs								X			X		

<b>Transportation, Communication, Electric, and Gas</b>		<b>R-P</b>	<b>R-S</b>	<b>R-T</b>	<b>R-M</b>	<b>RMH</b>	<b>NC</b>	<b>O &amp; I</b>	<b>CB</b>	<b>HB</b>	<b>CP</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
40	Railroads											C	C	
41	Local and suburban transit, <i>except</i>		C	C	C	C	X	X	X	X	X			
4121	Taxicabs						X	X	X	X				
42	Motor freight warehousing, all except										X	X	X	
421	Trucking										C	X	X	
	Mini-warehouse warehousing								C			X		4.28
43	US Post Office		C	C	C	C	X	X	X	X	X			
44 & 45	Water Transportation, Transportation By Air											C	C	
46	Pipelines, except natural gas												C	
47	Transportation Services								C				C	
48	Communications								C			C	C	4.26
49	Electric, Gas, and Sanitary Services *													
	Electric, gas, and water services (sic codes 491, 492, 493, 494) Class 3											C	C	
	Electric and water distribution lines, natural gas pipelines	X	X	X	X	X	X	X	X	X	X	X	X	
	Ground Mounted Solar energy systems 6,000 sq. ft. or less (accessory use only)	X	X	X	X	X	X	X	X	X	X	X	X	
491 pt.	Ground Mounted Solar energy systems 6,000 sq. ft. greater than 6,000 sq. ft.	C												
495-497	Sanitary Services											C	C	

<b>Wholesale Trade</b>		<b>R-P</b>	<b>R-S</b>	<b>R-T</b>	<b>R-M</b>	<b>RMH</b>	<b>NC</b>	<b>O &amp; I</b>	<b>CB</b>	<b>HB</b>	<b>CP</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
50	Wholesale Trade, Durable Goods, all except										X	X	X	
5015	Motor vehicle parts, used											C	C	
5093	Scrap and metal waste												C	
51	Wholesale Trade, Non-Durable Goods, all except	C							X			X		
5154	Livestock (wholesale)	C										C	C	

**SECTION 3.14 PERMITTED USES TABLE**

<b>Wholesale Trade cont.</b>		<b>R-P</b>	<b>R-S</b>	<b>R-T</b>	<b>R-M</b>	<b>RMH</b>	<b>NC</b>	<b>O &amp; I</b>	<b>CB</b>	<b>HB</b>	<b>CP</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
516	Chemical and Allied Products											C	C	
517	Petroleum and petroleum products											C	C	
5191	Farm Supplies	C										X		

<b>Retail Trade</b>		<b>R-P</b>	<b>R-S</b>	<b>R-T</b>	<b>R-M</b>	<b>RMH</b>	<b>NC</b>	<b>O &amp; I</b>	<b>CB</b>	<b>HB</b>	<b>CP</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
52	Retail uses less than 5,000 sq. ft.						X	X	X	X	X			
	Retail uses 5,000 - 15,000 sq. ft.						C		X	X				
	Retail uses greater than 15,000 - 30,000 sq. ft.								C	X				
	Retail uses greater than 30,000 sq. ft.									C				
5271	Modular/Manufactured Home Sales/Service									C		C		4.7
53	General Merchandise Stores, less than 5,000 sq. ft.						X	X	X	X	X			
	General Merchandise Stores, 5,000 - 15,000 sq. ft.						C		X	X				
	General Merchandise Stores, 15,000 - 30,000 sq. ft.								C	X				
	General Merchandise Stores, greater than 30,000 sq. ft.									C				
54	Food Stores, less than 5,000 sq. ft.						X	X	X	X	X			
	Food Stores, 5,000 - 15,000 sq. ft.						C		X	X				
	Food Stores, 15,000 - 30,000 sq. ft.								C	X				
	Food Stores, greater than 30,000 sq. ft.									C				
55	Auto dealers, gas stations, <i>except</i>									C		C		
5531	Auto and Home Supply Stores						X	X	X	X				
5541	Gasoline Service Stations						C			C				
58	Eating and Drinking Places without drivethroughs						X	C	X	X				
	Eating and Drinking Places as part of a multi-tenant center						X	X	X	X				
	Eating and Drinking Places with drivethroughs								C	C				

**SECTION 3.14 PERMITTED USES TABLE**

<b>Retail Trade cont.</b>		<b>R-P</b>	<b>R-S</b>	<b>R-T</b>	<b>R-M</b>	<b>RMH</b>	<b>NC</b>	<b>O &amp; I</b>	<b>CB</b>	<b>HB</b>	<b>CP</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
5813	Drinking Places (alcohol beverages)								C	C				4.8
5921	Liquor Stores						C		C	C				
5932	Flea Markets									C		C		

<b>Finance, Insurance, and Real Estate</b>		<b>R-P</b>	<b>R-S</b>	<b>R-T</b>	<b>R-M</b>	<b>RMH</b>	<b>NC</b>	<b>O &amp; I</b>	<b>CB</b>	<b>HB</b>	<b>CP</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
60-67	Depository and non-depository institutions, security and commodity brokers, insurance carriers and agents, real estate, holdings and investments up to 5,000 sq. ft.							X	X	X	X	X		4.13
60-67	greater than 5,000 sq. ft.						C	C	C	X	X			4.13

<b>Services</b>		<b>R-P</b>	<b>R-S</b>	<b>R-T</b>	<b>R-M</b>	<b>RMH</b>	<b>NC</b>	<b>O &amp; I</b>	<b>CB</b>	<b>HB</b>	<b>CP</b>	<b>LI</b>	<b>HI</b>	<b>SR</b>
70	Hotels, rooming houses, camps, and other lodging places; all except							C	C	C				
	Boarding Houses					X								
	Bed and Breakfast Inns	C			C		X	X	X					4.9
7011	Campground	C												
72	Personal Services, all except						X	X	X	X	X	X		
	Personal Services greater than 5,000 sq. ft.						C	C	X	X	X	X		
7299	Misc personal service								C	C				
73	Business Services, all except						X	X	X	X	X	X		
	Business Services, greater than 5,000 sq. ft.						C	C	X	X	X	X		
75	Auto Repair, service, and parking									C		C		4.7
76	Misc repair service									C		C		
79	Amusements, Recreational Services, all except							X		X		X		
79	Amusements, Recreational Services, Greater than 5,000							C		X		C		
7948	Racetracks	C										C	C	
7992	Golf Courses	C	C									C		
7993	Electronic gaming operations									C				4.30
7997	Nonprofit Athletic Fields		C	C	C					C	C	C		



**SECTION 3.14 PERMITTED USES TABLE**

Services cont.		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
7999	Misc Amusement Recreation Services									C		C		
80	Health Services, All except						X	X	X	X	X	X		
8059(pt)	Convalescent homes for psychiatric patients							C						
8063	Psychiatric hospitals							C						
	Alcohol and Drug Rehab Facility							C						
8063(pt)	Drug addiction, Alcohol rehab hospitals							C						
81	Legal Services						X	X	X	X	X			
82	Educational Services; All except	C	C	C	C	C	X	X	X	X	X	X		
	Facility providing overnight habitation							C		C				
83	Social Services; All except							X	C	X	X			
8322	Individual and Family Services									X				
8351(pt)	Family child care home	X	X	X	X	X	X	X						
8351(pt)	Child care center in residence		X	X	X	X								
8351(pt)	Child care center						X	X	X	X				
8361	Residential care				C		C	X	X	X				
84	Museums, art galleries and botanical gardens; all except								X	X				
	Zoological Parks	C												
86	Membership organizations; all except						X	X	X	X	X			
	Churches	C	C	C	C	C	X	X	X	X	X	X		
8641	Civic, service and social fraternities	C	C	C	C	C	X	X	X	X	X	X		
87	Engineering, Accounting, management services						X	X	X	X	X	X		
89	Miscellaneous services						X	X	X	X	X	X		

Public Administration		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
91	General Government	C	C	C	C	C	X	X	X	X	X	X		
92	Justice, public order, safety; all except for	C	C	C	C	C	X	X	X	X	X	X		
9221	Police Protection	C	C	C	C	C	X	X	X	X	X	X		
9224	Fire Protection	C	C	C	C	C	X	X	X	X	X	X		
	Ambulance Station	C	C	C	C	C	X	X	X	X	X	X		
	Rescue Squad	C	C	C	C	C	X	X	X	X	X	X		
93	Public Finance	C	C	C	C	C	X	X	X	X	X	X		

**SECTION 3.14 PERMITTED USES TABLE**

Unclassified OR Specific Uses	R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
Adult Uses									C				4.4
Major Subdivisions for commercial uses							X		X	X	X	X	
Multi-tenant developments less than 30,000 sq. ft.								X	X				
Multi-tenant developments 30,001 - 60,000 sq. ft.								C	X				
Multi-tenant developments greater than 60,000 sq. ft.									C				
Outdoor Storage (non-residential)	C								C		C	C	4.20
Swimming Pools (private principal use)	X	X	X	X	X		X						
Temporary Uses						X	X	X	X				4.24
Wireless Telecommunication Towers									C		C	C	4.26
Yard Sales	X	X	X	X	X								4.27

\* Class 1 and 2 essential services are permitted in all districts

## CHAPTER 3: ZONING DISTRICTS

### Section 3.15 Conditional ~~Use Zoning~~ District (~~CU~~)

#### 3.15.1 Intent

There is a Conditional ~~Zoning Use~~-District (~~CU~~) which corresponds to each of the primary districts authorized in this ordinance. It is recognized that certain types of zoning districts would be inappropriate at particular locations in the absence of special conditions. ~~The Conditional Use Zoning Districts is~~ ~~are~~ a means by which special conditions can be imposed in the furtherance of the purpose of this Ordinance. ~~Conditional Zoning Districts are intended to support firm development plans. As a result, the~~ Conditional ~~Zoning Use~~-District classification will be considered for rezoning only upon request of a property owner with the presentation of a ~~site specific plan~~ ~~major subdivision or major site plan~~.

**Commented [BH4]:** Consider a sentence before this one that reads something like the following: "They are intended for rezonings needed to support firm development proposals. As a result," and then continue with existing last sentence.

#### 3.15.2 Uses and Other Requirements

Within a Conditional ~~Zoning Use~~ District, only those uses authorized as permitted or ~~conditional special~~ uses in the zoning district with which the district corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards ~~unless the Town Council explicitly approves conditions reducing minimum standards.~~ Additional limitations on use and other requirements may be added as conditions by the Town Council.

**Commented [BH5]:** Chapter 13 language specifically identifies at a minimum a Major Site Plan or Major Subdivision, as opposed to the more general Site Specific Plan. Consider harmonizing the language in the two sections.

See Chapter 13 for ~~the~~ Conditional ~~Use District Rez~~Zoning provisions.

## CHAPTER 3: ZONING DISTRICTS

### Section 3.16 Watershed Overlay District

#### 3.16.1 Purpose and Applicability

The purpose of the Watershed Overlay District is to provide for protection of the Lake Fisher and Lake Corriher water supplies consistent with the WS-IV Protected Area management rules as adopted by the North Carolina Department of Environment and Natural Resources for such classified areas.

#### 3.16.2 General Development Standards

- A. The construction of new roads and bridges and non-residential development should minimize built-upon area, divert storm water away from surface water supply waters as much as possible, and employ best management practices (BMPs) to minimize water quality impacts. The Department of Transportation BMPs as outlined in their document entitled "Best Management Practices for the Protection of Surface Waters" shall be used in all road and bridge construction projects in the Watershed Overlay District.
- B. All development activities within the Watershed Overlay District, in addition those activities specifically regulated by these provisions, are subject to the standards, usage conditions and other regulations contained in the Rules and Requirements of the Surface Water Supply Protection Rules adopted by the North Carolina Department of Environment and Natural Resources.
- C. A minimum 30-foot vegetative buffer for development activities is required along all perennial waters, including streams, rivers and impoundments, indicated on the most recent versions of USGS 1: 24,000 scale topographic maps; provided, that nothing in this subsection shall prevent artificial streambank or shoreline stabilization. No new development is allowed in the buffer, except that water dependent structures, or other structures such as flag poles, signs and security lights, which result in only diminutive increase in impervious area and public works projects such as road crossings and greenways may be allowed where no practicable alternative exists. These activities shall minimize built-upon surface area, direct runoff away from the surface water, and maximize the utilization of BMPs.
- D. Where otherwise permitted in the underlying Primary Zoning District, Cluster Development is allowed on a project by project basis as follows:
- The overall density of the project meets the density requirements of this Ordinance;
  - The appropriate vegetative buffer in (c) above is provided;
  - Built upon areas are designed and located to minimize storm water runoff impact to the receiving waters, minimize concentrated storm water flow, and maximize the flow through vegetated areas;
  - Areas of concentrated development are located in upland areas and away, to the maximum extent practicable, from surface waters and drainage ways;
  - Remainder of tract to remain in vegetated or natural state;
  - The area in the vegetated or natural state may be conveyed to a property owners association; a local government for preservation as a park or greenway; a conservation organization; or placed in a permanent conservation or farmland preservation easement. A maintenance agreement shall be filed with the property deeds; and
  - Cluster development shall transport storm water runoff from the development by vegetated conveyances to the maximum extent practicable.

## CHAPTER 3: ZONING DISTRICTS

- E. All development in Watershed Overlay Districts, shall, to the maximum extent practicable, minimize built-up surface area, direct storm water runoff away from surface waters and incorporate best management practices to minimize water quality impacts.
- F. Existing development, as defined in this Ordinance, is not subject to the requirements of the overlay provisions. Expansions to structures classified as existing development must meet the requirements of these provisions, provided however, the built-upon area of the existing development is not required to be included in the density calculations. In determining expansions to existing development, the maximum permitted additional built-upon area is derived by multiplying the area of the portion of the property that is not built-upon by the appropriate percent built-upon limitation for the Overlay District in which the property is located.
- G. A pre-existing lot created prior to the effective date of this Ordinance, regardless of whether or not a vested right has been established, may be developed or redeveloped for single family residential purposes without being subject to the restrictions of these overlay provisions.
- H. Any existing building or built-upon area not in conformance with the limitations of these provisions that has been damaged or removed for any reason may be repaired and/or reconstructed, provided:
- Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage or removal.
  - The total amount of space devoted to built-upon area may not be increased.
  - The repair or reconstruction is otherwise permitted under the provisions of this Ordinance.
- I. No activity, situation, structure or land use shall be permitted or allowed to operate within a watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of storm water runoff; or any other situation found to pose a threat to water quality.
- J. The Zoning Administrator may require such information on Zoning Permit applications and site plans, including density/built-upon area calculations, as he may deem necessary to determine compliance with the Watershed Overlay District provisions.
- K. The Zoning Administrator may, prior to the authorization of any permit in the Watershed Overlay District, require evidence of a valid Sedimentation/Erosion Control Permit issued by the State of North Carolina or evidence satisfactory to the Administrator that no permit is required.
- L. The Zoning Administrator shall maintain records of the administration of the Watershed Overlay District regulations and shall submit any modifications of the regulations to the Division of Water Quality of the North Carolina Department of Environment and Natural Resources. The Zoning Administrator shall also maintain a record of variances issued and shall submit an annual report of each project receiving a variance and the reason for the variance to the Division of Water Quality. The annual report shall contain the record of each variance granted by the Board of Adjustment during the previous calendar year and shall be submitted on or before January 1 of the following year.

### 3.16.2 Density/Built-Upon Area Limitations

### CHAPTER 3: ZONING DISTRICTS

- A. Residential development activities which require a Sedimentation/Erosion Control Permit shall not exceed one (1) dwelling unit per one half (1/2) acre or, optionally, 24 percent built-upon area, on a project by project basis.
- B. Non-residential development activities which require a Sedimentation/Erosion Control Permit shall not exceed 24 percent built-upon area, on a project by project basis.
- C. Residential development activities which require a Sedimentation/Erosion Control Permit and which do not have a curb and gutter street system, shall not exceed three (3) dwelling units per acre or, optionally, 36 percent built-upon area, on a project by project basis.
- D. Non-residential development activities which require a Sedimentation/Erosion Control Permit and which do not have a curb and gutter street system, shall not exceed 36 percent built-upon area, on a project by project basis."
- E. Notwithstanding the limitations of 16.2(a), (b), (c) and (d) above, 10 percent of the LFWS-PA area may be developed with new development projects of up to seventy 70 percent built-upon area as Special Intensity Allocations (SIAS). The SIAS shall be allocated and developed in accordance with the following rules:
- SIAS shall be allocated by the Zoning Administrator through the Zoning Compliance Permit/Development Plan process. The Zoning Administrator shall maintain a record of the total acreage in the Lake Fisher WS-PA area eligible for SIAS, the acreage that has been allocated and the acreage that has been used as of the latest date. In no case shall allocated acreage exceed the acreage eligible for allocation. For the purpose of this subsection, the total area that can be allocated for SIAS's in the Lake Fisher WS-PA is 202.74 acres.
  - SIAS shall be allocated on a "first come, first served" basis for non-residential development upon the approval and issuance of the appropriate permit.
  - The right to develop a SIA shall terminate with the loss of the right to develop due to the expiration of a Zoning Compliance Permit, Zoning Compliance Permit with Vested Rights, or Building Permit. In such a case, the allocated acreage, or unused allocated acreage shall be returned to the unallocated total acreage eligible for allocation.

## CHAPTER 3: ZONING DISTRICTS

### Section 3.17 Planned Unit Development (PUD)

#### 3.17.1 Purpose

The purpose of the Planned Unit Development district (PUD) is to provide for the orderly development of land with a mix of land uses and intensity. PUD zoning is intended to permit flexibility in the design, construction and processing of residential and non-residential developments of a quality that could not be achieved under conventional zoning approaches. While the conventional zoning districts and the requirements of those districts set forth in the UDO are reasonable, there may be circumstances in which it is in the community's best interest to allow unique and/or creative designs and techniques that:

- Promote the most appropriate use of a parcel
- Allow diversification of use
- Facilitate the adequate and economical provisions of streets, parks, open space, schools, storm drainage and sewer and water utilities
- Preserve and utilize open space
- Offer recreational opportunities close to residential uses
- Enhance neighborhood appearance

#### 3.17.2 Processing Procedure

A PUD shall be considered a conditional zoning district and shall be processed in accordance with ~~§Section 913.6.2.3~~ of this Ordinance.

#### 3.17.3 Permitted Uses

- A. The uses permitted in a PUD shall be the permitted uses as set forth in the approved site plan.
- B. The site plan shall designate land use categories consistent with the zoning district classification of this Ordinance. Within each land use category, proposed uses shall be subject only to the permitted uses in Table 3.14 for each land use category. No ~~conditional-special~~ use permit shall be required for any ~~conditional-special~~ use listed for said land use category in Table 3.14 separate from that issued for the PUD itself.

#### 3.17.4 Land Use Composition

- A. No site plan for a PUD district shall be approved unless the following percentages of land uses are provided for within the boundaries of the district.
- Moderate Density residential (2.5-7 units per acre) = 0-50% of total acreage
  - High Density residential (8 or more units per acre) = 0-50% of total acreage
  - Open space shall be required in accordance with § 6 of this Ordinance

#### 3.17.5 Design Standards

- A. The land uses within a PUD shall not be subject to any of the dimension and density provisions of Chapters 3 and 7 except that a perimeter setback of 25 feet shall be maintained from existing development.
- B. PUD designs shall be subject to the recommended design elements for Chapter 5. The design elements are for consideration in the design of a Planned Unit Development and shall be considered as criteria for approval. This is not to state that all of the design elements shall be included in a PUD, rather all elements shall be considered and those that are considered appropriate and reasonable should be included. Additional design requirements are included in 3.17.8 below.

## CHAPTER 3: ZONING DISTRICTS

### 3.17.6 Professional Design Team Required

An applicant for a PUD approval shall certify, in writing at the time of application, that a member of each of the following professions will be used in the planning and design process for the proposed development:

- Project planning and design by a licensed North Carolina architect, licensed North Carolina landscape architect, or a registered land surveyor;
- Landscaping design by a certified nursery or licensed North Carolina landscape architect; and
- Site engineering by a North Carolina Registered Engineer

### 3.17.7 Modification of Approved Final Site Plan

Following approval of the CZ district ~~and the Conditional Use Permit~~, no modifications of the land use category designations, design standards, uses, densities or any other condition of the site plan shall be permitted ~~unless a new Conditional Use Permit is approved~~ without Town Council approval. However, the Administrator may approve ~~the following modifications in writing without a new site plan~~ administratively as described in Section 9.12 Administrative Modifications.

- ~~A change in the location of not more than ten percent (10%) of the dwelling units of floor area.~~
- ~~A change in the location of any part of open space acreage of not more than ten percent (10%) of the gross acreage~~
- ~~A change in the location of any part of proposed street alignment and lot configuration of not more than ten percent (10%) of the gross acreage~~
- ~~An increase or decrease of any setback by not more than five (5) feet for setback of less than fifty (50) feet~~

### 3.17.8 Recommended Design Elements

As indicated in [Section](#) § 3.17.1, PUD zoning is intended to permit flexibility in the design, construction and processing of residential, commercial and/or industrial developments of a quality that could not be achieved under conventional zoning concepts. Therefore, the following elements are recommended for consideration in the design of a Planned Unit Development and shall be included in a PUD, rather all elements shall be considered and those that are considered appropriate and reasonable should be included.

#### A. Architectural Elements

- Building height, rhythm, articulation, massing and bulk are compatible with the individual site attributes and are compatible with the surrounding neighborhoods.
- Distinctive architectural details such as covered front porches, door and window details, roof overhangs, and/or parapet walls with cap features shall be provided on each dwelling or principal structure. A variety of roofing colors, textures, and component shapes including shake shingle, shale, and wood components, should be provided.
- Significant architectural differences in the choice of elevations, roof lines, and exterior colors for each residential floor should be provided. Front façades shall not be identical to any house less than three (3) adjacent homes, nor shall the same rear façade which is visible from arterial street view, on any block front, be identical to any rear façade closer than three (3) adjacent homes. Homes facing one another (across the street) shall not have the same façade.
- Residential design guidelines are provided, which include a variety of conceptual standard plans, and may include: variation in building setbacks, detached garages, recessed garages if attached to the principal building and fencing alternatives.

**Commented [BH6]:** Consider adding language that clarifies that these first three changes in site design are allowed if the change still meets the applicable standards of the ordinance.

**Commented [BH7]:** While the previous three modifications that the Administrator can approve are all changes in location that presumably don't change the standards of the ordinance, this last bullet could represent a change to the standards in the ordinance. An administrator cannot have wide-open discretion for granting modifications. There must be specific, neutral, and objective criteria in place for when a minor modification is authorized. So, for example, a minor modification may be allowed to provide relief from a unique physical attribute of the property not known at the time of initial approval (one question is how to establish this, so providing additional guidance may be helpful). With such a limit, the applicant will need to provide evidence of why relief is needed. While the administrator may need to engage in some fact finding, it may be administrative rather than quasi-judicial as long as it is defined by the ordinance, and limits are placed on the discretion exercised by the local government staff person or appointed board, as the UDO currently does by limiting the increase or decrease to not more than five feet.

**Commented [BH8]:** Who makes this decision? If it is the applicant, then that may be ok. While the Town can require many of the provisions in the first bullet, it can only require some of the provisions in the other bullets for one- and two-family dwellings through a negotiated process such as a conditional zoning.



## CHAPTER 3: ZONING DISTRICTS

- Garage fronts should be de-emphasized and not be the most prominent architectural feature of the house. This should be accomplished by providing side access garages, recessed or detached “in-line” garages. Garages should be recessed at least one car length in order to provide interest and relief from the street. The front elevation shall prominently feature an entrance for persons rather than automobiles with the garage area not to exceed forty percent (40%) of the front façades.
- B. Recreation elements
- Not less than 70 percent (70%) of the residential units are located within 660 feet of a pedestrian, equestrian and bicycle trail or park of at least 4,000 sf or more.
  - Recreation and open space facilities should be aligned with the community’s park and open space network.
  - Neighborhood scale recreation facilities and amenities ~~should~~ shall be provided which are functional, not retention/detention or amenities should be designed in accordance with the Stormwater Management Standards of this Ordinance. Such areas should include turf or landscaping within all areas not permanently covered with standing water.
  - Gateway treatments may be incorporated at appropriate locations along an open space network.
- C. Transportation elements
- Park-and-ride lots and bus stations may be incorporated with planned facilities.
  - Bicycle lanes should be included along at least seventy percent (70%) of the linear frontage of all planned collector streets.
- D. Landscaping and Buffering elements
- Higher density or intensity developments abutting lower density or intensity areas include buffering and should substantially mitigate any negative impacts consistent with the Landscaping Standards of this Ordinance.
- E. Other Design considerations
- Homeowners or property owners associations ~~should~~ shall be required to maintain all roadway/right-of-way landscaping, pedestrian/bicycle, and equestrian paths (arterial, collector and local as proposed) to the standards of this Ordinance.
  - Areas designated for industrial land uses should be designed to create a campus-style environment.
  - Street access must be provided to all undeveloped and under-developed parcels.

**Commented [BH9]:** Is this intended to be a requirement or a strong suggestion? If the former, then “shall” or “must” would be the word to use.

**Commented [BH10]:** Is this intended to be a requirement or a strong suggestion? If the former, then “shall” or “must” would be the word to use.

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### Section 3.18 Flood Damage Prevention Overlay District

#### 3.18.1 Statutory Authorization

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Council of the Town of China Grove, North Carolina, does ordain as follows:

#### 3.18.2 Findings of Fact

The flood prone areas within the jurisdiction of the Town of China Grove 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.

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.

#### 3.18.3 Statement of Purpose

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

- A. Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- B. Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- D. Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- E. Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

#### 3.18.4 Objectives

The objectives of this section 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;

## CHAPTER 3: ZONING DISTRICTS

- 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.

### **3.18.5 Lands to Which this Section Applies**

This section shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of the Town of China Grove and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

### **3.18.6 Basis for Establishing the Special Flood Hazard Areas**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) and its accompanying [most recent officially adopted](#) Flood Insurance Rate Maps (FIRM), for Rowan County, ~~dated June 16, 2009~~, which are adopted by [automatically by](#) reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:  
Rowan County Unincorporated Area, dated November 1, 1979  
Town of China Grove Incorporated Area, dated March 29, 1978

### **3.18.7 Establishment of Floodplain Development Permit**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of 3.16.6 of this ordinance.

### **3.18.8 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 ordinance and other applicable regulations.

### **3.18.9 Abrogation and Greater Restrictions**

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

### **3.18.10 Interpretation**

In the interpretation and application of this ordinance, 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.

### **3.18.11 Warning and Disclaimer of Liability**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood

## CHAPTER 3: ZONING DISTRICTS

heights may be increased by man-made or natural causes. This ordinance 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 ordinance shall not create liability on the part of the Town of China Grove or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

### **3.18.12 Penalties for Violation**

Violation of the provisions of this ordinance 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 ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of China Grove from taking such other lawful action as is necessary to prevent or remedy any violation.

### **3.18.13 Designation of Floodplain Administrator**

The Planning Director or his/her designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance.

### **3.18.14 Floodplain Development Application, Permit, and Certification Requirements**

#### *3.18.14.1 Application Requirements.*

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within or adjacent to Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- A. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  1. 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;
  2. the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in 3.18.6, or a statement that the entire lot is within the Special Flood Hazard Area;
  3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in 3.18.6;
  4. The boundary of the floodway(s) or non-encroachment area(s) as determined in 3.18.6;
  5. The Base Flood Elevation (BFE) where provided as set forth in 3.18.6; 3.18.15; or 3.18.21;
  6. The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
  7. The certification of the plot plan by a registered land surveyor or profession engineer. The certification of the plot plan by a professional land surveyor or professional engineer. In lieu of this requirement, the Floodplain Administrator may provide necessary certifications for development adjacent to but not within the Special Flood Hazard Area.

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- B. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
1. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
  2. Elevation in relation to mean sea level to which any non-residential structure in Zone AE or A will be floodproofed; and
  3. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
- C. If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data, an operational plan, and an inspection and maintenance plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.
- D. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance 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 3.18.19.D.3 when solid foundation perimeter walls are used in Zones A, AE, and A1-30.
  3. Usage details of any enclosed areas below the lowest floor.
  4. 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.
  5. Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
  6. Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of 3.18.19.F and G of this ordinance are met.
  7. 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.

### *3.18.14.2 Permit Requirements.*

The Floodplain Development Permit shall include, but not be limited to:

- A. A description of the development to be permitted under the floodplain development permit.
- B. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in 3.18.6.

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- C. The regulatory flood protection elevation required for the reference level and all attendant utilities.
- D. The regulatory flood protection elevation required for the protection of all public utilities.
- E. All certification submittal requirements with timelines.
- F. A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.
- G. The flood openings requirements, if in Zones A, AE or A1-30.
- H. Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).

### *3.18.14.3 Certification Requirements.*

#### A. Elevation Certificates

1. 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.
2. An Elevation Certificate (FEMA 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) days 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.
3. 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.

#### B. Floodproofing Certificate

If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new

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construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- C. If a manufactured home is placed within Zone A, 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 3.18.19.C.2.
- D. 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.
- E. Certification Exemptions. The following structures, if located within Zone A, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items 1 and 2 of this subsection:
  - 1. Recreational Vehicles meeting requirements of 3.18.19.F.a;
  - 2. Temporary Structures meeting requirements of 3.18.19.G; and
  - 3. Accessory Structures less than 150 square feet meeting requirements of 3.18.19.H.

### **3.18.15 Duties and Responsibilities of the Floodplain Administrator**

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

- A. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- B. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State and Federal permits have been received.
- C. Notify adjacent communities and the North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- D. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- E. Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of 3.18.23 are met.

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- F. Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of 3.18.14.C.
- G. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of 3.18.14.C.
- H. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of 3.18.14.C.
- I. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of 3.18.14.C and 3.18.19.B.
- J. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection 3.18.16.
- K. When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of 3.18.6 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 3.18.21.B.2, in order to administer the provisions of this ordinance.
- L. 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 3.18.6, 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 ordinance.
- M. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.
- N. Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- O. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this section and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- P. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, 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



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stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

- Q. Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- R. Make periodic inspections throughout the special flood hazard areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- S. Follow through with corrective procedures of Section 3.18.16.
- T. Review, provide input, and make recommendations for floodplain variance requests.
- U. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of 3.18.6 of this ordinance, including any revisions thereto including Letters of Map Change, which includes Letters of Map Amendment (LOMAs), Letters of Map revision Based on Fill (LOMR-Fs) Conditional Letters of Map Revision (CLOMRs), and Letters of Map Revision (LOMRs) issued by FEMA. Notify State and FEMA of mapping needs.
- V. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

### 3.18.16 Corrective Procedures

- A. Violations to be Corrected: When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- B. Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
  - 1. That the building or property is in violation of the floodplain management regulations;
  - 2. That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
  - 3. That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

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- C. Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, 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 sixty (60) calendar days, nor more than one hundred eighty (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 (10) 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.

### 3.18.17 Provisions for All Special Flood Hazard Areas

In all Special Flood Hazard Areas the following provisions are required:

- A. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- B. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- C. All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- D. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the regulatory flood protection elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
- E. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- F. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- 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 ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

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- I. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance 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 ordinance.
- J. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by floodplain variance as specified in 16.7.4. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified in accordance with the provisions of 3.18.14.C.
- K. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- L. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- M. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- N. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- O. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- P. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

### **3.18.19 Provisions for All Special Flood Hazard Areas where Base Flood Elevation Data is Provided**

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in 3.18.6, or 3.18.20, the following provisions, in addition to the provisions of 3.18.17, 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 Appendix A of this ordinance.
- 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 Appendix A of this Ordinance. Structures located in A, AE, and A1-30 Zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered

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professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in 3.18.14.C, along with the required operational plan and maintenance and inspection plans.

### C. Manufactured Homes.

1. New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Appendix A of this Ordinance.
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 NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (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 thirty-six (36) inches in height, an engineering certification is required.
3. All enclosures or skirting below the lowest floor shall meet the requirements of 3.18.19.D.
4. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

### 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, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
  - A minimum of two flood openings on different sides of each enclosed area subject to flooding;
  - The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

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- If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
- The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
- Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
- 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:
  - 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.
  - 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:
  - Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
  - A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

### F. Recreational Vehicles. Recreational vehicles shall either:

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

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

## CHAPTER 3: ZONING DISTRICTS

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 (3) months, renewable up to one (1) 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, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
1. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
  2. Accessory structures shall not be temperature-controlled;
  3. Accessory structures shall be designed to have low flood damage potential;
  4. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  5. Accessory structures shall be firmly anchored in accordance with the provisions of 3.18.18.A;
  6. All service facilities such as electrical shall be installed in accordance with the provisions of 3.18.18.D; and
  7. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions of 3.18.19.D.3.

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with 3.18.19.C.

### 3.16.20 Reserved

### 3.16.21 Standards for Floodplains without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in 3.18.6, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of 3.18.18, shall apply:

## CHAPTER 3: ZONING DISTRICTS

- A. No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (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 ordinance and shall be elevated or floodproofed in accordance with standards in 3.18.18 and 19.
  2. When floodway or nonencroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and nonencroachment areas shall also comply with the requirements of 3.18.19 and 23.
  3. All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than twenty (20) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with 3.18.6 and utilized in implementing this ordinance.
  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 floodproofed (nonresidential) to or above the regulatory flood protection elevation, as defined in Appendix A. All other applicable provisions of 3.18.19 shall also apply.

### **3.18.22 Standards for Riverine Floodplains with Base Flood Elevations but without Floodways or Non-Encroachment Areas**

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- A. Standards of 3.18.18 and 19; 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 (1) foot at any point within the community.

### **3.18.23 Floodways and Non-Encroachment Areas**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in 3.18.6. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles.

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The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- A. No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
  - 1. it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or
  - 2. A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
- B. If 3.18.23.A is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- C. No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
  - 1. The anchoring and the elevation standards of 3.18.19.C; and
  - 2. The no encroachment standard of 3.18.23.A.

### **3.18.24 Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance**

This section in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted on April 7, 1987 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this section shall not affect any action, suit, or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of The Town of China Grove enacted on April 7, 1987, as amended, which are not reenacted herein are repealed.

### **3.18.25 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 here authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.



X- Permitted by Right S- Special Use		Zoning Districts													Special Requirements
		Residential					Nonresidential								
SIC Code	Use	R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI		
<b>Residential</b>															
	Single Family Dwelling, Site Built	X	X	X	X	X	X	X							
	Manufactured Homes (on individual lots)	X				X								4.17	
	Manufactured Home Park					S								4.18	
	Duplex			X	X	X	X	X						4.25	
	Accessory Dwellings	X	X	X										4.2	
	Accessory Structures	X	X	X	X	X	X	X						4.3	
	Multi-family				S		S	S							
	Home Occupation	X	X	X	X	X	X	X	X					4.16	
	Rural Family Occupation	X	X	X										4.23	
	Mix Residential Development				X		X							4.2	
	Major Residential Subdivisions		X	X	X	S									

Agriculture, Forestry, and Fishing		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
07	Agricultural Services; all except	X	S							S		X		4.5
0742	Veterinary Services							X	X	X		X		
0752	Grooming						X	X	X	X				
752	Animal Services with Indoor Boarding Kennels							X	X	X		X		
752	Animal Services with Outdoor Boarding Kennels									S		X		4.6
8	Forestry	X												
9	Fishing, Hunting, and Trapping	X												

Mining		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
10	Metal Mining												S	
13	Oil and Gas Extraction												S	
14	Mining and Quarrying												S	

Construction		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
--------------	--	-----	-----	-----	-----	-----	----	-------	----	----	----	----	----	----

15	Building Construction- general contractors and operative builders (Less than 5,000 sq. ft.)							X		X		X		
	Building Construction- general contractors and operative builders (greater than 5,000 sq. ft.)									X		S	X	
16	Heavy Construction - other (any size)											S	S	
17	Construction- special trade (less than 5,000 sq. ft.)							X		X	X	X		
17	Construction- special trade (greater than 5,000 sq. ft.)										S	S		

Manufacturing		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
20	Food and Kindred Products											X	X	
22	Textile Mill Products											X	X	
23	Apparel and other products											X	X	
24	Lumber and Wood Products <i>except</i> Furniture												S	
241	Logging	P										S	P	
242	Sawmills	S										S	P	
25	Furniture and Fixtures											X	X	
26	Paper and Allied Products												S	
27	Printing, Publishing, and Allied Industries											X	X	
28	Chemicals and Allied Products												S	
29	Petroleum Refining and Related Industries												S	
30	Rubber and Misc. Plastics Products											X	X	
31	Leather and Leather Products											X	X	
Manufacturing cont.		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
32	Stone, Clay, Glass, and Concrete Products												S	
33	Primary Metal Industries											X	X	
34	Fabricated Metals Products											X	X	
35	Industrial and Commercial Machinery and Computer Equipment											X	X	
36	Electronic and other electrical equipment											X	X	
37	Transportation Equipment											X	X	
38	Measuring, Analyzing, and Controlling Instruments											X	X	
39	Misc. Manufacturing Industries											X	X	
3993	Signs									X		X		

Transportation, Communication, Electric, and Gas		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
40	Railroads											S	S	
41	Local and suburban transit, <i>except</i>		S	S	S	S	X	X	X	X	X			
4121	Taxicabs						X	X	X	X				
42	Motor freight warehousing, all except										X	X	X	
421	Trucking										S	X	X	
	Mini-warehouse warehousing									S		X		4.28
43	US Post Office		S	S	S	S	X	X	X	X	X			
44 & 45	Water Transportation, Transportation By Air											S	S	
46	Pipelines, except natural gas												S	
47	Transportation Services									S			S	
48	Communications									S		S	S	4.26
Transportation, Communication, Electric, and Gas		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
49	Electric, Gas, and Sanitary Services *													
	Electric, gas, and water services (sic codes 491, 492, 493, 494) Class 3											S	S	
Transportation, Communication, Electric, and Gas		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
	Electric and water distribution lines, natural gas pipelines	X	X	X	X	X	X	X	X	X	X	X	X	
	Ground Mounted Solar energy systems 6,000 sq. ft. or less (accessory use only)	X	X	X	X	X	X	X	X	X	X	X	X	
491 pt.	Ground Mounted Solar energy systems 6,000 sq. ft. greater than 6,000 sq. ft.	S												
495-497	Sanitary Services											S	S	
Wholesale Trade		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
50	Wholesale Trade, Durable Goods, all except										X	X	X	



Retail Trade														
Use		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
52	Retail uses less than 5,000 sq. ft.						X	X	X	X	X			
	Retail uses 5,000 - 15,000 sq. ft.						S		X	X				
	Retail uses greater than 15,000 - 30,000 sq. ft.								S	X				
	Retail uses greater than 30,000 sq. ft.									S				
5271	Modular/Manufactured Home Sales/Service									S		S		4.7
53	General Merchandise Stores, less than 5,000 sq. ft.						X	X	X	X	X			
	General Merchandise Stores, 5,000 - 15,000 sq. ft.						S		X	X				
	General Merchandise Stores, 15,000 - 30,000 sq. ft.								S	X				
	General Merchandise Stores, greater than 30,000 sq. ft.									S				
54	Food Stores, less than 5,000 sq. ft.						X	X	X	X	X			
	Food Stores, 5,000 - 15,000 sq. ft.						S		X	X				
	Food Stores, 15,000 - 30,000 sq. ft.								S	X				
	Food Stores, greater than 30,000 sq. ft.									S				
Retail Trade														
Use		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
55	Auto dealers, gas stations, <i>except</i>									S		S		
5531	Auto and Home Supply Stores						X	X	X	X				
5541	Gasoline Service Stations						S			S				

58	Eating and Drinking Places without drivethroughs						X	S	X	X				
	Eating and Drinking Places as part of a multi-tenant center						X	X	X	X				
	Eating and Drinking Places with drivethroughs								S	S				
5813	Drinking Places (alcohol beverages)								S	S				4.8
59	Misc. Retail uses less than 5,000 sq. ft.; <i>All except</i>						X	X	X	X	X			
	Misc. Retail uses 5,000 - 15,000 sq. ft.; <i>All except</i>						S		X	X				
	Misc. Retail uses greater than 15,000 - 30,000 sq. ft. ; <i>All except</i>								S	X				
	Misc. Retail uses greater than 30,000 sq. ft.; <i>All except</i>									S				
5921	Liquor Stores						S		S	S				
5932	Flea Markets									S		S		
598	Fuel Dealers									S		X		

Finance, Insurance, and Real Estate		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
60-67	Depository and non-depository institutions, security and commodity brokers, insurance carriers and agents, real estate, holdings and investments up to 5,000 sq. ft.						X	X	X	X	X			4.13
60-67	greater than 5,000 sq. ft.						S	S	S	X	X			4.13

Services		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
70	Hotels, rooming houses, camps, and other lodging places; all except							S	S	S				
	Boarding Houses					X								
	Bed and Breakfast Inns	S			S		X	X	X					4.9
7011	Campground	S												
72	Personal Services, all except						X	X	X	X	X	X		
	Personal Services greater than 5,000 sq. ft.						S	S	X	X	X	X		
7299	Misc personal service								S	S				
73	Business Services, all except						X	X	X	X	X	X		
	Business Services, greater than 5,000 sq. ft.						S	S	X	X	X	X		
75	Auto Repair, service, and parking									S		S		4.7
76	Misc repair service									S		S		
79	Amusements, Recreational Services, all except							X		X		X		
79	Amusements, Recreational Services, Greater than 5,000							S		X		S		
7948	Racetracks	S										S	S	
7992	Golf Courses	S	S									S		
7993	Electronic gaming operations									S				4.30
7997	Nonprofit Athletic Fields		S	S	S					S	S	S		
7999	Misc Amusement Recreation Services									S		S		
80	Health Services, All except						X	X	X	X	X	X		
8059(pt)	Convalescent homes for psychiatric patients							S						
8063	Psychiatric hospitals							S						
	Alcohol and Drug Rehab Facility							S						
8063(pt)	Drug addiction, Alcohol rehab hospitals							S						
Services		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
81	Legal Services						X	X	X	X	X			



82	Educational Services; All except	S	S	S	S	S	X	X	X	X	X	X		
	Facility providing overnight habitation							S		S				
83	Social Services; All except							X	S	X	X			
8322	Individual and Family Services									X				
8351(pt)	Family child care home	X	X	X	X	X	X	X						
8351(pt)	Child care center in residence		X	X	X	X								
8351(pt)	Child care center						X	X	X	X				
8361	Residential care				S		S	X	X	X				
84	Museums, art galleries and botanical gardens; all except								X	X				
	Zoological Parks	S												
86	Membership organizations; all except						X	X	X	X	X			
	Churches	S	S	S	S	S	X	X	X	X	X	X		
8641	Civic, service and social fraternities	S	S	S	S	S	X	X	X	X	X	X		

Services Cont.		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
87	Engineering, Accounting, management services						X	X	X	X	X	X		
89	Miscellaneous services						X	X	X	X	X	X		

Public Administration		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
91	General Government	S	S	S	S	S	X	X	X	X	X	X		
92	Justice, public order, safety; all except for	S	S	S	S	S	X	X	X	X	X	X		
9221	Police Protection	S	S	S	S	S	X	X	X	X	X	X		
9224	Fire Protection	S	S	S	S	S	X	X	X	X	X	X		
	Ambulance Station	S	S	S	S	S	X	X	X	X	X	X		
	Rescue Squad	S	S	S	S	S	X	X	X	X	X	X		
93	Public Finance	S	S	S	S	S	X	X	X	X	X	X		

Unclassified OR Specific Uses		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI	SR
	Adult Uses									S				4.4
	Major Subdivisions for commercial uses							X		X	X	X	X	
	Multi-tenant developments less than 30,000 sq. ft.								X	X				
	Multi-tenant developments 30,001 - 60,000 sq. ft.								S	X				
	Multi-tenant developments greater than 60,000 sq. ft.									S				
	Outdoor Storage (non-residential)	S								S		S	S	4.20
	Swimming Pools (private principal use)	X	X	X	X	X		X						
	Temporary Uses						X	X	X	X				4.24
	Wireless Telecommunication Towers									S		S	S	4.26
	Yard Sales	X	X	X	X	X								4.27

\* Class 1 and 2 essential services are permitted in all districts

Services		R-P	R-S	R-T	R-M	RMH	NC	O & I	CB	HB	CP	LI	HI
79	Amusements, Recreational Services, all except							X		X		X	
79	Amusements, Recreational Services, Greater than 5,000							C		X		C	
7948	Racetracks	C										C	C
7991	Physical Fitness Facilities							X	C	X			
7992	Golf Courses	C	C									C	
7993	Electronic gaming operations									C			
7997	Nonprofit Athletic Fields		C	C	C					C	C	C	
7999	Misc Amusement Recreation Services									C		C	
7999	Yoga Instruction							X	X	X			

SR
4.30

# CHAPTER 4: SPECIAL REQUIREMENTS

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## CHAPTER 4: SPECIAL REQUIREMENTS

### Section 4.1 Purpose

The Town of China Grove finds that there are certain uses that exist which may be constructed, continued, and/or expanded provided they meet certain mitigating conditions specific to their design and/or operation. Such conditions ensure compatibility among uses so that they may be located in proximity to one another without adverse affects to either. This Chapter specifies those requirements that must be met by all the uses listed in the uses permitted with Special Requirements section for each District in Chapter 3.

Each use shall be permitted in compliance with all conditions listed for the use in this Chapter. Certain uses are also classified as ~~Conditional Uses~~ Special Uses and require Town Board approval.

### Section 4.2 Accessory Dwellings

Accessory dwellings may be located in a building separate from the principal dwelling subject to the following requirements:

- ~~A.~~ The accessory dwelling shall be used as a guest house or a residence for an immediate family member of the owner of the principal dwelling.
- ~~B.~~ A. The principal dwelling shall be owner-occupied.
- ~~C.~~ B. The accessory dwelling shall not exceed one-half (1/2) of the total area of the principal dwelling.
- ~~D.~~ C. Accessory dwellings shall meet the setbacks of the principal structure as set forth for the zoning district in which it is located.
- ~~E.~~ D. Accessory dwellings shall be built to North Carolina Building Standards.

### Section 4.3 Accessory Structures (Residential)

- A. Any structure attached to the principal structure shall be subject to all regulations applicable to the principal structure.
- B. Accessory structures shall be constructed in the side or rear yard, except in the Rural Preservation district where the accessory structure is setback a minimum of 150 feet from the street right-of-way.
- C. No accessory structure shall be located closer than three (3) feet from any other building on the same lot.
- D. Mailboxes, newspaper boxes, walls, fences, birdhouses, flagpoles and pump covers may be placed in any yard, and no zoning permit is needed for these structures.
- E. Doghouses up to 15 square feet of total area are permitted in the rear yard. No zoning permit is required if the doghouse is 15 square feet or less in gross floor area.
- F. No accessory structure shall be permitted that involves or requires any external features which are not primarily residential in nature or character.
- G. An accessory structure may not exceed the height of the principal structure.
- H. On any lot one (1) acre or less in area containing a principal residential use, the total area of all accessory structures (excluding outdoor swimming pools) shall not exceed one-half (1/2) the total area of the principal structure.
- I. Satellite dishes do not require a zoning permit and shall be regulated as follows:
  - Satellite dishes shall be no larger than two (2) feet in diameter unless the applicant can demonstrate the need for a larger size.
  - Satellite dishes whose reflective surface is solid shall be painted a subdued or natural color.

**Commented [BH1]:** NC Courts have said that ADUs may not be limited to certain individuals (e.g., can't require owner-occupied, etc.). G.S. 160D-915 has a very narrow allowance for "temporary health care structures" and some allowed limitations related to family members, but that is different than this provision.

**Commented [BH2]:**

**Commented [BH3]:**

**Commented [BH4]:** NC Courts have said this provision is not allowable.

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- J. Under no circumstances may a vehicle, trailer, or manufactured home be used as an accessory structure.

### Section 4.4 Adult Establishments (as a ~~Conditional~~ Special Use only)

- A. No adult establishment shall be located less than 1,000 ft from a school, church, day care center, civic building, park, lot in residential use, lot with residential districting or other adult establishment.
- B. All openings shall have an opaque glazing to discourage visibility of the interior.
- C. No exterior signage or building element shall be pornographic in nature or convey any such idea or element.

### Section 4.5 Agricultural Uses

- A. Accessory uses/structures and outdoor storage associated with agricultural uses on properties of greater than one (1) acre are permitted subject to the issuance of a zoning permit and are not subject the requirements of Section 4.3. However, they are subject to the accessory structure setbacks for their respective zoning districts.
- B. Existing agricultural uses in the R-S district may continue and expand on the same property. An agricultural use is considered existing if a property has received agricultural property tax status any time within the last five (5) years. New agricultural uses may be established in the R-S Suburban Residential District subject to the issuance of a ~~Conditional~~ Special Use Permit.
- B-C. ~~ETJ Exemption 160D-903~~ [Property within the Town's extra-territorial jurisdiction and used for bona fide farm purposes is exempt from the zoning requirements of this ordinance to the same extent bona fide farming activities are exempt from county zoning pursuant to NC GS 160D-903\(a\). NCGS 160D-903 \(c\) defines property as a single tract of property, or an identifiable portion of a single tract of property. Property that ceases to be used for bona fide farm purposes shall become subject to the requirements of this ordinance. Bona fide farms in the extra-territorial jurisdiction are subject to Rowan County's Flood Damage Prevention Ordinance and floodplain development permitting.](#)

### Section 4.6 Animal Services (outdoor kennels)

- A. No outdoor containment of animals shall be located less than 250 feet from any residentially zoned property and 50 feet from any other adjacent property line.
- B. Kennel areas must be surrounded by an opaque fence not less than six (6) feet in height and enclosed as to prevent escape.
- C. Kennels shall be designed to effectively buffer all noise audible to surrounding properties.

### Section 4.7 Automotive, Boat, Heavy Equipment, Manufactured Home Sales and/or Service (as a ~~Conditional~~ Special Use only)

- A. Large surface parking lots & display areas should be visually and functionally segmented into several smaller lots. The size of any single surface parking lot or display area shall be limited to three (3) acres, unless divided by a street, principal building, or an opaque screen/buffer.
- B. No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.



## CHAPTER 4: SPECIAL REQUIREMENTS

### Section 4.8 Bars and Nightclubs (as a ~~Conditional~~ Special Use only)

- A. No bar, nightclub, or dance hall shall be permitted within 100 feet of any one or two family residential dwelling unit, church, or other civic use building.
- B. Music or other amplified sound shall not be audible beyond the property line.

### Section 4.9 Bed and Breakfast Inns

- A. Single family homes used as bed and breakfast inns shall have a minimum heated floor area of 1,500 square feet.
- B. The maximum number of guest bedrooms shall be six (6).
- C. The inn shall be operated by a resident manager.
- D. All guest parking shall be to the rear of the home. There shall be one parking space per room of lodging.
- E. The use shall be located in a structure which was originally constructed as a dwelling.
- F. The use shall contain only one (1) kitchen facility. Meals served on the premises shall be only for overnight guests and residents of the facility.
- G. The use of such a facility by any one patron shall be limited to no more than 15 days per 60 day period.

### Section 4.10 Boarding Houses

- A. The maximum number of guest bedrooms shall be six (6).
- B. The boarding house shall be operated by a resident manager.
- C. The use shall be located in a structure which was originally constructed as a dwelling.
- D. The use shall contain only one (1) kitchen facility. Meals served on the premises shall be only for overnight guests and residents of the facility.

### Section 4.11 Cemeteries

- A. Tombstones, crypts, monuments and mausoleums shall be located a minimum of 20 feet from any side or rear lot line and at least 30 feet from a street right-of-way.
- B. Embalming or cremation facilities are only permitted in principal use cemeteries.

### Section 4.12 Daycare Centers

- A. Daycares and preschools shall be located on lots which provide ample outdoor play area. A fenced area in the rear yard or side yard a minimum of 2,500 square feet shall be provided. Fences shall be a

## CHAPTER 4: SPECIAL REQUIREMENTS

minimum of six (6) feet in height. Daycares and preschools located adjacent to parks are exempt from this provision.

- B. All play equipment shall be located in the fenced area. Front yards shall not be used as playground areas.

### Section 4.13 Drive-Throughs (as a ~~Conditional~~ Special Use only)

- A. Drive-throughs and service windows shall not front on the primary public street.
- B. Drive-throughs located on the side of a building shall be limited to one lane, except for Financial Institutes (SIC 60-67) in a HB District which are subject to the following requirements:
  - 1. The drive-through canopy must be recessed from the front façade
  - 2. Multi-lane drive-throughs are limited to four lanes including the ATM lane.
  - 3. A landscaped island must separate the drive-through and stacking lanes from parking areas and driveways. The landscaping is subject to the standards of Chapter 7 of this ordinance. The landscaping shall screen the drive-through and stacking lanes from view from abutting properties with no openings greater than 4 foot.
  - 4. At least 75% of the landscaping shall be evergreens. A landscaping plan is required and must be approved by Technical Review Committee or the Planning Board.
  - 5. Adequate stacking space for drive-through lanes must be provided and approved by the TRC.
  - 6. When located on a corner lot, multi-lane drive-throughs shall not be located on the exterior building side which fronts the secondary public street.
- C. Loud speakers shall be located at least 50 feet from any pre-existing residential structure located in a residential district.
- D. Drive-throughs located on the rear of a building may have more than one lane.
- E. Stand-alone ATMs may be permitted as accessory uses (i.e. in a shopping center parking lot).
- F. Vehicle storage for drive-throughs shall be located outside of and physically separated from the right-of-way of any street. This area shall not interfere with the efficient internal circulation of traffic on the site, adjacent property, or adjacent street right-of-way.
- G. Drive-through window facilities shall be screened from off-site view by Type B landscaping.

### Section 4.14 Family Campgrounds (as a ~~Conditional~~ Special Use only)

- A. All spaces for camping and recreational vehicles shall be located at least 100 feet from any adjoining lot line.
- B. Each recreational vehicle parking area shall be connected to an approved water supply system which provides an accessible, adequate, safe and potable supply of water.
- C. An adequate and safe sewer system shall be provided in all recreational vehicle parking areas.
- D. Type A landscaping shall be provided where the use adjoins residentially zoned property.
- E. A central service building containing all necessary toilets, bathhouses and other plumbing fixtures specified in the most current edition of the North Carolina State Plumbing Code, as amended, shall be provided. The service building shall be conveniently located within a radius of 300 feet to spaces which it serves.
- F. The storage, collection and disposal of trash and refuse shall comply with all applicable city, county and state regulations.

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- G. No person, recreational vehicle, or tent may occupy the campground for a period in excess of 30 days. A register of all occupants, the space occupied, and the time of arrival and departure shall be maintained.

### **Section 4.15 Family Care Homes**

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#### ***In accordance with NC General Statute Chapters 122C, 131D, and 168.***

This section applies to adult care homes, child or adolescent care homes, family care homes, group homes, halfway houses, mental health care homes, and residential care homes. These uses are deemed residential uses and are permitted in all residential districts subject to the following conditions:

- A. No more than six (6) residents other than the homeowner and the homeowner's immediate family are permitted to live in a Family Care Home.
- B. A Family Care Home must be licensed with the NC Department of Health and Human Services Division of Facility Services before operating.
- C. No Family Care Home may be located within a one-half (1/2) mile radius of any other residential care home.
- D. No exterior signage is permitted.
- E. No lockdown, violent, or dangerous residents.
- F. Only incidental and occasional medical care may be provided.

### **Section 4.16 Home Occupations**

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Customary home occupations may be established in any principal dwelling unit or in an accessory building. The following requirements shall apply in addition to all other applicable requirements of this Ordinance for the district in which such principal dwelling unit is located:

- A. The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential character of the dwelling.
- B. No outside storage of materials or equipment shall be allowed in connection with the home occupation.
- C. Use of the dwelling for the home occupation shall be limited to 25 percent of the heated finished area of the principal residential structure. Any portion of a garage or basement may also be devoted to the home occupation.
- D. Residents of the dwelling plus a maximum of one (1) non-resident may be engaged in the customary home occupation or otherwise report to work at the dwelling.
- E. No display of products shall be visible from any adjoining streets or properties. Sales of products are limited to those made or reconditioned on the premises and those which are necessary to the service being provided.
- F. No external alterations inconsistent with the residential use of the dwelling shall be permitted.
- G. Only vehicles used primarily as passenger vehicles (e.g., automobiles, vans and pick-up trucks) shall be permitted in connection with the conduct of the customary home occupation.
- H. Chemical, mechanical, or electrical equipment that creates odors, light emission, noises, or interference in radio or television reception detectable outside the dwelling unit or accessory building shall be prohibited.
- I. Customary home occupations may be in operation at any time between the hours of 8:00 A.M. and

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9:00 P.M.

### **Section 4.17 Manufactured Homes (on individual lots)**

- A. Manufactured homes that are on individual lots not within a Manufactured Home Park shall be multi-sectional. Single-wide manufactured homes shall not be permitted on individual lots.
- B. The manufactured home shall ~~be less than 10 years old and~~ conform to the construction standards of the United States Department of Housing and Urban Development (HUD) and bear the HUD tag and/or data plate.
- C. The manufactured home shall have the towing apparatus, wheels, axles, and transporting lights removed.
- D. The Manufactured Home shall be set up in accordance with the standards established by the North Carolina Department of Insurance.
- E. A continuous masonry foundation shall be installed under the perimeter, unpierced except for required ventilation and access.
- F. A permanent front porch of at least 32 square feet in area shall be constructed within 12 inches of the floor elevation and be fully underpinned to completely conceal area beneath porch and unit. All secondary entrances and exits to the Manufactured Home shall also have concrete steps or similar approved steps.
- G. The front of the manufactured home shall be parallel to the front property line, except on corner lots.

### **Section 4.18 Manufactured Home Parks (as a ~~Conditional~~ Special Use only)**

This section sets forth the standards required for all new Manufactured Home Parks and expansions of existing Manufactured Home Parks.

- A. Minimum site area in acres: 5
- B. Minimum number of Manufactured Home Spaces: 5
- C. Maximum number of Manufactured Home Spaces per acre: 8
- D. Minimum Lot and/or parcel width for site at front Building Line in linear feet: 100
- E. Maximum density: 5 units per acre
- F. Minimum Manufactured Home Space width: 60 feet
- G. Maximum number of Manufactured Homes per Manufactured Home Space: 1
- H. Minimum number of Parking Spaces per Manufactured Home Space (located on each space): 2
- I. Minimum number of landings/patios per Manufactured Home Space (located on each space): 1
- J. Minimum area of porch/entrance landing per Manufactured Home Space (sq. ft.): 32
- K. Hard surface walk required to connect each porch/entrance landing to Parking Space (minimum three (3) ft. width): Yes
- L. Street paving required in conformance with DOT standards for Minor Street: Yes
- M. Maximum slope permitted on site: 3:1
- N. Maximum number of driveways connecting to Streets (other than Private Street): 0
- O. Maximum number of Private Street connections to Street per Manufactured Home Park: 2
- P. Minimum distance between Private Street connections to Street (linear ft.): 150
- Q. Maximum length of dead end and/or cul-de-sac Private Street (linear ft.): 800
- R. Minimum turning circle (paved) diameter at end of each dead end and/or cul-de-sac Private Street (linear ft.): 70

## CHAPTER 4: SPECIAL REQUIREMENTS

- S. Manufactured Home Park identification Sign conforming to Article X required: Yes
- T. Minimum separation between entrance/exit point of Private Street to Street and nearest Street intersection (linear ft.): 150
- U. Street light required at all Private Street intersections: Yes
- V. Water supply and sewage disposal facilities required: Yes
- W. Private Street names required (subject to approval): Yes
- X. Maximum number of Manufactured Home Spaces with vehicular access from one-way Private Streets: 20
- Y. Garbage collection and disposal by owner/operator in accordance with applicable codes required: Yes
- Z. Heating oil and/or LP gas tanks with foundation permitted: Yes
- AA. Minimum capacity of heating fuel tanks (gallons): 150
- BB. Wood burning heat sources permitted: Yes
- CC. Screening of firewood required (no minimum height): Yes
- DD. Minimum separation between each unit (linear ft.): 30
- EE. Vehicle Speed Control devices required: Yes
- FF. Number of accessory buildings per Manufactured Home space: 1
- GG. All Manufactured Homes meet HUD construction standards and bear HUD tag and/or data plate : Yes
- HH. Towing apparatus removed from all Manufactured Homes: Yes
- II. Skirting shall be of material acceptable for exterior construction that will not support combustion. Skirting material shall be durable and suitable for exterior exposures. Any wood framing used to support this skirting shall be approved moisture resistant treated wood. Skirting shall be continuous and unpierced except for ventilation. Skirting manufactured specifically for underpinning shall be installed in accordance with the manufacturer's specifications. Skirting shall be kept in good repair.

### **Section 4.19 Mixed Residential Developments**

- A. A mixed residential development shall be a minimum of three (3) acres.
- B. Housing types provided shall fall into the minimum and maximum percentage range below:
  - Single-family residential detached: 50-90 percent of total units
  - Two-family and/or Multi-family residential: 10-50 percent of total unitsAny proposal for a mixed residential development that falls outside of the percentage ranges shown above shall require a ~~Conditional~~ Special Use Permit.
- C. The overall maximum density is 15 units per acre and minimum dimensional requirements shall meet the dimensional requirements set forth for the zoning district.

### **Section 4.20 Outdoor Storage (non-residential) (as a ~~Conditional~~ Special Use only)**

- A. All outdoor storage shall be located in the rear yard only.
- B. All outdoor storage shall be screened from view of the street with an opaque screen.

### **Section 4.21 Parking of Recreational and Commercial Vehicles**

- A. For purposes of this Ordinance, a recreational vehicle shall not be deemed a dwelling unit and the

## CHAPTER 4: SPECIAL REQUIREMENTS

usage of a recreation vehicle for living, sleeping or housekeeping purposes and the connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a camping and recreational vehicle park so designed to accommodate recreation vehicles.

- B. Commercial vehicles with more than two (2) axles shall not be parked in a residential zoning district on a lot of less than one acre. This requirement shall not be interpreted to prohibit vehicles from loading and unloading household goods in any residential district for a period of up to 24 hours.
- C. No residentially developed lot may be used as the base of operation for any freight hauling truck.

### **Section 4.22 Produce Stands (permanent)**

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- A. A permanent produce stand shall be allowed as an accessory use to an agricultural use only. All produce sold shall be grown on a lot under the same ownership as the lot upon which the produce stand is located. All other produce stands shall be considered temporary uses and shall follow the special requirements for temporary uses.
- B. A produce stand shall not be located in a street right-of-way.
- C. A produce stand shall not be located closer than 10 feet to any side lot line unless a greater setback is required for the zoning district in which it is located.
- D. Signs for a produce stand shall not be illuminated, nor have flashing lights, nor shall they exceed four (4) square feet in area. Off-premises signs are not permitted.
- E. During the times of the year in which the produce stand is not in operation, the stand shall be properly closed up and maintained.

### **Section 4.23 Rural Family Occupations**

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- A. Minimum site size - 2 acres
- B. The rural family occupation shall be incidental to the use of the property for a principal dwelling.
- C. The occupation activity may take place either in the principal dwelling or a separate building(s).
- D. The operator of the rural family occupation must reside on the property. No more than three (3) persons who do not reside on the premises shall be employed at the occupation.
- E. If a separate building(s) is used in the occupation it must meet the accessory structure standards in Section 4.3.
- F. If located in a separate structure from the principal dwelling, then the structure shall meet the principal structure setbacks for the zoning district.
- G. Rural family occupations shall be limited to the non-residential uses permitted in the N-C and O-I districts.

### **Section 4.24 Temporary Uses**

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Temporary structures and uses, when in compliance with all applicable provisions of this Ordinance, and all other ordinances of the Town of China Grove, shall be allowed. The following temporary structures and uses shall be permitted:

- A. Construction trailers used in conjunction with construction projects provided that the following conditions are met:

## CHAPTER 4: SPECIAL REQUIREMENTS

- Such construction trailers may be located at a building site where there is a valid building permit for the construction project, or, in the case of a residential subdivision, a valid building permit for at least one of the residential units being constructed.
  - All construction trailers shall be located at least 10 feet off any street right-of-way and not be placed in any required rear or side yard setback.
  - In addition to construction trailers, at any construction site for a construction project valued at one million dollars or more, one or more security guard houses may be installed. Use of such structures may include overnight stay provided adequate sanitary facilities are provided and the same conditions for construction trailers are met.
- B. Structures, whether temporary or permanent, located in a subdivision containing 25 or more lots, and used as sales offices for the subdivision development are permitted. Any temporary structure used as a sales office shall be located on a lot which is in compliance with the regulations of this Ordinance and shall meet all yard requirements for the applicable zoning district. At least five (5) off-street parking spaces shall be provided on the lot to accommodate persons using the sales office. If a permanent residential structure is used as the sales office, future use of said structure shall be for residential purposes. A trailer may be used as a temporary sales office, provided that the following conditions are met:
- The trailer shall be provided with underpinning, from the bottom of the walls to the ground, made of masonry, vinyl, pre-painted aluminum material, or other similar material.
  - Landscaping shall be provided to create an aesthetically pleasing appearance.
  - At the completion of the sales in a tract, or two (2) years from the date the temporary sales office began operation, whichever is sooner, said sales office shall cease operation unless the Zoning Administrator determines that substantial progress is being made in the selling and/or marketing of the lots and/or homes in the subdivision. In such case, one or more extensions (each not to exceed one year in duration) may be so authorized by the Zoning Administrator. If a temporary structure is used as the sales office, it shall be removed after its use as a sales office is terminated. Immediately after the structure is removed, the lot shall be returned to a natural state. Any paved or graveled driveway and/or parking area associated with the sales office shall also be removed. All bare soil areas on the lot shall be returned to a natural vegetative state (reseeded or sodded) immediately after removal of the sales office and driveway/parking area.
- C. Manufactured homes may be allowed on a temporary basis in a zoning district in which such use is not listed as a permitted use, if a disaster occurs which results in an occupied, single-family dwelling being destroyed (i.e., it receives damage greater than 60 percent of its tax value as indicated on the most current tax listings). In this instance a manufactured home may be placed on the lot containing the dwelling unit which was destroyed. The purpose of allowing such manufactured home on said lot is to give the occupants of the destroyed dwelling unit a place to live while a new dwelling unit is being constructed or damage to the original dwelling unit is being repaired. If a manufactured home is used for such an occurrence, it is subject to the following conditions:
- Such manufactured home shall not be placed in the front yard and shall be located no closer than 15 feet to another principal residential structure on another lot and no closer than 10 feet to any lot line.
  - The Zoning Administrator shall be given the authority to issue a zoning permit for such temporary use on a one-time basis only for a period of up to nine (9) months. Such permit may be renewed on a one-time only basis [for a period of no greater than nine (9) months] by the Board of Adjustment if it is determined that:
    - Construction of a new dwelling unit is proceeding in a diligent manner; and,

## CHAPTER 4: SPECIAL REQUIREMENTS

- The granting of such permit will not materially endanger the public, health, welfare or safety; and,
  - The location of the manufactured home on the site does not have a negative effect on abutting properties.
- D. Certain uses of a temporary nature may be permitted. Upon completion and submittal of an Temporary Use Permit application, the Zoning Administrator may grant a zoning permit for the following temporary uses:
- Christmas Trees Sales & similar temporary retail sales
  - Produce Stands (temporary)
  - Civic organization events
  - Public school mobile units
- E. Temporary Uses are subject to the following conditions:
- Truck trailers and flat beds are not permitted except for short-term delivery services.
  - Temporary uses shall be permitted for a maximum of 45 days. An extension may be granted for an additional seven (7) days upon application.
  - Produce Stands may be permitted for a maximum of six (6) months but may be re-permitted upon submission of a new application.
  - Temporary uses shall present proof of property owner approval prior to the issuance of a permit.
  - The proposed use will not materially endanger the public, health, welfare and safety.
  - The proposed use will not have a substantial negative effect on adjoining properties.

### Section 4.25 Two Family Attached Dwellings (Duplexes)

- A. Developments consisting only of duplexes are not permitted on lots greater than three (3) acres.
- B. Duplex developments must be visually compatible with the surrounding neighborhood.
- C. Duplexes on corner lots shall be designed in a way that each unit fronts on a different street.

### Section 4.26 Wireless Telecommunications Towers (as a ~~Conditional~~ Special Use only)

- A. Wireless communications facilities attached to existing or proposed structures such as water towers, transmission towers, church steeples, streetlights, bell towers, or similar structures do not require a ~~Conditional~~ Special Use Permit.
- B. The maximum height shall be 150 feet.
- C. Towers shall be setback a distance equal to the total height measured from grade elevation from all adjoining properties.
- D. All ground structures shall be screened with an opaque screen of landscaping, fence or wall, or any combination thereof.
- E. All wireless communications towers shall be constructed using a monopole design.
- F. Towers shall meet the standards of the Federal Aviation Administration and the Federal Communications Commission.



## CHAPTER 4: SPECIAL REQUIREMENTS

### Section 4.27 Yard Sales

- A. Yard, garage, tag, patio and apartment sales are permitted without a permit, as an accessory use on any residentially, institutionally or commercially developed lot in any district.
- B. Such sales shall be limited to no more than three (3) days per calendar month on the same lot.
- C. Yard sales are permitted only with the property owner's permission.
- D. One (1) on-premise and three (3) off-premises yard sale signs per yard sale are permitted. No zoning permit is required for such signs. All such signs shall be removed within twenty-four hours after the yard sale has been terminated. No such sign shall be greater than four (4) square feet in area. All such signs shall be located off the street right-of-way and shall not be attached to utility poles or street signs.

### Section 4.28 Mini-Warehouses

- A. Mini-warehousing facilities shall comply with chapter 5 commercial building design guidelines
- B. All storage compartments shall front on an interior drive and shall not be visible from streets
- C. Landscaping:
  - Type A buffer around perimeter of development,
  - All areas not paved or buildings shall have turf/grass or Technical Review Committee approved ground cover, gravel parking areas, gravel internal drives and aisles are not permitted.
- D. Minimum aisle width between buildings shall be 25 feet, if bollards are used width shall be measured between bollards.
- E. Minimum turning radius for truck traffic shall be accommodated between mini-warehousing buildings
- F. No residences, repair, service, or activities other than the rental of storage units shall be permitted. Retail activity is prohibited.
- G. Outdoor storage is a ~~conditional~~ special use in the HB, LI, and HI districts. Outdoor storage areas shall be located behind warehouse buildings. The Technical Review Committee, Planning Board, and Town Council may require additional screening and buffer requirements as reasonable conditions of approval.

### Section 4.29 Residential Fences

- A. Solid (Privacy) Fences:
  - Must be no taller than six (6) feet and six (6) inches (6 ½ feet tall)
  - Have the supporting posts on the inside (facing the fence owner's property)
  - Must be located on the Owners side of the property line
  - Must not extend beyond the front façade of any residence
- B. Non-Solid Fences:
  - Shall be no taller than six (6) feet
  - Located in the side and rear yards
  - Have supporting posts on the inside of fence
- C. Fences located in the front yard must be no more than four (4) feet tall and must not block visibility. Fence must have a minimum of 50% open spaces.

## CHAPTER 4: SPECIAL REQUIREMENTS

### **Section 4.30 Electronic gaming operations (as a ~~Conditional~~ Special Use only)**

- A. No electronic gaming establishment shall be permitted within 100 feet of any one or two family residential dwelling unit, church or other civic use building.
- B. No electronic gaming establishment shall be permitted within 500 feet of another electronic gaming establishment.
- C. The maximum number of gaming computers, stations, machines and/or terminals within an electronic gaming establishment is twenty (20).
- D. All electronic gaming computers, stations, machines and/or terminals shall be visible from the main entrance of the establishment.
- E. At least one (1) parking space shall be designated for each on-duty employee and every two (2) electronic gaming computers, stations, machines and/or terminals. Designated parking spaces shall not include parking spaces allocated to other businesses within a combined development.

**CHAPTER 5:  
BUILDING DESIGN REQUIREMENTS**

**Section**

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## CHAPTER 5: BUILDING DESIGN REQUIREMENTS

### Section 5.1 Purpose and Applicability

The purpose of this chapter is to ensure architectural compatibility and the establishment and preservation of architectural character throughout the Town. Enumerated in the sections below are general requirements for all buildings as well as requirements specific to building use and typology. All new construction shall conform to the architectural requirements of this chapter.

### Section 5.2 General Requirements for All Buildings

- A. Adjacent buildings shall be compatible in regards to spacing, setbacks, proportions, materials\*, and scale.
- B. The primary entrance shall be architecturally and functionally designed on the front façade facing the primary public street.
- C. The front façade of the principal structure shall be parallel to the front lot line and street.
- D. Ground mounted mechanical equipment shall be located to the rear or side yard and screened from view of the street. Roof-mounted mechanical equipment shall be screened from view by a parapet wall matching the primary building materials.
- E. Fences shall be constructed with the finished side facing the adjacent property or street.

**Commented [BH1]:** The limitation on design controls for one- and two-family dwellings in 160D-702(b) includes "exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms." The provision regarding "materials" could be included as guidance, or just applied to structures other than one- and two-family dwellings.

### Section 5.3 Residential Buildings

#### 5.3.1 Single-Family Detached Residential Buildings\*

- A. Exterior materials shall be durable and residential in character. Exterior wall materials shall be wood clapboard siding, wood shingles, brick, stone, stucco, vinyl, or similar materials. Roof materials shall be asphalt shingles, standing seam metal, slate, or similar materials.
- B. Pitched roofs shall have a pitch between 4:12 and 12:12. Eaves shall be a minimum of nine (9) inches in depth.
- C. Garages shall not have visual prominence on the front façade. Garages that face the street shall be recessed from the front façade as follows:
  - If the structure has a usable front porch that is at least six (6) feet deep and extends more than 50 percent of the front façade, then the garage may be flush with the front façade.
  - If the structure *does not have* a usable front porch that is at least six (6) feet deep and extends more than 50 percent of the front façade, then the garage shall be recessed from the front façade a minimum of four (4) feet.
- D. Attached garages for more than two (2) cars shall not face the primary street. Such garages on corner lots may face the non-fronting street.

~~D:~~

[\\*Design guidelines regarding one and two family homes may only apply to residential buildings within a Conditional Zoning district.](#)

~~\*Regulations regarding garages shall not apply to residential buildings within the R-P zoning district.~~

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#### 5.3.2 Two-family (Duplex) and Multi-family Residential Buildings\*

- A. Exterior materials shall be durable and residential in character. Suggested materials include wood clapboard siding, wood shingles, brick, stone, stucco, vinyl, or similar materials. Suggested pitched roof materials include asphalt shingles, standing seam metal, slate, or similar materials.
- B. Garage doors are not permitted on the front façade of any two-family or multi-family dwelling unit.
- C. Wherever possible, two-family (duplex) residences shall be designed in such a way that the primary entrances are not both on the same plane of the front façade. Two-family residences are preferred on

## CHAPTER 5: BUILDING DESIGN REQUIREMENTS

corner lots with one unit's primary entrance facing one fronting street and the other units facing the other fronting street.

### 5.3.3 Manufactured Homes

A manufactured home must bear a seal certifying that it ~~was built to the standards adopted on June 15, 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 each of the following additional criteria:

- A. Manufactured homes that are on individual lots not within a Manufactured Home Park shall be multi-sectional. Single-wide manufactured homes shall not be permitted on individual lots.
- B. The exterior siding shall consist of wood, hardboard, vinyl, brick, or similar material and shall be comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction.
- C. A continuous masonry curtain wall foundation shall be installed under the perimeter, unpierced except for required ventilation and access. Exposed standard concrete block is not permitted.
- D. The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
- E. A permanent front porch of at least 32 square feet in area shall be constructed within six (6) inches of the floor elevation and be fully underpinned to completely conceal area beneath porch and unit. All secondary entrances and exits to the mobile home shall also have concrete steps or similar approved steps.

**Commented [BH2]:** The limitations on design controls for one- and two-family dwellings in 160D-702(b) don't apply to manufactured housing.

**Commented [BH3]:** 160D-910(c) "A local government may not adopt or enforce zoning regulations or other provisions that . . . exclude manufactured homes based on the age of the home." As a result, consider striking the words in blue.

## Section 5.4 Commercial and Mixed Use Buildings

### 5.4.1 Commercial and Mixed Use Buildings

#### 5.4.1.1 Materials & Color

- A. Exterior walls visible from the public street shall be at least 75 percent brick, split-face concrete block, stucco, stone, or other materials similar in appearance and durability.
- B. Vinyl siding, standard concrete block, cast concrete, metal may be used on building walls not visible from a public street or as minority elements or accent materials on walls that are visible from the public street provided that they do not compose greater than 25 percent of the façade.
- C. Brick, stone or decorative masonry units shall not be painted unless approved by the Technical Review Committee or Planning Board
- D. Two wall materials may be combined horizontally on one façade. The heavier material should be below.
- E. Pitched roofs should be clad in standing seam metal, slate, asphalt shingles or similar material. Long span metal panels may be used on pitched roofs that are not visible from the street.
- F. Façade colors shall be of low reflectance earth tone, muted, subtle, or neutral colors. Building trim may feature brighter colors. The use of high-intensity or metallic colors is not allowed except for accent purposes. Fluorescent or neon colors shall be prohibited as a primary wall color. Variations in color schemes are encouraged in order to articulate entryways and public amenities so as to give greater recognition to these features.
- G. All accessory buildings shall be clad in materials similar in appearance to the principal structure.

#### 5.4.1.1 Configuration

- A. Roof pitches less than 3:12 and flat roofs shall require a parapet wall on all sides visible from the street. Parapet walls shall fully screen all roof-top mechanical equipment from the street.

## CHAPTER 5: BUILDING DESIGN REQUIREMENTS

- B. A pitched roof shall have eaves a minimum of 12 inches from the building face.
- C. Parapet walls shall have decorative cornices or caps.
  
- D. At least 40 percent of the length of the first floor on primary street fronting facades shall be in windows or doorways. Street level windows shall be visually permeable. Mirrorized glass is not permitted in any location. Faux or display casements are not permitted in lieu of exterior window treatments for the frontage elevation. A window shall be measured as follows:
  - Maximum Sill Height (first floor): 42 inches
  - Minimum Area: 16 square feet
  - Minimum Width: 3 feet
  - Minimum Height: 4 feet
- E. For buildings on a corner, the first floor secondary street façade shall be at least 10 percent windows. A window or functional general access doorway shall be located along the length of the facade at least every 20 feet. Faux or display casements may be considered by the Technical Review Committee or Planning Board.
- F. Ventilation grates or emergency exit doors located at the first floor level oriented toward a public street shall be decorative.
- G. Residential uses in mixed use buildings shall not be located on the street level.
- H. When used, awnings and canopies shall be placed at the top of window or doorway openings. No awning shall extend more than the width of the sidewalk or 10 feet, whichever is less. Awnings must be self-supporting from the wall. No supports shall rest on or interfere with the use of pedestrian walkways or streets. In no case shall any awning extend beyond the street curb or interfere with street trees or public utilities.
- I. Canopies shall be of solid material and complement the color of the building to which they are affixed or associated. Gas station canopies shall be located in the side or rear yard only and must be set back from the property and right-of-way lines a minimum of the required setback of accessory buildings, as required in the zoning district where located, and must not interfere with street trees or public utilities.
- J. Dumpsters must be placed behind the midpoint of the sideyard in relation to the front line of the building and screened as required in Chapter 7.

### **Section 5.5 Civic Buildings**

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Civic buildings should create visual anchors for the community and shall adhere to the following:

- A. Civic building walls shall primarily be clad in stone, stucco, brick, or marble. Decorative cast concrete, concrete block, metal, wood, or vinyl siding may be used as a minority element (maximum of 25 percent) on facades visible from the street.
- B. Pitched roofs should be clad in standing seam metal, slate, asphalt shingles or similar material. Long span metal panels may be used on pitched roofs that are not visible from the street.

### **Section 5.6 Industrial Buildings**

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## CHAPTER 5: BUILDING DESIGN REQUIREMENTS

- A. Front facades of industrial buildings shall be primarily brick, stucco, stone, decorative concrete block or other materials similar in appearance and durability. Standard concrete block, cast concrete, and metal may be used as minority elements (maximum of 50 percent) on the front facade. All accessory buildings shall be clad in materials similar in appearance to the principal structure.
- B. Pitched roofs shall be clad in standing seam metal, long span metal panels, slate, asphalt shingles or similar material.
- C. Flat roofs shall incorporate parapet walls to conceal the flat portions of the roof elevations that are visible from any public street. Parapet walls shall screen roof-top mechanical equipment from the street.

### **Section 5.7 Alternative Methods of Compliance**

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#### **5.7.1 Use of Alternate Plan, Material, or Methods**

Alternate design plans, building materials or construction techniques may be used when unreasonable or impractical situations would result from the application of architectural design standards. Such situations may result from unique site conditions, innovative design applications, and/or unified development design.

#### **5.7.2 Evaluation by Technical Review Committee**

The performance of alternate design standards shall be evaluated by the TRC to determine if the alternate design meets the intent and purpose of this ordinance. This determination shall take into account the land use of adjacent property, the orientation of the building to streets, the building typology, the intended use of the structure, attention to architectural detail, scale and mass.

#### **5.7.3 Appeal**

Decisions of the TRC regarding alternate methods of compliance may be appealed to the Board of Adjustment in accordance with Chapter 16.

# CHAPTER 6: OPEN SPACE & ENVIRONMENTAL PROTECTION

## Section

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## CHAPTER 6: OPEN SPACE & ENVIRONMENTAL PROTECTION

### Section 6.1 Purpose and Applicability

The purpose of this chapter is for the protection of existing environmental resources including open space, streams, wetlands, watersheds, floodplains, soils, forest stands, specimen trees and other significant vegetation and wildlife. These elements are of economic value to the Town and make it a desirable place to live and visit.

The Open Space requirements of this section apply only to new developments with greater than 10 residential dwelling units. Developments in which all lots are greater than one acre are exempt from this provision. Non-residential developments are encouraged to preserve open space wherever possible. All other requirements of this Chapter apply to all new developments and construction in all districts.

### Section 6.2 Types of Open Space

All required open space shall be classified in accordance with this Section.

The following open space types may be either common area open space or public open space:

- A. **Playground**-Playgrounds are for active recreational use and provide sunny and shaded play equipment and play areas for children as well as open shelter with benches. Playgrounds may be part of other types of open space, such as parks, or may stand alone. Playgrounds may be fenced, lockable and lit if not part of a park.

Minimum Size: 10,000 square feet

Maximum Size: 20,000 square feet

- B. **Square**-Squares are areas for passive recreational use. Squares shall be bounded by streets on a minimum of three sides or 75 percent of their perimeter. Squares are encouraged to be entirely bounded by streets and/or lanes. Squares may be bounded by buildings on a maximum of 60 percent of their perimeter [maximum of two (2) sides] if through design, central gathering area for the area is formed. Squares shall be planted parallel to all streets and shall contain canopy trees along street frontages.

Minimum size: 2,000 square feet

Maximum size: 1 acre

- C. **Plaza**- A plaza is an open area adjacent to, or part of, a non-residential building or facility. Plazas function as gathering places and may incorporate a variety of non-permanent activities such as vendors and display stands. Plazas are generally paved in brick or other type of paver or crushed stone. Plazas shall be level, stepped, or gently sloping [less than five (5) percent grade]. Plazas may be left unplanted. If planted, the trees should form a frame around the plaza space. The following sizes are recommended but may be larger or smaller depending on the building or facility design.

Minimum size: 2,000 sq ft

Maximum size: 30,000 sq ft

- D. **Park**-Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 25 percent of their perimeter. Parks are encouraged to be entirely bounded by streets. Large parks should create a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e.

## CHAPTER 6: OPEN SPACE & ENVIRONMENTAL PROTECTION

lake or river frontage, high ground, significant stands of trees). Undergrowth should be limited and landscaping shall be installed in a manner that promotes attractiveness and safety. Parks may be combined with greenways and greenbelts.

Minimum size: 1 acre

- E. **Green-** The green is an open space which is more natural. Like the square, it is small and surrounded by buildings. Unlike the square, it is informally planted and may have irregular topography. Greens are usually landscaped with trees at the edges and open lawns at the center. Greens should contain no structures other than benches, pavilions, and memorials; paths are optional.

Minimum size: 20,000 square feet

- F. **Greenway-**Greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within and between neighborhoods. Greenways are typically more natural and may contain irregular topography. Greenways shall be used for certain active recreational uses including, at a minimum, trails for walking, jogging, and biking. Greenways shall connect points of interest in the community such as schools, parks, and other civic uses.
- G. **Greenbelt-**Greenbelts run along the perimeter of a neighborhood or Town, and serve to buffer a neighborhood from surrounding non-compatible uses such as a highway corridor or industrial district, or a Town from agricultural areas or adjacent towns. Greenbelts differ from the other types of open spaces in that they are left natural, and are not intended for recreational use.
- H. **Nature Preserve-**Open spaces designated as Nature Preserves shall be left largely undisturbed except for the optional clearing of underbrush and provision of a walking trail (mulch or other natural material only). Nature Preserve areas are encouraged to protect large stands of trees, wildlife, and natural water features.

Minimum size: 3 acres

### Section 6.3 General Provisions for Open Space

- A. Land designated as open space on the approved development plan shall be maintained as open space and may not be separately sold, subdivided, or developed.
- B. Access from a public street shall be provided to all designated open space with a minimum 15 foot wide access included in the open space area.
- C. Open space in the form of playgrounds, squares, plazas, parks, and greens shall be centrally located within a development.
- D. Open space may be either be held in common ownership by a Homeowners Association or dedicated to the Town of China Grove, Rowan County, another appropriate public entity, or non-profit agency so long as the space is accepted by the entity and will be properly maintained by the entity.
- E. Common ownership of the open space requires that the Homeowners Association assume full responsibility for its maintenance. The restrictive covenants shall provide that, in the event the homeowners association fails to maintain the open space according to the standards of this Ordinance,

## CHAPTER 6: OPEN SPACE & ENVIRONMENTAL PROTECTION

the Town may, following reasonable notice, demand that deficiency of maintenance be corrected, or enter the open space to maintain it. The cost of such maintenance shall be charged to the homeowners association.

### Section 6.4 Minimum Open Space Dedication

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Open space shall be dedicated in accordance with the below table. Percentages are based on total development area. Areas within floodplains, stream buffers, utility right-of-ways, and other areas that cannot be developed shall not be used in the total development area in order to calculate minimum open space dedication. However, these areas may be used to meet open space requirements if they fit into one of the open space categories listed in Section 6.2.

Zoning District	Percent Open Space
R-P	n/a
R-S	10%
R-T	15%
R-M	20%
R-MH	15%
O-I	15%
N-C	20%
C-B	n/a
H-B	n/a
C-P	n/a
L-I	n/a
H-I	n/a

### Section 6.5 Tree Preservation and Environmental Protection

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#### 6.5.1 Applicability

Significant forest stands natural vegetation, specimen trees, severe natural topography, drainage features and water courses are encouraged to be preserved to the extent that is reasonable and practical while otherwise not reasonably prohibiting development. Forested and vegetated areas whose physical site conditions render them unsuitable for development should be set aside as conservation areas or as open space. Wooded sites should be developed with careful consideration of the natural characteristics of the site. When portions of forested stands must be developed, careful consideration should be given to preserving wooded perimeters or the most desirable natural features in order to retain the aesthetic or visual character of the site. Isolated pockets of existing trees or specimen trees should be protected as a valuable asset of the property. This section shall apply to all zoning districts regulated by this Ordinance.

Determination of the need to preserve significant vegetation on the site is also a function of a site's buildable area or potential for development defined as follows:

- *Prime Buildable.* Land with little or no building restrictions that occur as a result of slope conditions or site topography. These areas are defined as slopes less than 10 percent and generally

## CHAPTER 6: OPEN SPACE & ENVIRONMENTAL PROTECTION

offer the least opportunity for the preservation of existing tree canopy, forest stands, or significant vegetation outside of satisfying open space dedication requirements.

- *Secondary Buildable.* Areas with slopes of 10 to 15 percent, site preparation techniques should minimize grading. Such areas require selective clearing and grading. These areas offer limited opportunity for the preservation of existing tree canopy, forest stands, or significant vegetation outside of satisfying open space dedication requirements.
- *Conserved.* Areas with slopes of 15 to 25 percent with severe slope restrictions. These areas offer optimal opportunity for the preservation of existing tree canopy, forest stands, or significant vegetation outside of satisfying open space dedication requirements.
- *Preserved.* Natural floodplain and floodways, wetland areas, existing tree canopy, forest stands, or significant vegetation on slopes exceeding 25 percent, and which present severe or prohibitive slope conditions for development shall be preserved.

### 6.5.2 Tree and Root Protection Requirements

A Tree and Root Preservation Plan delineating areas in accordance with Section 6.5.1 shall be incorporated as part of the Landscape Plan for the project and shall consist of the following type of preventative measures:

- A. The preservation of existing trees requires protection by physical barriers in addition to supervision during the construction phase of development. During development of the property, the owner shall be responsible for the erection of any and all tree and root protection fencing necessary to protect any existing or installed vegetation from damage both during and after construction. All significant vegetation, native ornamental species and perimeter landscaping that are to be preserved during development shall be protected with a sturdy and visible fence before clearing and grading begins. The existing site conditions will be considered by both the applicant and staff in determining the exact location of any tree protection fencing. Generally, the location should be as far as possible from the vegetation in order to preserve soil and root structure. The location of tree protection fencing and method of construction shall be noted on the landscape plan. The proper installation of tree protection fencing shall be approved based upon field inspection prior to site clearing, grading, construction, or other land disturbing activity, and cannot be removed until after final inspection by the Town of China Grove. Tree protection fencing shall remain in place and in good condition until all development activities are completed.

The tree protection fence shall be located no less than one (1) foot from the tree trunk for each one (1) inch in tree diameter for specimen trees, significant vegetation, or from the dripline of any forest canopy stand to be preserved, with a minimum distance of 10 feet required from the edge of the trunk. Tree protection fencing for forest canopy stands are to be located no less than one (1) foot from the tree trunk for each one (1) inch in tree diameter of the dripline trees identified up to ten feet. Tree protection fencing shall be constructed from any material substantial enough to protect the roots, trunk, and crown of the tree, such as 2"x4" wood posts and 1"x4" wood rails, silt fencing or orange safety fencing a minimum of 4 ft in height on metal or wood posts.

- B. No soil disturbance or compaction, stock piling of soil or other construction materials, vehicular traffic, storage of heavy equipment are allowed in the tree and root protection area(s), or within the drip line of trees to be retained.
- C. Dead trees and undesirable scrub growth shall be cut flush with adjacent grade and removed during construction.
- D. Root pruning shall be kept to an absolute minimum.

## CHAPTER 6: OPEN SPACE & ENVIRONMENTAL PROTECTION

- E. No nails, ropes, cables, signs, or fencing shall be attached to any part of any tree to remain.

### 6.5.3 Environmental Survey

Environmental Surveys are required for all developments that have greater than one acre of disturbed area or otherwise require a soil and erosion control permit. Identification of existing trees, understory vegetation, known endangered species, wetlands, streams and creeks, floodplains, and topographical features on a site prior to the advanced preparation of development plans enables the reasonable and practical planned preservation of existing vegetation while considering unique site conditions. This requirement provides the Town and the applicant the ability to evaluate the proposed development in order to preserve vegetation, to improve the appearance of the development proposed and to encourage the use of the existing forest and tree canopy, specimen trees, and significant vegetation to satisfy the requirements of this Chapter. An environmental survey is intended to identify forest stands, distinctive tree lines or forest edges, existing watercourses, and previously documented endangered species habitats. A zoning permit shall not be issued for developments of greater than one acre of disturbed area unless the Town first approves an Environmental Survey.

Environmental survey requirements are as follows:

- A. The area to survey is to be located within the proposed construction limits, building envelope, or area of the site to be disturbed and is to extend a minimum of 10 feet outside of this area.
- B. Denote the dripline of any existing forest stand, as measured between existing tree trunks six (6) inches or greater located at the edge of the stand.
- C. Show all other important natural features influencing site design such as the location of wetlands, rock outcroppings, site topography at two foot contour intervals, slopes steeper than 15 percent, and perennial streams, natural drainageways, lakes, and other water bodies.
- D. Show any existing watercourses including wetlands, streams, creeks, ponds, and floodplains indicating both the flood fringe and the flood way.
- E. Denote the presence of any known endangered species indicated in any surveys completed by the State of North Carolina or other governmental agency.

### 6.5.4 Tree Removal Permits

- A. No person shall remove, destroy, cut, or severely prune any tree or shrub having its trunk in or upon any public property or on any street right-of-way or any tree or shrub on an approved site plan without first obtaining a permit from the Zoning Administrator. A permit shall also be issued for the removal of any tree on public or private property that is listed as a state or national champion by the North Carolina Forestry Service or the American Forestry Association; or if it provides habitat for endangered wildlife protected by federal law; or has been cited by the Town as being historically significant. Public and private utilities shall submit written specifications for pruning and trenching operations to the Town for approval.
- B. Exemptions from tree removal permits:
  - Single-family detached residential lots
  - Two-family attached (duplex) residential lots
  - The Town of China Grove and the NCDOT as long as tree preservation and protection requirements are included in the project plans.

## CHAPTER 6: OPEN SPACE & ENVIRONMENTAL PROTECTION

- Utility companies, except that written specifications for pruning and trenching shall be submitted to the Town for information purposes.
- C. The Town of China Grove may seek compensation from the property owner for the removal of hazardous vegetation. The Public Works Director is authorized to remove trees that are dead, diseased, irreparably damaged, or hazardous and are creating damage and/or are a threat to public safety. The Public Works Director shall be authorized to bill the owner for such services provided that the owner had been notified of the hazardous conditions and failed to act. The Public Works Director, upon determination that a tree on private property creates a threat to public safety, shall notify the property owner in writing to preserve or remove the hazardous tree. In the event the property owner does not respond to this notification, the Town of China Grove may seek civil remedy under the provisions of this Ordinance and may enter the property to remove the hazardous vegetation.

# CHAPTER 7: LANDSCAPING & BUFFERING

**Section**

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## CHAPTER 7: LANDSCAPING & BUFFERING

### Section 7.1 Purpose and Applicability

The purpose of this chapter is to regulate the protection, installation, and long-term management of trees and shrubs and to minimize potential nuisances, such as visual impacts, noise, dust, odor, litter, and glare of lights, from adjacent properties. The appropriate use of existing and supplemental landscaping enhances the appearance of built environment and blends new development with the natural landscape. Existing vegetation should be retained where possible to ensure a natural established landscape.

All new developments (except for infill single-family detached residential uses) shall be designed in accordance with the requirements of this Chapter. A change of use or expansion of an existing building or parking area also requires compliance with the requirements of this Chapter. Generally, the responsibility for screening is that of the more intense land use. However, new developments with a less intense use being constructed next to an existing more intense use shall provide the required landscaping on the new development's property. Where necessary to accommodate creativity in site design, or where conformance with the strict requirements of this Chapter are not feasible, the Town Council, Planning Board, or Technical Review Committee, whichever is responsible for approving the plan, may modify these requirements, provided that the type and amount of landscaping or other features are equivalent in effectiveness.

### Section 7.2 Landscaping Types

#### 7.2.1 Type A Landscaping (Opaque Buffer)

##### 7.2.1.1 Location and Width Required

Buffers shall be located entirely on the property of the new development. If the adjacent existing development expands by more than 20 percent, then the existing development shall also install a buffer meeting the requirements of this Section. The edge of all developments abutting Interstate 85 right-of-way shall have a minimum buffer width of 50 feet. ~~Religious uses are exempt from this requirement unless found to be necessary to minimize potential nuisances as part of the Conditional Use Permit process.~~ Prior to the Technical Review Committee meeting, the applicant must file a written report detailing at least one (1) community meeting held by the applicant. The following procedures must be met for the public input meeting: All adjacent property owners will be notified by the applicant. Such notice shall be mailed by certified mail to said property owners not less than ten (10) days prior to the date of the public input meeting and a certification of this mailing shall be submitted as part of the required report. The notice shall contain information regarding the time and location of the public input meeting as well as a description of the proposal. The report shall include the following:

- Those persons and organizations contacted about the meeting
- The date, time, and location of the meeting
- A roster of the persons in attendance at the meeting
- A summary of issues discussed at the meeting
- A description of any changes to the CUP petition as result of the meeting.

**Commented [BH1]:** Religious land uses should be treated the same as similarly situated secular land uses. If the movie theater is exempt from landscaping then the church may be also.



## CHAPTER 7: LANDSCAPING & BUFFERING

The following table shows the minimum buffer width for a new or expanding development adjacent to a single-family residential use:

<b>New or Expanding Development</b>	<b>Minimum Buffer Width</b>
Civic (see above for religious uses)	10 feet
Commercial	15 feet
Industrial	30 feet
Mixed Use	10 feet
Multi-family Residential	5 feet

### **7.2.1.2 Composition**

Type A landscaping functions as an opaque screen with a minimum height of eight (8) feet. Composition of the Type A buffer area may include a wall, solid fence, landscaped berm, planted vegetation, existing vegetation, or any appropriate combination of these elements. Intermittent planting of deciduous and evergreen trees shall obtain a height at maturity of no less than 20 feet and have no unobstructed openings wider than ten (10) feet between tree canopies upon maturity. Shrub plantings shall have a minimum height of three (3) feet at installation and have no unobstructed openings wider than four (4) feet. At least 50 percent of the required trees, and at least 75 percent of the required shrubs, shall be evergreen species locally adapted to the area. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental planting may be required in addition to native materials.

### **7.2.2 Type B Landscaping (Semi-opaque Buffer)**

#### **7.2.2.1 Location and Width Required**

Type B landscaping is required around the perimeter of all parking areas. The minimum buffer width is five (5) feet. The C-B district is exempt from this requirement.

#### **7.2.2.2 Composition**

Type B landscaping functions as a semi-opaque screen with a minimum height of three (3) feet for screening of car lights and glare from adjacent properties. The minimum height for a Type B buffer area adjacent to street right-of-way is two (2) feet. Composition of the Type B landscaping may include a wall, fence, planted vegetation, existing vegetation, or any appropriate combination of the elements. Shrub plantings shall have no unobstructed openings wider than four (4) feet. At least 75 percent of the required shrubs shall be evergreen species locally adapted to the area.

### **7.2.3 Type C Landscaping (Parking Lot Canopy)**

#### **7.2.3.1 Location and Number Required**

Type C landscaping is required for all parking lots. A minimum of one canopy tree shall be located within 60 feet of every parking space. The measurement shall be taken from the base of the tree.

#### **7.2.3.2 Composition**

Large maturing canopy trees shall be planted in a manner that provides shade for the entire parking area at maturity. Ornamental trees shall be used in lieu of canopy trees under overhead utility lines. The use of differing species around the parking area is encouraged to promote diversity in the overall tree canopy. The use of existing vegetation to satisfy this requirement is encouraged.

## CHAPTER 7: LANDSCAPING & BUFFERING

### 7.2.4 TYPE D Landscaping (Residential Yard Trees)

#### 7.2.4.1 Location and Number Required

Yard trees are required for every major residential subdivision (greater than 5 lots), except in the Rural Preservation District. Trees shall be planted behind the sidewalk outside of the public right-of-way. Maintenance of the trees shall be the responsibility of the individual property owner. Yard trees may be placed anywhere on the property except that at least one tree is placed in the front yard. Each lot shall provide canopy trees in accordance with the following schedule:

Lot Size	Yard Trees
Less than 10,000 square feet	1
10,000-20,000 square feet	2
More than 20,000 square feet	3

#### 7.2.4.2 Composition

The use of existing vegetation to satisfy this requirement is encouraged. Existing canopy trees over six (6) inches in caliper may be counted towards fulfilling this requirement. Required street trees (Type D Landscaping) may not be counted towards the fulfillment of this requirement. All trees required under this section shall be planted within the private lot and not within the street right-of-way.

### 7.2.6 Other Screening & Landscaping

#### 7.2.6.1 Screening Requirements for Non-residential Open Storage and Unenclosed Structures

For open-air storage, or an unenclosed structure consisting of a roof, but no walls used for storage of materials, products, wastes or equipment associated with business or industrial uses located in any zoning district within 100 feet of the street right-of-way, screening must be provided on the subject property so as to materially screen said storage in the form of a berm, wall or fence or an appropriate amount of natural plantings as to provide the necessary amounts of screening to effectively screen the storage from view from any adjacent lot or street right-of-way.

#### 7.2.6.1 Screening Requirements for All Zoning Districts

The following uses must be screened from abutting property and from streets. The landscaping shall be positioned so that shrubs form a continuous, tight screen at mature growth:

- Dumpsters or trash handling areas
- Utility structures
- Loading docks or spaces

## CHAPTER 7: LANDSCAPING & BUFFERING

### Section 7.3 Landscaping & Screening Installation and Maintenance

#### 7.3.1 Approved Plant List

Large Maturing Trees	Growth Rate	Max. Height	Shape	Screen	Fall Color	Flowers	Bark	Poor Drainage	Diseases	Insects	Litter	Comments
<b>Deciduous</b>												
Ash, Green	F	50'-80'	G				X	X	X			Do not plant in heavy clay soil; use named varieties
Ash, White	M	50'-80'	G		X			X	X			Do not plant in heavy clay soil.
Bald-Cypress	M	50'-80'	NP				X	X		X		Produces small leaves that do not need raking.
Birch, River	F	40'-70'	S				X	X				Subject to drought problems; may be multi-stem; good variety 'Heritage'
Elm, Lacebark	M	40'-50'	G				X					Resistant to Dutch Elm disease
Ginkco	S	50'-80'	NP		X			X				Plant grafted male only; pest free; tolerates pollution
Maple, Red	F	40'-60'	BP		X			X				Can clog sewer lines; some shallow roots; use named varieties.
Maple, Sugar	M	50'-75'	BP		X							Best fall colors; good soils preferred; some shallow roots.
Oak, Laurel	M-F	60'-80'	BP									Semi-evergreen leaves; use variety 'Darlington'
Oak, Northern Red	M-F	60'-80'	BP		X			X				
Oak, Sawtooth	M-F	35'-70'	G								X	Holds leaves in winter; drops lots of nuts; toughest of the oaks.
Oak, Shumard	M-F	40'-80'	BP		X			X				Good dark red fall color.
Oak, Southern Red	M-F	70'-80'	BP		X			X				
Oak, White	S	70'-80'	BP		X		X					May hold leaves; very long lived.
Oak, Willow	F	70'-80'	BP									Majestic tree; most common tree in Charlotte.
Pagoda Tree, Japanese	F	40'-75'	G			X						May develop cankers which can girdle limbs.
Planetree, London	F	60'-100'	BP					X			X	Withstands harsh city conditions.
Poplar-Tulip	F	60'-90'	M		X	X						Flowers best observed close up; needs lots of space; good soils preferred.
Zelkova, Japanese	F	60'-80'	V		X		X					Resistant to Dutch Elm disease.
<b>Evergreen</b>												
Cedar, Deodar	M-F	40'-70'	BP	X								Subject to winter injury up to 15 years.
Cypress, Leyland	F	60'-70'	C	X						X		Maintains good shape.
Hemlock, Canadian	M	40'-70'	BP	X								Plant in partial shade and good soils.
Magnolia, Southern	M-F	50'-80'	BP	X							X	Drops large leaves in the spring and summer.
Oak, Live	S	40'-80'	G	X							X	
Pine, Austrian	M	50'-60'	BP	X								Tolerates city conditions.
Pine, Loblolly	F	40'-60'	NP	X						X		Susceptible to pine beetles if not kept healthy.
Pine, Virginia	M	15'-40'	BP	X						X		Susceptible to pine beetles if not kept healthy.
Spruce, Norway	M-F	40'-60'	NP									

## CHAPTER 7: LANDSCAPING & BUFFERING

Small Maturing Trees	Growth Rate	Max. Height	Shape	Screen	Fall Color	Flowers	Bark	Poor Drainage	Diseases	Insects	Litter	Comments
<b>Flowering</b>												
Cherry, Kwanzan	S	20'-25'	V						X			Good soils preferred.
Cherry, Yoshino	M	20'-25'	S						X			Good soils preferred.
Crepemyrtle	M	15'-45'	S		X	X	X	X				Must be maintained in tree form; Best variety 'Natchez'
Dogwood, Flowering	M-F	20'-25'	S		X	X		X	X			Needs partial shade; good soils preferred.
Dogwood, Kousa	S-M	15'-30'	S		X	X						More hardy thn flowering dogwood.
Hawthorne	S-M	25'-30'	G					X	X	X		Attractive fruit.
Hawthorne, Washington	S-M	25'-30'						X	X	X		Attractive fruit.
Magnolia, Saucer	M	20'-30'	G									
Pear, Aristocrat	F	30'-40'	G		X							Very tolerant; best limb structure.
Pear, Capital	F	30'-40'	C		X							Very tolerant; most columnar.
Pear, Redspire	F	30'-40'	NP		X							Very tolerant; more narrow than 'Bradford'
Plum, Purpleleaf	M-F	15'-30'			X					X	X	Remains purple; produces fruit.
Redbud, Eastern	M	20'-30'	S		X				X	X		Does well in full sun.
<b>Non-Flowering</b>												
Cherry-Laurel, Carolina	M	20'-30'	G	X	X							Good soils preferred.
Holly, Foster #2	M-F	15'-25'	C	X	X							Multiple uses.
Holly, Savannah	F	20'-30'	NP	X								Multiple uses.
Hornbeam, American	S	20'-30'	S			X	X	X				Pest free; tolerates city conditions.
Hornbeam, European	S	40'-60'	C		X		X	X				Pest free; tolerates city conditions.
Maple, Hedge	S	15'-35'	G			X						
Maple, Japanese	S	15'-25'	S		X	X						
Myrtle, wax	S-M	10'-15'	S	X	X			X				
Photinia, Frazier's	F	10'-15'	G	X	X							

<b>Shrubs</b>	
Nelly R. Stevens Holly	Any other variety of shrub may be approved by the Zoning Administrator as long as it has the capacity to provide an equivalent of growth and opacity.
Burford Holly	
Wax Myrtle	
East Palatka Holly	
Savannah Holly	
Tea Olives	
Eleagnus	
Ligustrum	
Japanese Black Pine	
Juniper	

## CHAPTER 7: LANDSCAPING & BUFFERING

### 7.3.2 General Installation Provisions

- A. To the extent that existing natural vegetation located on the same parcel of land as the proposed development can meet the required screening levels of this Section, the use of such materials is encouraged. In such case, the owner shall designate the land on which such materials are rooted, which shall contain at least the minimum width required.
- B. No structure other than a wall, fence, sidewalk, mailbox, sign or driveway shall be permitted within a required screen area. No off-street parking may take place in any required screen area. Where plant materials are required, the required amount of plant materials shall be installed on the side of any wall or fence opposite the new development.
- C. The height of any screen material required by this Ordinance in the vicinity of a point of ingress and egress or at any intersection may not exceed two (2) feet in height when mature within the sight triangles.

### 7.3.3 Wall, Fence, and Berm Standards

Whenever a screening alternative specified is selected which includes a wall, fence, or berm, such wall, fence, or berm shall meet the following requirements:

- A. Any wall shall be constructed in a durable fashion of brick, stone, or other masonry materials with no greater than 25 percent of the wall surface left open. All walls, except those constructed of stone, shall be of a consistent pattern. Gates constructed to the standards for fence materials below, may be included in the wall to allow passage.
- B. Any fence shall be constructed in a durable fashion of wood (or similar material) posts and/or planks with a minimum diameter or width of three (3) inches and with no greater than 25 percent of the fence surface left open between posts and/or planks. Wooden gates meeting such standards of opacity may also be included.
- C. No wall or fence used as part of a screen shall be less than six (6) feet nor more than eight (8) feet in height above grade.
- D. Berms shall be located within common open space maintained by a Home Owner's Association or other responsible party and shall not be located within a subdivision lot of record.
- E. All berms shall be grassed and/or planted with other plant materials sufficient to prevent soil erosion. If grassed alone, any berm installed to meet the requirements of this Section shall be no less than four (4) feet nor greater than eight (8) feet in height. No slope of a berm shall exceed a slope greater than one (1) foot of rise for every three (3) feet in plane. No part of the berm shall be left as bare soil. Any required plant materials accompanying a berm may be planted on the berm and/or along either side of the berm. It is recommended that, where feasible, at least 75 percent of any required shrubs be planted on the slope of the berm opposite the new development.
- F. Where a fence or wall is used as part of a required screen area, any required plantings accompanying the fence or wall shall be located on the side of such fence or wall opposite the new development.

## CHAPTER 7: LANDSCAPING & BUFFERING

### 7.3.4 Plant Standards and Plant Installation Standards

The following standards shall apply to all new plant material installed as part of a screen required under these regulations:

- A. Trees to be planted shall be selected from the approved species listed in tables of Section 7.3.1. The Zoning Administrator may approve alternative large or small maturing trees excluding sweet gum, catalpa, wild cherry, wild elm, princess, hackberry, and tree-of-heaven.
- B. Minimum tree caliper measured six (6) inches above ground on all trees shall be 2-1/2 inches and the minimum height shall be eight (8) feet. No trees identified as large maturing trees shall be planted within 20 feet of an electrical distribution line. This does not include low-voltage insulated or covered lines of 240 volts or less or telephone or cablevision lines.
- C. Large shrubs used in any screening or landscaping must be at least two (2) feet tall when planted and shall be selected from the approved species listed in the table in Section 7.3.1. They must be of a variety and adequately maintained so that an average height of five (5) to six (6) feet could be expected as normal growth within three (3) years of planting.
- D. All plant material installed shall be free from disease.
- E. Plant materials shall be planted in accordance with generally accepted and recommended planting and growing practices.
- F. All plant material shall be installed in a fashion that ensures the availability of sufficient soil and water to sustain health growth.
- G. All plant material shall be planted in a manner which is not intrusive to utilities or pavement.

### 7.3.5 Landscaping Maintenance

The plantings, fences, walls, or berms that constitute a required landscaping shall be properly maintained in order for the landscaping to fulfill the purpose for which it is established. The owner of the property and any tenant on the property where landscaping is required shall be jointly and severally responsible for the maintenance of all landscaping materials. Such maintenance shall include all actions necessary to keep the landscaped area free of litter and debris; to keep plantings healthy; to keep plant growth from interfering with safe vehicular and pedestrian travel, or use of parking areas, or from creating nuisances to adjoining properties; and to keep walls, fences, and berms in good repair and neat appearance. Any vegetation that constitutes part of a required landscaping area shall be replaced in the event that it dies. All landscaping materials shall be protected from damage by erosion, motor vehicles, or pedestrians which could reduce the effectiveness of the required landscaping.

### 7.3.6 Relief from Landscaping Requirements

- A. In the event that the unusual topography or elevation of a development site or the location or size of the parcel to be developed would make strict adherence to the requirements of this section serve no meaningful purpose or would make it physically impossible to install and maintain the required landscaping, the Technical Review Committee may alter the requirements of this section provided the spirit and intent of the section are maintained. Such an alteration may occur only at the request of the developer, who shall submit a plan to the Zoning Administrator showing existing site features that would screen the proposed use and any additional screen materials the developer may propose to have installed. The Technical Review Committee shall have no authority to alter the screening and buffer requirements unless the developer demonstrates that existing site features and any additional

## CHAPTER 7: LANDSCAPING & BUFFERING

screening materials will screen the proposed use as effectively as the required screen.

- B. The vacancy or non-use of an adjoining parcel shall not constitute grounds for providing relief to the landscaping requirements contained in this Ordinance. Neither shall the desire of an owner to make a more intensive use or greater economic use of the property be grounds for reducing the landscaping requirements. Where the effect of the landscaping requirements of this section is to deny the owner reasonable use of the entire tract (or tracts) of property, a Variance may be requested from the Board of Adjustment in accordance with Chapter 16.

### 7.3.7 Existing Landscaped Areas

In cases where an existing, landscaped or vegetated area is located on the same tract as the proposed development, further plantings and or improvements shall not be required so long as said screened area is of sufficient width and depth and contains adequate and sufficient materials to meet the requirements of this Ordinance. If the landscaped or vegetated area is deficient, the developer shall make needed improvements and/or additions to satisfy the landscaping requirements and intent of this Ordinance.

### 7.3.8 Visibility at Intersections

Except as herein provided, on a corner lot in any district, no hedge, shrubbery, tree, natural growth, sign, fence, wall, or other obstruction of any kind to vision which obstructs cross-visibility at a level between two (2) feet and nine (9) feet above the level of the center of the street (where the projection of the sight triangles intersect the centerline of the street) shall be placed or maintained within the triangular area formed by the intersection of front or rear lot lines and the side lot line and a straight line connecting points on said lot lines, which are located 15 and 75 feet from the point of intersection. In instances where NCDOT sight triangle provisions are applicable, such regulations shall prevail.

### 7.3.9 Installation of Landscaping Required Prior to Occupancy

Fences, walls, berms, and landscaping materials required in this Chapter shall be installed prior to occupancy.

~~A. **Improvement Guarantees:** It is recognized that vegetation used in landscaping or screening should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this section and to reduce the potential expense of replacing landscaping or screening materials which were installed in an untimely or improper fashion, in lieu of requiring the completion and installation of these improvements prior to occupancy, the Town of China Grove may enter into an agreement with the developer whereby the developer shall agree to complete all required landscaping and screening in accordance with Section 9.8 Performance Guarantees. To secure this agreement, the developer shall provide to the Town of China Grove one of the following guarantees: The amount of such guarantee shall be equal to 1.25 times the cost of purchasing, installing, and completing landscaping and screening materials required under this Ordinance. All such guarantees shall be subject to the approval of the Town Council and shall be made payable to the Town of China Grove. The developer shall provide either one or a combination of the following guarantees:~~

~~1. **Surety Performance Bond(s):** The developer shall obtain a performance bond(s) from a surety company authorized to do business in North Carolina. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town Council.~~

~~2. **Cash or Equivalent Security:** The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town of China Grove. If cash or other instrument is deposited in escrow with a financial institution as herein provided, the developer shall then file with the Town of China Grove an agreement between the financial institution and himself guaranteeing the following:~~

**Commented [BH2]:** One question is whether this provision for performance guarantees is subject to the same limitations as for other subdivision infrastructure. It would probably be safer legally to follow the updated limitations for subdivision performance guarantees that ya'll have included in Chapter 9.

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## CHAPTER 7: LANDSCAPING & BUFFERING

- ~~a. That said escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the developer in any matter during the term of the escrow; and~~
- ~~b. That in the case of a failure on the part of the developer to complete said improvement, the financial institution shall, upon notification by the Town of China Grove and submission by the Town of China Grove to the financial institution of a landscape architect's estimate of the amount needed to complete the improvements, immediately either pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.~~
- ~~B. **Default:** Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Town Council, pay all or any portion of the bond or escrow fund to the Town of China Grove up to the amount needed to complete the improvements based on a landscape architect's estimate. Upon payment, the Town Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the developer shall nonetheless be responsible for providing the funds to cover such costs. The developer shall at all times bear the financial burden for the installation of all required improvements. A lien shall be attached to the property if the developer fails to provide the full financial responsibility under this Section.~~
- ~~C. **Release of Guarantee Security:** The Zoning Administrator may authorize the release of a portion of any security posted as the improvements are completed and approved. Such funds shall then be released within 10 days after the corresponding improvements have been so approved.~~

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# CHAPTER 8: PARKING AND INFRASTRUCTURE

## Section

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## CHAPTER 8: PARKING AND INFRASTRUCTURE

### Section 8.1 Parking General Provisions

The purpose of this section is to ensure that adequate and well-designed parking is provided for developments in the Town of China Grove. The following are general requirements for all new developments except single-family detached residential and two-family attached residential (duplexes). The expansion of existing development shall follow these requirements to the greatest extent possible.

- A. Except in the Highway Business, Light Industrial, and Heavy Industrial districts, off-street parking areas shall be located to the side or rear of buildings. Off-street parking areas in the side yards shall not extend beyond the frontage line of the building. Off-street parking areas in the Highway Business district may be located in the front yard. However, the parking should not be prominent and should be screened from view with buildings and landscaping wherever possible.
- B. All side and rear yard off-street parking areas shall be screened from view in accordance with Type B landscaping in accordance with Chapter 7.
- C. Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency, and other public service vehicles.
- D. Off-street parking shall not be located within required setbacks.
- E. Off-street parking areas shall be designed so that parked vehicles do not encroach upon, extend onto, or cause vehicles to back into public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility, or other structure.
- F. Off-street parking areas of greater than five (5) spaces may be required to provide curb and gutter in accordance with Stormwater Manual as referenced in Section 8.11.6.
- G. The size of any single surface parking lot shall be limited to three (3) acres, unless divided by a street or building. Larger parking lots shall be separated by buildings or landscaped areas.
- H. The following shall be paved or contain a similar type material approved by the Zoning Administrator. Gravel and other stabilization material without a permanent wearing surface is not permitted:
  - Front yard parking areas.
  - Side yard parking areas.
  - All off-street parking areas for lots of greater than one acre.
  - Driveways

Off-street rear yard parking areas for lots of less than one acre may use pea gravel in lieu of a paving material provided that handicap parking meets ADA standards and pea gravel is contained to the parking area using landscaping timbers or other containment device.

- I. Paved parking areas shall have lines demarcating each parking space.
- J. Off-street parking areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, off-street parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
- K. On-street parking may be used to satisfy parking requirements on streets.

## CHAPTER 8: PARKING AND INFRASTRUCTURE

- L. A secure bicycle rack is required for all parking lots greater than 50 spaces. Bicycle parking may be placed in the front yard.

### Section 8.2 Parking Ratios

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#### 8.2.1 Parking Ratios by Use

- A. The following are minimum parking ratios for the uses indicated:

Use	Minimum
Single-Family & Two-Family Residential (Attached & Detached)	2 per dwelling unit
Multi-Family Residential	1 per bedroom
Residential Care Facilities & Hospitals	1 per 4 beds
Commercial (Office & Retail)	1 per 300 square feet gross floor area
Restaurants	1 per 4 seats
Warehousing/Industrial	.25 per 1000 square feet gross floor area
Mixed Use	Use minimums for Commercial and Multi-Family Residential
Hotel/Motel/Inn	1 per room
Civic & Public Assembly Uses (not including schools)	1 per 6 seats
Elementary and Middle Schools*	1.5 per classroom
High Schools* and Colleges	10 spaces per classroom
Other	Minimum of most similar use as determined by the Zoning Administrator

\*Public schools shall meet the parking standards set forth by the Rowan-Salisbury School System.

- B. The Zoning Administrator may reduce the minimum number of parking spaces required by up to 10 percent if the applicant can demonstrate that the number of required parking spaces is excessive due to use or property constraints.

**CHAPTER 8: PARKING AND INFRASTRUCTURE**

**8.2.2 Parking Spaces for the Disabled**

A. Except for a lot containing a duplex or single-family dwelling, all uses shall be required to provide the following number of spaces designed for disabled persons:

<b>Total Number of Required Spaces</b>	<b>Minimum Disabled Spaces</b>
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2% of total
1,001 +	20+1 for each 100 over 1,000

- B. The number of such spaces shall be in addition to those required by the minimum parking ratios.
- C. A minimum of one (1) parking space for the disabled shall be van accessible. For every eight (8) spaces for the disabled, there shall be at least one van accessible space.
- D. Off-street parking spaces for the disabled shall be designed as follows:
  - All spaces for the disabled shall have access to a curb-ramp or curb-cut when necessary to allow access to the building served, and shall be located so that users will not be compelled to wheel behind parked vehicles, and shall be located the shortest possible distance between the parking area and the entrance to the principal building it serves.
  - Parallel parking spaces for the disabled shall be located either at the beginning or end of a block or adjacent to alley entrances. Curbs adjacent to such spaces shall be of a height which will not interfere with the opening and closing of motor vehicle doors.
  - Each parking space for the disabled shall be paved and prominently outlined with paint, with a permanent sign of a color and design approved by the North Carolina Department of Transportation, bearing the internationally accepted wheelchair symbol, posted at the head of the parking space.
  - The size of the parking space shall be per building code specifications.

**Section 8.3 Shared Parking and Parking Connectivity**

**8.3.1 Shared Parking**

The joint use of shared off-street parking between two uses may be made by contract by two or more adjacent property owners. Developments that operate at different times may jointly use or share the same parking spaces with a maximum of one-half (1/2) of the parking spaces credited to both uses if one use is a church, theater, assembly hall or other use whose peak hours of attendance will be at night or on Sundays, and the other use will be closed at night or on Sundays.

**8.3.2 Parking Connectivity**

Adjacent parking lots shall be interconnected except in the case of existing steep topography between the sites. Each parking area that is interconnected may reduce their minimum parking requirement by five (5) percent.

**Section 8.4 Parking Dimensions**

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**8.4.1 Parking Space Dimensions**

Each parking space, (other than those designed for the disabled) shall contain a rectangular area at least 19 feet long and nine (9) feet wide.

**8.4.2 Parking Lot Dimensions**

The following are dimensional standards for all required parking areas:

Aisle Direction	Angle of Parking Spaces				
	0 (parallel)	30	45	60	90 (perpendicular)
One-Way	13 feet wide	14 feet wide	18 feet wide	20 feet wide	24 feet wide
Two-Way	19 feet wide	20 feet wide	21 feet wide	23 feet wide	24 feet wide

**Section 8.5 Loading Area Requirements**

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All non-residential uses greater than 5,000 square feet (except civic uses) shall provide an off-street loading area. The C-B District is exempt from off-street loading requirements.

**8.5.1 Minimum Off-Street Loading Space Requirements**

The following minimum loading space requirements shall apply for the appropriate use:

Use	Required Loading Spaces
Retail	1 space per 20,000 square feet
Wholesale/Industrial	1 space per 20,000 square feet
Office/Institutional	1 space per 50,000 square feet

**8.5.2 Design of Loading Spaces**

- A. Off-street loading spaces shall be designed and constructed so that all maneuvering to park vehicles for loading and unloading can take place entirely within the property lines of the premises. Loading spaces must be designed so as to not interfere with the normal movement of vehicles and pedestrians on public rights-of-way. Off-street loading spaces shall be located in the rear yard. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
  
- B. Each loading space shall have a paved surface and be a minimum of 12 feet in width and 40 feet in length. Each such berth shall also have a minimum vertical clearance of 14 feet.

## CHAPTER 8: PARKING AND INFRASTRUCTURE

- C. Use of alternate design plans, or construction techniques may be used when unreasonable or impractical situations would result from the application of Loading Area Requirements. Such situations may result from unique site conditions, innovative design applications, and/or unified development design.
- D. The performance of alternate design standards shall be evaluated by the Technical Review Committee to determine if the alternate design meets the intent and purpose of this ordinance. This determination shall take into account the land use of adjacent property, the orientation of the building to streets, the intended use of the structure, attention to architectural detail, scale, and mass.
- E. Appeal Decisions of the TRC regarding alternate methods of compliance may be appealed to the Board of Adjustment in accordance with Chapter 16.

### Section 8.6 Driveways

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These driveway requirements do not apply to single family detached and two-family attached residential uses.

- A. Driveways shall be not less than 12 feet in width for one-way traffic and 20 feet in width for two-way traffic.
- B. Twelve (12) foot wide driveways are permissible for two way traffic when:
  - The driveway is not longer than 50 feet; and
  - The driveway provides access to not more than six parking spaces; and
  - Sufficient turning space and stacking area is provided so that vehicles need not back into a public street.
- C. In no case shall a driveway width exceed 36 feet, except as required by NCDOT.
- D. No surface parking or circulation driveway is permitted within any required or established setback, except that driveways providing access to the parking area may be installed across these areas.
- E. Driveways shall be as nearly perpendicular to the street right-of-way as possible.
- F. Driveways shall line up with other driveways across the street and be shared between adjacent uses wherever possible.
- G. No driveway on US Highway 29 or Highway 152 shall be less than 300 ft from an existing driveway, unless a shared driveway arrangement is not feasible, or other similar hardships as determined by the TRC.

### Section 8.7 Lighting

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#### 8.7.1 Applicability

The provisions of this Section shall apply to the installation of all outdoor lighting within the jurisdiction of this ordinance except that the following shall be exempt from this Section.

- A. Outdoor lighting installed for governmental purposes by local, state or federal governmental units and their agents.

- B. Outdoor lighting required to be installed by laws or regulations of a local, state or federal governmental units.
- C. Outdoor lighting installed for one and two-family dwellings.
- D. Lighting associated with temporary events such as holidays and which does not violate the basic principles of this Section.
- E. Outdoor lighting associated with a bona fide farm operation as defined by NCGS ~~153A-340~~[160D-903](#).

**8.7.2 Prohibited Outdoor Lighting**

The following types of outdoor lighting are prohibited unless exempt by Section 8.7.1 above:

- A. Light fixtures that imitate an official highway or traffic control light or sign.
- B. Light fixtures in the direct line of vision with any traffic control light or sign.
- C. Light fixtures that have a flashing or intermittent pattern of illumination.
- D. Privately owned light fixtures located in the public right-of-way.
- E. Light fixtures that are a source of glare by their design, orientation or intensity.
- F. Searchlights.
- G. Light fixtures that violate any law of the State of North Carolina relative to outdoor lighting.
- H. Structure highlighting.
- I. Unshielded open vertical light fixtures.

**8.7.3 Plan Approval Required**

Outdoor lighting is subject to approval by the Zoning Administrator and Technical Review Committee (TRC). The lighting plan shall show sufficient information to determine compliance with the standards of this Section. In approving lighting plans the Zoning Administrator and TRC may modify the standards of this Section where the applicant agrees and where equal or better performance would result. In granting modifications, the Zoning Administrator and TRC may require such conditions as will secure, insofar as practicable, the objectives of the requirements modified.

**8.7.4 Outdoor Lighting General Provisions**

- A. Outdoor lighting fixtures shall be installed in a manner to protect the street and neighboring properties from direct glare or hazardous interference of any kind. Glare or hazardous interference are situations where the sensation produced by luminance within the visual field is sufficiently greater than the luminance to which the eyes are adapted, such as to cause annoyance, discomfort, or loss in visual performance and visibility.

## CHAPTER 8: PARKING AND INFRASTRUCTURE

- B. Outdoor lighting shall be constructed and operated to minimize the spill over of obtrusive light onto property outside the boundaries of the property on which the lighting is sited which could result in annoyance, discomfort or distraction to persons on the other property.
- C. All outdoor lighting fixtures, subject to this section, except for temporary and emergency lighting, that would otherwise cause glare or obtrusive spill over shall be shielded, recessed or otherwise oriented or treated in such a way to prevent glare or obtrusive spill over.
- D. As a general principle, all outdoor lighting shall be beamed downward and away from adjoining property and streets. Upward lighting shall only be permitted as a modification by the Planning Board.
- E. The maximum light level shall not exceed 0.5 maintained footcandles at any property line in a residential district, or on a lot occupied by a dwelling, congregate care or congregate living structure, and shall not exceed 2.0 maintained footcandles at any public street right-of-way.
- F. All flood lights shall be installed such that the fixture shall be aimed down at least 45 degrees from vertical, or the front of the fixture is shielded such that no portion of the light bulb extends below the bottom edge of an external shield. Flood lights and display lights shall be positioned such that any such fixture located within 50 feet of a public street right-of-way is mounted and aimed perpendicular to and away from the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed 15 degrees from perpendicular to the right-of-way.
- G. All flood lamps emitting 1,000 or more lumens shall be aimed at least 60 degrees down from horizontal, or be shielded such that the main beam from the light source is not visible from adjacent properties or the public street right-of-way.
- H. All wall pack fixtures shall be cutoff fixtures.

### 8.7.5 Lighting Standards for Parking Lots and Outdoor Activity Areas

- A. Other than flood lights and flood lamps, all outdoor area and parking lot lighting fixtures of more than 2,000 lumens shall be cutoff fixtures.
- B. The mounting height of all outdoor lighting shall not exceed 40 feet above finished grade.

### 8.7.6 Lighting Standards for Vehicular Canopies

Areas under a vehicular canopy shall have a maximum point of horizontal illuminance of 24 maintained footcandles (FC). Areas outside the vehicular canopy shall be regulated by the standards of 8.7.5 above. Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or more of the following:

- A. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy.
- B. Light fixture incorporating shields, or shielded by the edge of the vehicular canopy itself, so that light is restrained to five degrees or more below the horizontal plane.
- C. Surface mounted fixture incorporating a flat glass that provides a cutoff fixture or shielded light distribution.
- D. Surface mounted fixture, typically measuring two feet by two feet, with a lens cover that contains at least two (2) percent white fill diffusion material.



- E. Indirect lighting where light is beamed upward and then reflected down from the underside of the vehicular canopy. Such fixtures shall be shielded such that direct illumination is focused exclusively on the underside of the vehicular canopy.
- F. Other methods approved by the Planning Board.

**8.7.7 Lighting Standards - Outdoor Sports Field/Outdoor Performance Areas**

- A. The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed 80 feet from finished grade.
- B. All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.
- C. The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.

**8.7.8 Lighting Standards for Outdoor Display Areas**

Parking lot outdoor areas shall be illuminated in accordance with the requirements for 8.7.5 above. Outdoor display areas shall meet the following standards:

- A. Outdoor display areas shall have a maximum point of illuminance of 24 maintained footcandles (FC).
- B. All light fixtures shall meet the IESNA definition of cutoff fixtures. Forward throw fixtures (type IV light distribution, as defined by the IESNA) are required within 25 feet of any public street right-of-way. Alternatively, directional fixtures (such as flood lights) may be used provided they shall be aimed and shielded in accordance with this Section.
- C. The mounting height of outdoor display area fixtures shall not exceed 40 feet above finished grade.

**8.7.9 Lighting Standards for Signs**

Sign lighting shall be regulated in accordance with Chapter 11.

**8.7.10 Lighting Standards for Buildings and Landscaping**

Lighting fixtures shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building façade, plantings, and other intended site features and away from adjoining properties and the public street right-of-way.

**8.7.11 Light Measurement Technique**

Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five (5) percent. Measurements shall be taken with a light meter that has been calibrated within the year. Light levels are specified, calculated and measured in footcandles (FC). All FC values herein are maintained footcandles.

**8.7.12 Street Lighting Provisions**

The Town of China Grove provides street lighting along public streets within the corporate limits. All requests for street lighting installation and removal are to be submitted in writing to the Town Manager. The following are general provisions for street lighting:

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- A. The Town of China Grove, as a minimum standard, shall install and maintain street lights in residential sections only at street intersections or terminations, unless the distance between street intersections exceeds 350 feet. China Grove provides street lighting on existing publicly-dedicated streets in accordance with the following schedule:
- Single Family Residential Areas: 100 Watt High Pressure Sodium (HPS) bulb mounted on 30 foot wood poles, 500 feet on-center
  - Multi-Family, Mixed Use and Commercial Areas: 250 Watt High Pressure Sodium (HPS) bulb mounted on 30 foot wood poles, 300 feet on-center
- B. Consideration should be made to place all lighting at all intersections and other high pedestrian and other high pedestrian use areas.
- C. Lighting should be planned to ensure adequate illumination for safety of both the pedestrian and the automobile.
- D. Where sidewalks exist on one side of the street only, street lighting will be placed on that side to ensure adequate illumination for the pedestrian.
- E. Additional lighting on a street with existing lighting should be similar in style and illumination to the existing lighting.
- F. Citizens requesting lighting not on public street rights-of-way within China Grove will be referred to the appropriate electric utility. The requesting party will be responsible for all costs associated with lighting non-public street rights-of-way or for which the Town has not authorized installation by the appropriate electric utility to install lighting.

### 8.7.13 Decorative Lighting

- A. Decorative lighting is encouraged in developments in the R-M and N-C districts.
- B. Property owners associations for developments may choose a decorative light option upon obtaining lease agreement for the decorative light installation and maintenance with Duke Power.
- C. Where underground wiring currently exists along thoroughfares and collector streets, the Town of China Grove may provide decorative pole fixtures at the Town's expense, subject to the approval of the Town Council.

### 8.7.14 Standards for Acceptance of Lighting by Town

- A. The Town of China Grove may choose to take over responsibility for payment of monthly billing of a street light, provided that the street light:
- Is within Town-owned right-of-way, and
  - Is within a street right-of-way accepted for maintenance purposes by the Town of China Grove or the North Carolina Department of Transportation; and
  - Meets Town standards, or the petitioner has paid any cost to have the light brought up to Town standards
- B. Takeover billing shall become effective for the billing cycle following the approval of the request. The Town will not reimburse any billing for which the requesting party is responsible for or if the Town has not authorized Duke Power Company, to bill it. This includes any billing between the date

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of the citizen's request and the date of the changeover of billing. Take-over billing is only applicable for maintenance and electricity billing only. The Town will not accept any take-over billing of decorative lighting fixtures until all premium costs are paid in full.

- C. The Town may accept street lighting that exceeds the Town's standards for spacing and/or illumination subject to approval by the Town Council
- D. Due to their low lighting capability and maintenance requirements, natural gas lights are not eligible for this program.

### 8.7.15 Removal of Street Lighting

An individual homeowner or neighborhood organization may request removal of a street light provided the overall lighting pattern in the neighborhood is consistent with this Policy. Requests to remove all lighting within a neighborhood shall require the unanimous consent of all property owners within the neighborhood and approval by the Town Council.

## Section 8.8 Street Design Standards

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### 8.8.1 Conformance with Thoroughfare Plan

The location and design of streets shall be in conformance with the adopted Metropolitan Planning Organization and China Grove Thoroughfare Plans. Where conditions warrant, right-of-way width and pavement width in excess of the minimum street standards may be required. In any case where any part of a subdivision lies within the corridor of a Thoroughfare shown on a roadway corridor official Map adopted pursuant to NCGS Chapter 136, Article 2E, no subdivision approval shall be granted with respect to the property in the roadway corridor. Provided, however, no subdivision Plat approval shall be delayed by the provision of the Roadway corridor official map procedure for more than three (3) years from the date of its original submittal.

### 8.8.2 Street Design

All roads shall be constructed in accordance with the latest editions of the Subdivision Roads Minimum Construction Standards, Typical Highway Cross Sections, Traditional Neighborhood Development Guidelines, Standards and Specifications for Roads and Structures, or Roadway Standards Drawings established for the particular type of street in question by the NC DOT Division of Highway, unless otherwise specified in this Ordinance or a higher or more restrictive standard is established by this Ordinance. If a higher or more restrictive standard is required, the street shall meet that higher or more restrictive standard. The term "constructed" as used in this Chapter in reference to NCDOT standards refers to all standards of design and construction, including right-of-way widths.

### 8.8.3 Street Classification

Diagrams depicting each street category and specifications are located in Appendix B of this Ordinance.

- A. **Category 3:** Thoroughfares that connect town and regional centers. Category 3 streets are typically state-maintained roads that have some level limited access to surrounding property and operate at higher speeds.
- B. **Category 2:** Connects neighborhoods to commercial centers. Category 2 streets operate at low to moderate speeds and may have on-street parking.

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- C. **Category 1:** Typically provide access to residential areas and connect neighborhoods. Category 1 streets focus on low traffic volume, high accessibility, pedestrian and bicycle safety, and utility infrastructure for neighborhoods.
- D. **Alleys:** Privately maintained right-of-way to access the rear of buildings.

### 8.8.4 Connectivity

- A. The planned street layout of a proposed development shall be compatible with and connect to existing or proposed streets.
- B. The street network of a new development shall stub to adjacent properties with development potential whenever possible and where topographic conditions allow at the discretion of the Technical Review Committee and the Planning Board. Where a stub abuts a stream, one-half (1/2) the cost of a bridge to cross the stream shall be bonded for five (5) years to allow for connection to future development across the stream. Development across the stream from an existing stub shall incur the one-half (1/2) the cost of the bridge and have responsibility for the construction of the bridge.
- C. Cul-de-sacs shall not be used to avoid connection with an existing street, to avoid the extension of a thoroughfare or collector Street, or to avoid connection to adjoining property. Permanent cul-de-sac streets should not exceed 400 feet in length unless necessitated by topography or property accessibility and approved by the Planning Board. Measurement shall be from the point where the centerline of the street intersects with the centerline of a through street to the center of the turnaround of the cul-de-sac.
- D. For consideration of a major subdivision, the plan must meet the following street connectivity requirements of the NC Fire Code, Appendix D, Section D107.1:
- Must provide at least two (2) road accesses to a Collector Road (see Category 2 Collector Road specifications B.2.2 Street Design Criteria by Type) for all major subdivisions of 30 or more dwelling units.
  - Must provide vehicle access, where public access is possible to all adjacent existing subdivisions.
  - Must provide stub streets to the property lines of all adjacent vacant or under-developed property.

### 8.8.5 Reserve Strips and Half Streets

Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property, (except those required to prevent access to Thoroughfares) and half-streets shall not be permitted under any condition.

### 8.8.6 Private Streets & Gated Communities

Private residential streets and gated communities are not permitted within the jurisdiction of China Grove. However, privately maintained alleys that meet the provisions of this Section are permitted.

Private streets that develop as part of a commercial, industrial, or institutional subdivision or development may be privately maintained and are subject to the following requirements:

- A. The creation of private streets is subject to the Major Subdivision process outlined in Chapter 9.
- B. Private streets shall establish right-of-ways for public utilities. All new utilities shall be underground. No overhead lines shall be permitted.

- C. A legally responsible organization (property owners association), as acceptable to the Town Attorney, shall be established to maintain private streets. Documents to assure private responsibility for future maintenance and repair by a private owners association shall be approved by the Town Attorney and Zoning Administrator.
- D. A private street maintenance agreement, satisfactory to the Zoning Administrator and Town Attorney, must be recorded with the office of the Rowan County Register of Deeds to ensure proper maintenance. The agreement shall specify lot owner's responsibilities for maintenance of private streets and drainage systems, and shall provide for assessments to finance all maintenance activities. In addition, all property transfer instruments must contain a reference to that agreement, as well as a statement indicating if the private street does not meet public standards for maintenance and that it will not be considered for public maintenance unless improved by the legally responsible organization to those standards. This agreement shall also specify that unless the street is privately maintained in condition for safe passage of public service and emergency vehicles the Town may provide such maintenance, with charges therefore becoming a lien on the properties served, dividing among them proportionate to their assessed tax value.

#### **8.8.7 Intersections**

Streets shall be designed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 60 degrees. Streets crossing natural areas or streams shall cross at or near to right angles as possible within limits of topographic conditions. Offset intersections are to be avoided. Intersection offsets shall meet the standards set forth in Appendix B.

#### **8.8.8 Marginal Access Streets**

Where a tract of land to be subdivided adjoins a Thoroughfare, the developer may be required to provide a marginal access street parallel to the Thoroughfare or provide for through lots on a local street for the lots to be developed adjacent to the Thoroughfare. Where through lots are established, such lots may be prevented from having direct access to the Thoroughfare by driveways through the use of reserve strips or non-access easements.

#### **8.8.9 Utilities, Street Lights and Storm Drainage within Streets**

Utilities, street lights, sidewalks, storm drainage and other such facilities to be placed within the street right-of-way shall be placed in accordance with Town standards as shown in Appendix B. All utilities shall be placed underground.

#### **8.8.10 Pavement, Curb and Gutter and Pavement Side Ditch**

Pavement, curb and gutter to be placed in public streets shall be placed in accordance with Town Standards as shown in Appendix B.

#### **8.8.11 Connection to State Streets**

- A. An approved permit is required to connect to any existing state system street. NCGS 136-102.6 "Compliance of Subdivision streets with minimum standards of the Board of Transportation Required of Developers" requires that new public streets outside the Town limits and changes to existing streets inside the Town limits that are the responsibility of NCDOT be in accordance with the minimum right-of-way and construction standards established by the Board of Transportation for acceptance on the state highway system. It is the intent of these standards and requirements, as set forth, to complement and not to conflict with the requirements of NCDOT as stated in NCGS 136-102.6. In all cases the most restrictive limitation or requirement or the requirement causing the highest standard of improvement shall govern.

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- B. All proposed streets shall be constructed in accordance with the minimum Public street standards as shown in Appendix B. All street improvements shall be designed and installed in accordance with Town Standards and the approved Construction Plan. The developer's engineer shall furnish the Town with a certified statement that all street improvements installed in the subdivision meet the minimum standards of the Ordinance.
- C. In addition, street improvements, shall be installed in the following situations:
- Any existing street segment that has not been accepted for maintenance by either the Town or the NCDOT, and that is to serve as the required frontage for one or more Lots created pursuant to this ordinance, shall be improved and Dedicated to the public, as provided for above, in such a way that the Street segment meets the standards of this ordinance for the particular classification of Street, including right-of-way width. Such street segment shall be directly connected to the existing public street system by way of at least one public street accepted for maintenance by either the Town or the NCDOT. No subdivision shall be permitted on any street that is an "island" not connected directly to the public street system.
  - Subdivisions that adjoin existing streets maintained by either the Town or NCDOT shall dedicate additional street right-of-way necessary to meet the minimum width requirements for the type of classification of the adjoining street. When any part of the subdivision is on both sides of an existing Street, the entire minimum right-of-way shall be provided. When the subdivision is located on only one side of an existing street, one-half of the minimum right-of-way, measured from the centerline of the existing street, shall be provided. The improvement requirements of this Article shall not apply to the subdivision of lots fronting on established streets that have already been accepted for maintenance by the Town or NCDOT.
  - The Planning Board may require pavement and widening or pavement and widening and curb and gutter for turning lanes along any existing or proposed street that forms a significant entrance to a proposed subdivision where in the opinion of the Board such improvements are necessary in order to provide for safe vehicular movement into and out of the proposed Subdivision.
  - In cases where a street is stubbed into adjoining property for future extension and such street serves as the frontage for one or more lots which are not corner lots, the Planning Board may require the pavement of a temporary turn-around in a form similar to a cul-de-sac on such street where in their opinion such turn-around is necessary for the public convenience, safety and service. Temporary easements for such purposes may be required.

### Section 8.9 Sidewalks

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Sidewalks shall be installed within the street right-of-way constructed in accordance with Town Standards as outlined in Appendix B, in the following situations:

- A. In any case where a development adjoins and has legal access to, or will have legal access to, an existing or proposed major or minor Thoroughfare as shown on the Thoroughfare Plan, the developer shall construct a sidewalk along the frontage of such Thoroughfare.
- B. In any case where a development adjoins a street or will adjoin an extension of a street, which has sidewalk on one or both sides within 500 feet of the boundary of the land to be developed, the sidewalk shall be constructed along the adjoining frontage of such street in such a way that the existing sidewalk pattern will be extended.

- C. In any case where a development creates new streets, the developer shall construct a system of sidewalks on both sides of the street.

**Section 8.10 Water and Sewer**

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**8.10.1 Connection to System Required**

- A. Any development which has Town water and/or sewer system lines available shall be required to extend the public water and/or sewer system throughout the development to each lot located therein. All required line extensions shall include appropriate valves, hydrants, taps, service, manholes, lift stations, pumps, and clean outs to the property line of each lot as required by Town standards.
- B. In any case where a public water and/or sewer system intended to serve more than two (2) lots is proposed to be installed in a development as part of the plan approval process, such system shall be considered to be a required improvement within the context of this Section regardless of whether such a system is an extension of the Town system or not and such system shall be required to be installed by the developer. This requirement includes both facilities within the development and off-site facilities which are essential to providing the service to the property.
- C. Where public sanitary water and sewer are not available as defined below in 8.10.2, structures shall be connected to private water supply and sewage disposal systems (i.e. wells and septic tanks or community systems).

**8.10.2 Availability Defined**

- A. For developments within or partially within the Town, the term "available", shall mean that there is an existing line of adequate size and flow and/or pressure either crossing the development property or immediately available from an adjacent public right-of-way or the Town indicates its commitment to extend such a line to the property line of the development at no cost to the developer.
- B. For developments located entirely outside the boundaries of the Town but within the jurisdiction of this ordinance, "availability" shall be determined by the threshold levels indicated in the table below. Within the range of lots, water and/or sewer lines shall be within the distance indicated to be considered "available", extension of the water and/or sewer lines shall be paid for by the developer, and the development shall be connected to the system. For example, if the water and sewer lines are within 300 feet of a proposed 15 lot subdivision, then the developer shall pay for the extension and the development shall be connected to the system. If a non-residential subdivision is proposed, comparable demand estimates for residential uses shall be used.

<b>Number of Proposed Lots</b>	<b>Distance to Nearest Line (feet)</b>
0-10	200
11-20	300
21-50	600
51-100	1,000
101 or greater	1,500

**8.10.3 Exemption from Extension of Lines**

In the event the Town elects not to extend a line of sufficient size, flow and/or pressure, to the development (if in the Town) or within 400 feet of the development boundary (if outside the Town)

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because of topographic features, legal obstacles, or financial reasons, then, the developer shall not be required to extend water lines to each lot nor provide water and/or sewer service to the development.

### **8.10.4 Oversized Water and Sewer Facilities**

The Town may, in order to serve future development, require the developer to install certain oversized water and sewer improvements and/or to increase such improvements to a size and/or extent beyond that necessary for the needs created by the subdivision. In such cases, the Town shall enter into an agreement to reimburse the developer for the oversizing and/or extension based upon rates as agreed to by the Town.

### **8.10.5 Annexation Required**

In any case where a new development connects to the Town water and/or sewer system, such development shall be voluntarily annexed into the Town prior to the approval of a final plat, for a subdivision, or the issuance of a Zoning Permit, where the subdivision of land is not involved.

### **8.10.6 Installation Requirements**

- A. All water and sewer extensions for new development inside or outside the corporate limits will be made by the town's public works department or approved licensed contractors.
- B. No water or sewer line may be connected to the system of the Town unless such line is properly designed and constructed to service the properties intended to be served directly by such line and of a size and design sufficient to accommodate any necessary expansion of the water and sewer system to serve other properties, including fire protection.
- C. The Town shall own and control any and all water and sewer lines and related facilities connected to and serviced by its water or sewer system, except those lines and facilities of other public bodies connected to and serviced by the Town's water or sewer system under contracts approved by the Town Council between the Town and other public bodies.
- D. Because the extension of water or sewer lines to certain properties benefits the owners of such properties by raising property values, the cost of such extension shall be borne by the developers of such properties as provided in this article except in instances when the Town Council makes a determination that the Town is obligated to extend such utilities when it determines that it is the best interest of the Town to do so. In making such a conclusion, it must be demonstrated by the developer to the Town Council that ad valorem taxes to be gained by the Town from the properties which will be served by the proposed utilities will over a five (5) year period exceed the cost incurred by the Town for making such utility extensions.
- E. Additional requirements regarding sizes and installation methods are located in Appendix B.

### **8.10.7 Extensions Required by State Law and Emergency Situations**

To comply with municipal obligations by state statutes, or in cases of emergency where it is found to be in the public interest or necessary to protect the public health, the Town may authorize extensions of water or sanitary sewer into specific areas.

### **8.10.8 Payment of Tap Fees**

Nothing in this article shall exempt an applicant from paying the standard tap fees in effect at the time the application for connection is made as adopted from time to time by the Town Council.

### **8.10.9 Extensions to Existing Development**

Extensions of water or sanitary sewer service within the corporate limits of the town shall be made upon petition as set forth by the Town Council in the Code of Ordinances.



**8.10.10 Extensions to New Development**

- A. Any person desiring to install any water or sewer line for new developments within the town's service area to be connected to and served by the water and sewer system of the town shall make application on forms provided by the Town, and shall furnish such information or exhibits as are required by such application forms.
- B. Such application for extension, whenever possible, shall be made simultaneously with the appropriate Development Review Process for the type of development proposed as outlined in Chapter 9.
- C. The applicant shall pay to the town a nonrefundable application fee. This fee shall be equal to the annual average water and sewer extension engineering fee, as determined by the board for the July 1 to June 30 fiscal year, plus an additional fee as established by the board from time to time.
- D. The applicant shall submit engineering plans, profiles and specifications for such water main or sewer line, including those for any required fire hydrants, valves, manholes, sewer lift stations, force mains or other sewer lines necessary in connection therewith, to the town engineer for approval by the board of aldermen. All plans shall bear the seal of a registered professional engineer.
- E. No water or sewer line may be installed and connected to the town water or sewer system except as approved by the Town Council. Such approval shall meet the requirements of the Code of Ordinances as adopted by the Town Council.

**8.10.11 Denial of Extension**

The Town Council will not approve any contract for the installation of any water main or sewer line to be connected to and served by its water or sewer system if in its judgment the projected volume of water that would be used by any properties to be serviced thereby would unduly tax the available water supply or sewage treatment capacity of the town, or it would not be feasible or otherwise suitable for the Town to commit itself to such cost. Exceptions to this policy may be made by the Town Council for any meritorious reason and good cause shown.

**Section 8.11 Stormwater Management**

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**8.11.1 Comprehensive Storm Drainage Plan**

- A. A comprehensive storm drainage system shall be planned and implemented for each development of greater than 20,000 square feet of impervious area in accordance with the general standards and requirements of this Section. Detailed plans shall be submitted for review as part of the Construction Documents.
- B. Storm drainage plans shall be considered on an individual basis depending upon the situation within a given development.
- C. The requirements of the Flood Damage Prevention ordinance shall apply to storm drainage design where applicable.
- D. Post development run-off flow rate shall not exceed predevelopment run-off flow rate. Stormwater volumes shall be detained within the development and released at a rate no greater than existed prior to development and shall meet the design storm requirements below.

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Stormwater System or Component	Design Storm
Open Drainage Channel	10 year
Enclosed System Collectors	10 year
Enclosed System for Street Crossings and Downstream Areas	25 year
Flood Damage Prevention (see Code of Ordinances)	100 year
Detention Facilities	2 and 10 year
Detention Emergency Spillway	100 year

### 8.11.2 Obstruction of Drainage Channels Prohibited

No fences or structures shall be constructed across an open drainage channel that will reduce or restrict the flow of water. The Zoning Administrator may require any water course or stormwater management facility to be located within a dedicated drainage easement officially recorded at the Rowan County Register of Deeds as a “permanent drainage easement” that provides sufficient width for maintenance.

### 8.11.3 Grading Standards

The following standards shall be followed in establishing the grading plan for a development:

- A. Developments shall be designed and constructed with a positive drainage flow away from buildings towards approved stormwater management facilities. Plans for drainage facilities shall be approved by the Town Engineer.
- B. In the design of site grading plans, all impervious surfaces in the proposed development (including off street parking) shall be considered.
- C. Site grading and drainage facilities shall protect sinkholes, wetlands, ponds and lakes from increased sediment loading.
- D. Site grading shall not increase runoff flow rate onto downstream properties.
- E. A site shall not be graded to create a slope greater than 2:1 at adjacent properties unless the slope already existed on the undeveloped land. In no case shall the slope be made steeper than it was on the undeveloped land within the perimeter setbacks. Terraced or stepped slopes that achieve the overall slope requirement may be considered by the TRC on a case by case basis.
- F. All disturbed areas within the dedicated right-of-way and easements of any subdivision street shall be restored with vegetation and the landscaping standards of Chapter 7 shall be met.
- G. Stormwater facilities to be located in designated open space areas shall be regulated in accordance with Chapter 6 of this Ordinance.

### 8.11.4 Adoption Standards

Road grading and associated stormwater management shall follow the most current standards of the North Carolina Department of Transportation (NCDOT). Phase II stormwater shall meet the guidelines established by the North Carolina Department of Environmental Quality (NCDEQ), Division of Energy, Mineral and Land Resources (DEMLR) Rules and Regulations. Acceptable

design methods for stormwater treatment shall comply with NCDEQ DEMLR Stormwater Design Manual, latest edition at the time of permitting review. Development and redevelopment shall meet the minimum standards for post-development stormwater management as set forth by the State of North Carolina, NCDEQ and as stated in subsequent sections of this Ordinance.

### **8.11.5 Phase II Requirements – Stormwater Management Facilities**

The following Phase II Stormwater Requirements shall be followed to comply with the North Carolina Environmental Management Commission and the Federal Water Pollution Control Act for Stormwater Regulations. Any new development or redevelopment which disturbs one or more acres shall be required to adhere to the guidelines set forth in this section. Projects which disturb less than an acre but are part of a larger common plan of development shall also follow the Phase II Stormwater Requirements.

### **8.11.6 Purpose.**

This Ordinance seeks to meet the requirements of the Town's National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit. The purpose is to establish requirements and procedures to control post-development stormwater runoff and nonpoint and point source discharges as well as illicit discharges into municipal stormwater systems. The intended outcome is to protect public health, safety, environment and general welfare of citizens by establishing requirements and procedures to control the adverse effects of the developed environment. Management of stormwater runoff during and after construction will help prevent surface water quality degradation and increased flooding in the streams and lakes within Town's jurisdiction.

### **8.11.7 Definitions.**

*Built-upon area (BUA):* That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate.

*Design manual:* The stormwater design manual approved for use in phase II jurisdictions by the North Carolina Department of Environmental Quality (NCDEQ), Division of Energy, Mineral and Land Resources (DEMLR). *The design manual includes a local appendix of recommendations for SCMs that any property owner could utilize to help in managing stormwater.* All references herein to the design manual are to the latest published edition or revision.

*Development:* Any land disturbing activity that increases the amount of built upon area or that otherwise decreases the infiltration of precipitation into the soil.

*High-density project:* Any project that exceeds the low-density threshold for dwelling units per acre (two dwelling units per acre) or built-upon area (24%).

*Larger common plan of development or sale:* Any area where multiple separate and distinct construction or land disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

*Low-density project:* A project that has no more than two dwelling units per acre or 24 percent built-upon area (BUA) for all residential and non-residential development. Projects shall be designed to minimize channelization of flow, maximize dispersed flow, use vegetated conveyances, and curb outlet systems as described in the North Carolina Stormwater Rules and Regulations.

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*One-year, 24-hour storm:* The surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in 12 months and with a duration of 24 hours.

*Owner:* The legal or beneficial owner of land or business, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

*Redevelopment:* Any land-disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control than the previous development.

*Stormwater Control Measure or "SCMs":* control urban stormwater runoff and can include "structural SCMs" such as infiltration devices, ponds, filters and constructed wetlands; and "non-structural SCMs" such as maintenance practices, street sweeping, public education and outreach programs.

*Structural SCM:* A physical device designed to trap, settle out, or filter pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Structural SCM includes physical practices such as constructed wetlands, vegetative practices, filter strips, grassed swales, and other methods installed or created on real property. "Structural SCMP" is synonymous with "structural practice", "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this ordinance.

*Design Volume:* Is the amount of stormwater runoff that an SCM or series of SCMs is designed to treat.

*Low Impact Development:* A site design approach and implementation of stormwater management that is modeled after nature and mimic's the predevelopment site's hydrology and ecological environment.

### **8.11.8 Applicability.**

This Ordinance shall be applicable to all development and redevelopment which results in disturbed area of one acre or more. The Phase II Stormwater Requirements shall apply to any work/project beginning on or after the effective date of this Ordinance.

The Town may require treatment of runoff from public streets or large expanses of impervious area in developments disturbing less than an acre.

### **8.11.9 Development and Redevelopment Stormwater Design Requirements.**

*Stormwater Control Measures (SCM's)* shall be designed and implemented per the *Design Manual*.

Development shall adhere to the North Carolina Department of Environmental Quality (NCDEQ), Division of Energy, Mineral and Land Resources (DEMLR) Rules and Regulations. Acceptable design methods shall comply with the NCDEQ DEMLR Stormwater Design Manual, latest edition at the time of permitting review. Development and redevelopment shall meet the minimum standards for post-development stormwater management as set forth by the State of North Carolina, NCDEQ. Refer to Rule 15A NCAC 02H .1017.

The major goal of the post-development requirements is to achieve pre-development stormwater runoff quantity and quality in order to reduce erosion, pollution and increased temperatures in streams and water sources.

## CHAPTER 8: PARKING AND INFRASTRUCTURE

SCMs, designed per the Design Manual, shall be used for post-construction stormwater runoff controls for projects determined to be *high-density* (greater than 24% impervious area). Refer to Rule 15A NCAC 02H .1003(3).

*Low-density* projects shall require deed restrictions and conveyances to ensure the amount of built-upon area will not be increased. Refer to Rule 15A NCAC 02H .1003(2).

*Vegetated Setbacks* from perennial streams, intermittent streams, and waterbodies shall be in place and be at least 30 feet in width. Refer to Rule 15A NCAC 02H .1017(10).

### **8.11.10 Easements and Performance Security.**

Permanent recorded maintenance easements shall be required for each SCM which includes an access route to the SCM. The Town shall have the ability to access the SCM from a public right of way for the purpose of inspection and determination of compliance of the NPDES Phase II MS4 Permit, Post Construction Program Requirements. The easements shall be shown on the Final Plat.

A performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement shall be required prior to issuance of the Stormwater Permit. The performance security is required to ensure the SCMs are installed as approved and are maintained by the owner as required by the operation and maintenance agreement. The security shall be of a sufficient amount to construct the permitted SCM as determined by DEQ Stormwater requirements.

Maintenance easements may be required for roadways depending upon the size of the drainage way and the maintenance responsibility as determined by the Town. In any case where maintenance is to be the responsibility of the property owner, the Town may require a right to enter for maintenance purposes where the Town Board determines that the public health, safety, or general welfare constitutes a public necessity for such maintenance.

### **8.11.11 Inspection, Operation and Maintenance.**

A signed and notarized Operation and Maintenance Agreement shall be executed for each SCM. The agreement shall designate the responsible party for maintaining the SCM and indicate inspection and maintenance criteria specific to the type of SCM. The Operation and Maintenance Agreement shall be referenced on the final approved plat and recorded. The Agreement shall be binding to all subsequent Owners of the site to which the SCM serves.

A post-construction inspection shall be performed prior to issuing a Certificate of Occupancy or a Temporary Certificate of Occupancy. An annual inspection report signed by a person with the training/qualifications to inspect SCMs shall be submitted to the Town annually for each SCM. Reference NPDES MS4 Permit, Part II, Section F.2.g.

### **8.11.12 Residential Ownership of SCMs.**

The Developer shall be responsible for any SCM until property owners have accepted responsibility under a homeowners association or other legal means to adopt the responsibility for the SCMs. Property owners shall be made aware, via a written notice that is copied to the Town, of any applicable deed restriction, responsibilities and/or operation and maintenance agreements under homeowners associations.

## CHAPTER 8: PARKING AND INFRASTRUCTURE

### **8.11.13 Illicit Discharges.**

No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly, of any substance that may be considered by NCDEQ to be a point source or non-point source pollutant, to any stormwater conveyance, the waters of the state, or upon the land in the manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the state.

### **8.11.14 Procedures and Submittal Requirements.**

Unless exempt per this Ordinance, a Stormwater Permit is required for all development and redevelopment. A permit will be issued upon a properly submitted and reviewed and approved application package. Submittal requirements for stormwater permitting review shall contain the following:

1. Permit Application.
2. Application Fee.
3. Vicinity Map.
4. Copy of the Property Deed.
5. Detailed Narrative Stormwater Report.
6. Design Calculations.
7. NCDEQ Supplement Form for each SCM.
8. Operation and Maintenance Agreements signed and notarized.
9. Deed Restrictions if proposed.
10. Two Sets of Construction Plan Sets.
11. Soils Report for sites which propose infiltration SCM.
12. Digital Copies of all submittal materials

Upon completion of construction of stormwater management facilities, the design engineer shall inspect, sign and seal record drawings to show that the stormwater management facilities were built per the approved plans. The signed and sealed record drawing shall be filed with the Town. Final plats showing the location and referencing the SCM's shall be recorded with Rowan County. The final plats shall include recorded easements of all SCMs in high density projects and/or built upon area restrictions for low density projects. Signed and notarized Operations and Maintenance Agreements shall also be recorded. As stated in 8.11.11 An annual inspection report signed by a person with the training/qualifications to inspect SCMs shall be submitted to the Town once a year for each SCM.

**8.11.15 Enforcement and Violations.**

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint in accordance with the procedures established in Section 14.4 of the Town of China Grove Unified Development Ordinance and Section 54 of the Town Code. The provisions of this ordinance shall be enforced by the stormwater administrator. Any failure to comply with applicable requirements, prohibitions, standards, or limitations imposed by this ordinance, or the terms or conditions of any permit, maintenance agreement, or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance and is subject to the same civil or criminal penalties as other zoning violations, with each day that a violation continues constituting a separate offense.

# CHAPTER 9: DEVELOPMENT REVIEW PROCESS

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## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### Section 9.1 Purpose and Applicability

The purpose of this Chapter is to establish an orderly process to develop land within the Town of China Grove. It is also the intent of this Chapter to provide a clear and comprehensible development process that is fair and equitable to all interests including the petitioners, affected neighbors, Town staff, related agencies, the Planning Board, and the Town Council. Approved plans shall be the guiding documents for final approval and permitting.

The development review process applies to all new developments within the Town of China Grove except for existing individual lots for single-family detached residential and two-family residential (duplex) development. The provisions of this chapter shall be applicable to all Minor and Major Subdivisions, Minor and Major Site Plans, ~~Conditional-Special~~ Use Site Plans, and Vested Rights Site Plans. The Zoning Administrator or designee may waive the required development review process only in the following cases when he determines that the submission of a development plan in accordance with this Chapter would serve no useful purpose:

- A. Accessory structures
- B. Any enlargement of a principal building by less than 20 percent of its existing size provided such enlargement will not result in parking or landscaping improvements
- C. A change in principal use where such change would not result in a change in lot coverage, parking, or other site characteristics

#### 9.1.1 Application Completeness

An application for development approval shall be deemed complete if it is ~~submitted~~ in the required number and form, includes all requested information and is accompanied by the applicable fee. A determination of application completeness shall be made within five (5) working days of application filing. If an application is determined to be incomplete, then it has not been submitted for the purposes of this ordinance, and the zoning administrator shall provide written notice to the applicant along with explanation of the applications deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within twenty (20) working days, the application shall be withdrawn.

**Commented [BH1]:** The key word in 160D-108(b) is "submitted". The section reads "If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made", then the applicant gets to choose which standards apply. As a result, consider making the suggested revisions shown to establish that an application has not been "submitted" if it is not complete.

**Commented [BH2]:** Consider adding a section on Permit Choice, since local governments are at great risk of having to pay attorneys' fees if they lose a lawsuit on this topic. Here's some sample language drawn almost directly from the statutes: "(A) If a land development regulation is amended by the Town Council between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application in the manner established in G.S. § 143-755.

(B) If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

(C) If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.

(D) If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the local or State government for a period of six consecutive months or more, the application review shall be discontinued and the development regulations in effect at the time permit processing is resumed shall be applied to the application.

(E) Multiple Permits for Development Project. – Subject to G.S. § 160D-108(d) of this section, where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit."

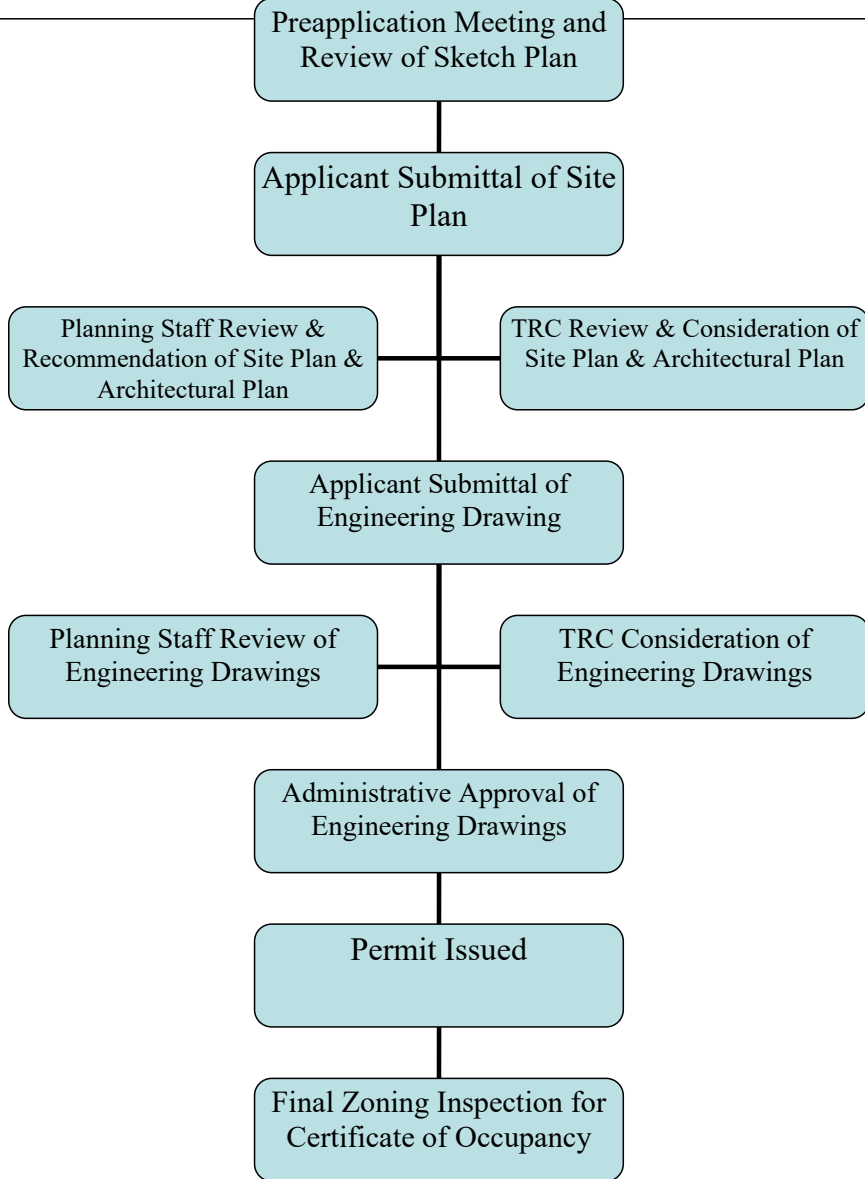
## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### Section 9.2 Development Review Process Flow Charts

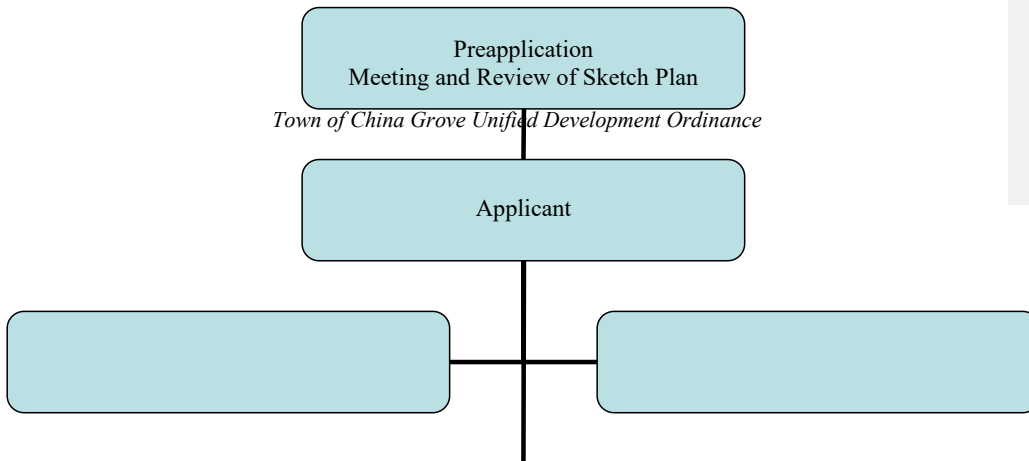
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#### 9.2.1 Minor Site Plans (See Section 9.3 for details)

**CHAPTER 9: DEVELOPMENT REVIEW PROCESS**



**9.2.2 Minor Subdivision Plans** (See Section 9.4 for details)

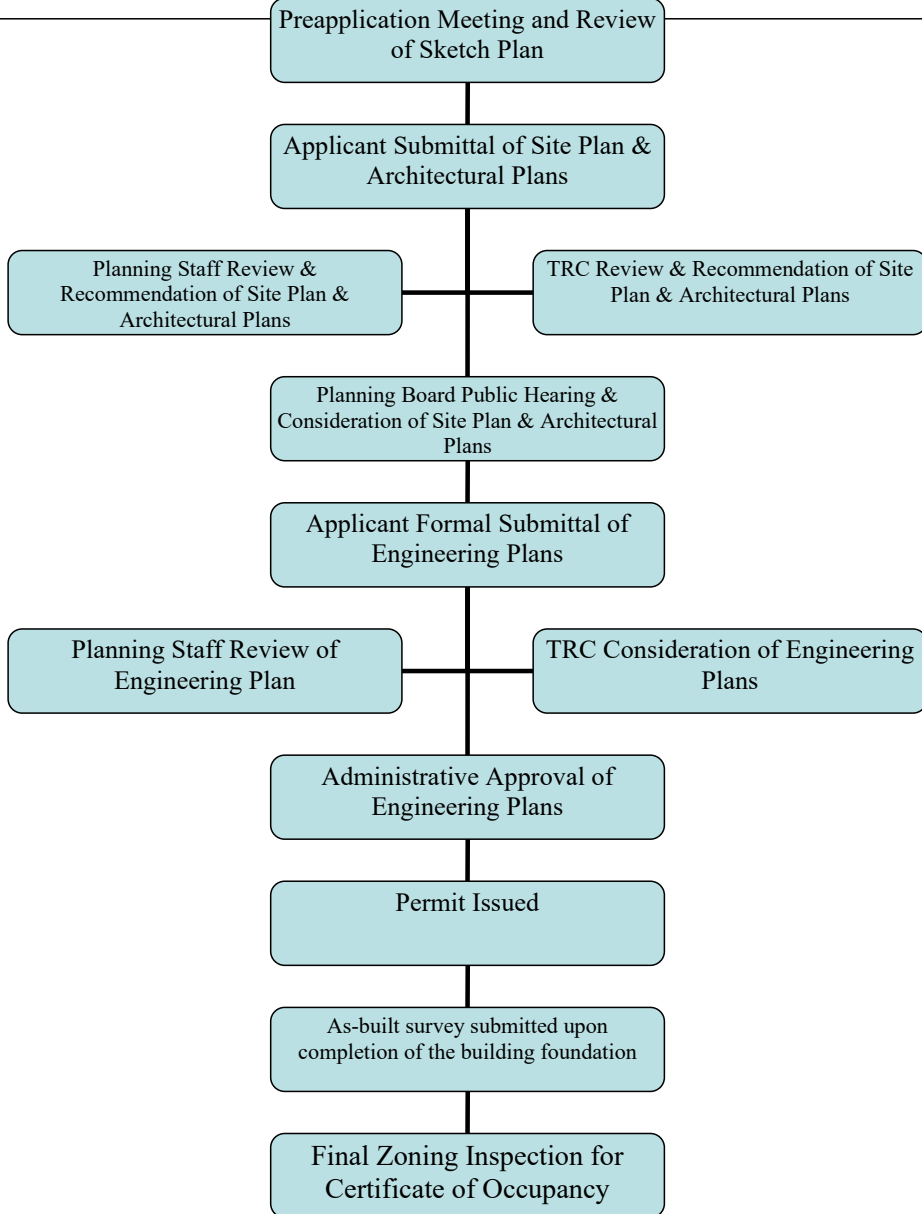


*Town of China Grove Unified Development Ordinance*

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

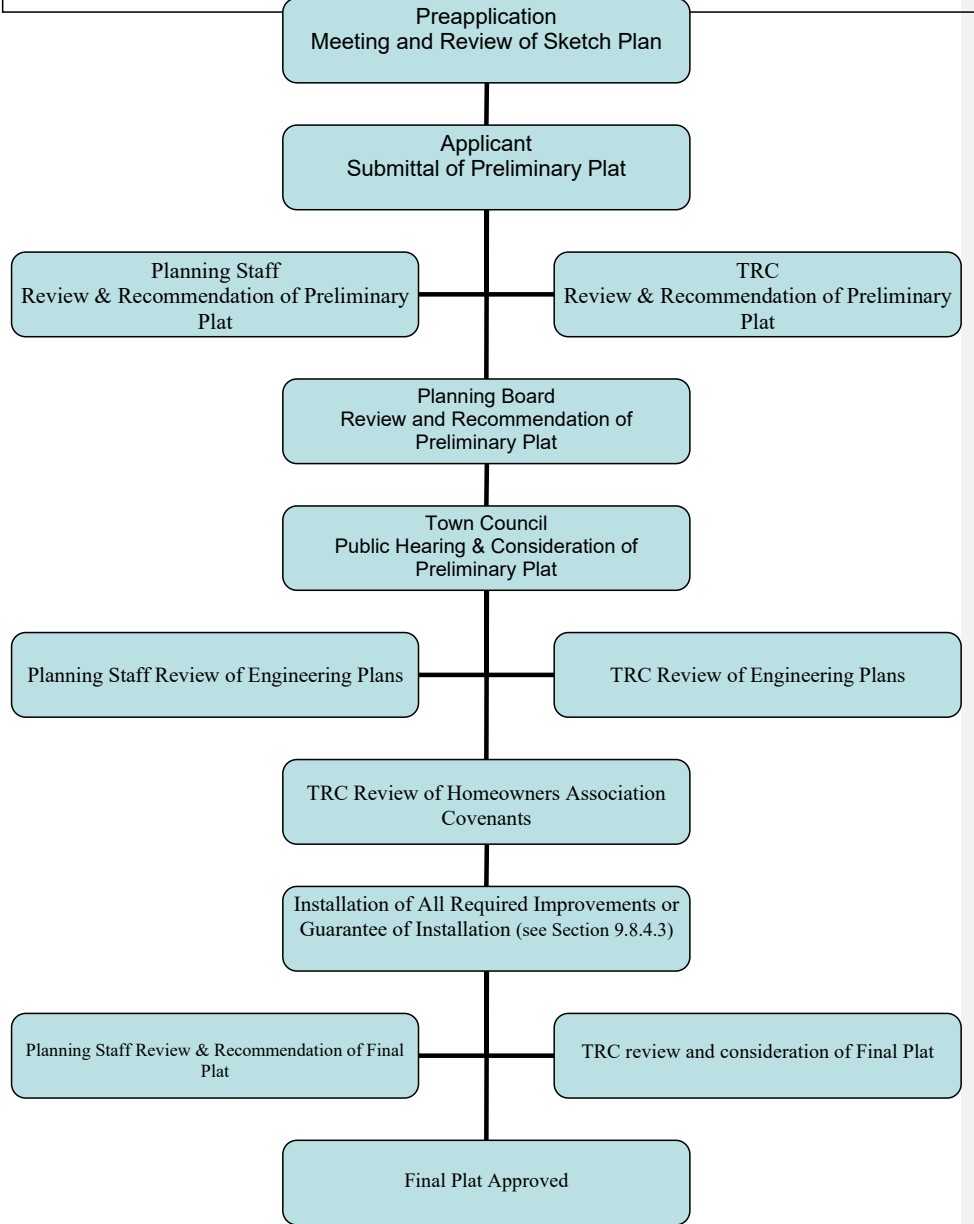
### 9.2.3 Major Site Plans (See Section 9.5 for details)

**CHAPTER 9: DEVELOPMENT REVIEW PROCESS**



**9.2.4 Major Subdivisions** (See Section 9.6 for details)

**CHAPTER 9: DEVELOPMENT REVIEW PROCESS**



## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### Section 9.3 Minor Site Plan Approval

#### 9.3.1 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed development. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

#### 9.3.2 Application for Site Plan Review

A site plan meeting the requirements of Section 10.6 and architectural plans meeting the requirements of Chapter 5 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.

#### 9.3.3 Planning Staff and TRC Site Plan Review

The Zoning Administrator or his/her designee will present the Plans to the Technical Review Committee. The Plans will be review for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may also circulate the Plans to the relevant governmental agencies and officials may include, but need not be limited to those listed below:

##### Technical Review Committee

Zoning Administrator  
Town Manager  
Public Works Department  
Police Department  
Fire Department  
Town Engineer  
Town Council Member  
Planning Board Member

##### Others

Town Attorney  
Parks and Recreation Committee  
Utility Providers  
Rowan County Health Department  
Rowan County Board of Education  
Metropolitan Planning Organization  
Metropolitan Transit Commission  
NCDOT  
NC DENR  
US Army Corp of Engineers  
US Soil Conservation Services

#### 9.3.4 Application for Engineering Drawing Review

The Engineering Drawings shall be drawn to the specification of Section 10.7 and shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council. The types of Plans to be included in a set of Engineering Drawings are as follows:

- Site Plan
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### **9.3.5 Planning Staff and TRC Engineering Drawing Review**

The Zoning Administrator or his/her designee will present the Drawings to the Technical Review Committee. The Drawings will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Drawings to be circulated to the relevant governmental agencies and officials. These included but are not limited to those listed in 9.3.2.

### **9.3.6 Engineering Drawing Approval**

If the Drawings are found to meet all the applicable requirements of this Ordinance, then the Zoning Administrator shall approve the Engineering Drawings.

### **9.3.7 Permit Issued**

If all the Plans are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit for the Site Plan.

### **9.3.8 Zoning Inspections and Certificates of Occupancy**

Prior to the issuance of a Certificate of Occupancy by Rowan County Building Inspections, the Zoning Administrator or his designee shall conduct a final zoning inspection to ensure that the approved plans have been followed and all required improvements have been installed to Town standards.

## **Section 9.4 Minor Subdivision Approval**

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### **9.4.1 Minor Subdivision**

A minor subdivision is defined as a subdivision where all the following conditions exist:

- No public right-of-way dedication; and
- The entire tract to be subdivided is ten (10) acres or less in size; and
- The resultant subdivision will produce five (5) or fewer lots.

A preliminary plat shall not be required. Engineering Drawings may be required prior to the approval of a final plat depending on the circumstances of the Subdivision.

### **9.4.2 Preapplication Meeting & Sketch Plan**

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed subdivision. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

### **9.4.3 Application for Review**

The Final Plat meeting the requirements of Section 10.3 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.



## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.4.4 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Plan to the Technical Review Committee. The Plan will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may also circulate the Plan to the relevant governmental agencies and officials may include, but need not be limited to those listed below.

The reviewing government agencies and officials may include, but need not be limited to the following:

#### **Technical Review Committee**

Zoning Administrator (Planning Department)  
Town Manager  
Public Works Department  
Police Department  
Fire Department  
Town Engineer  
Town Council Member  
Planning Board Member

#### **Others**

Town Attorney  
Parks and Recreation Committee  
Utilities Providers  
Rowan County Health Department  
Rowan County Board of Education  
Metropolitan Planning Organization  
Metropolitan Transit Commission  
Metropolitan Transit Commission  
NCDOT  
NC DENR  
US Army Corps of Engineers  
US Soil Conservation Services

### 9.4.5 Engineering Drawing Submittal

If Engineering Drawings are required for approval, the drawings shall be drawn to the specifications of Section 10.7 and shall be submitted and be accompanied by a completed application and payment of a fee as adopted by the Town Council. The plans may be altered by no more than ten percent (10%) of the total subdivision area due to issues discovered during the Engineering Drawing process. If changes to more than ten percent (10%) of the total subdivision area result, a new plat must be submitted and reviewed. Also, the total number of lots or units may be decreased but not increased. The types of plans to be included in a set of Engineering Drawings are as follows:

- Plat
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

### 9.4.6 Planning Staff and TRC Review

The Zoning Administrator or his designee will present the Plan to the Technical Review Committee. The Plan will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed in Section 9.5.3.

### 9.4.7 Engineering Plan Approved

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the engineering plans.

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.4.8 Improvement Installation and Guarantees

~~Upon approval Engineering Drawings, the developer may proceed with the installation of or arrangement for required improvements in accordance with the approved Plat and the requirements of this Ordinance. Prior to approval of a final plat, the developer shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided herein.~~

**Commented [BH3]:** See 160D-804.1 for the updated statutes regarding performance guarantees.

~~A. **Agreement and Security Required:** In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Town of China Grove may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the China Grove Town Council Commissioners, if all other requirements of this Ordinance are met. To secure this agreement, the developer shall provide to the Town Council either one, or a combination of the following guarantees shown. The amount of such guarantee shall be equal to 1.25 times the cost of installing all required improvements, as determined by the Town Engineer. All such guarantees shall be subject to the approval of the Town Council and shall be made payable to the Town of China Grove.~~

~~B. **Surety Performance Bond(s):** The developer shall obtain one or more performance bond(s) from a surety bonding company authorized to do business in North Carolina. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town Council.~~

**Commented [BH4]:** 160D-804.1(1) identifies three options that a developer gets to choose from: a surety bond, a letter of credit, or "Other form of guarantee that provides equivalent security to a surety bond or letter of credit." It is important to list these options.

~~C. **Cash or Equivalent Security:** The developer shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town of China Grove.~~

**Commented [BH5]:** Integrate this option with those in Subsection B above, and list as one option available to developers to comply with updated statutes. Cash represents an "other form of guarantee that provides equivalent security".

~~If cash or other instrument is deposited in escrow with a financial institution as herein provided, the developer shall then file with the Town Council an agreement between the financial institution and himself guaranteeing the following:~~

~~A. That said escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the developer in any other matter during the term of the escrow; and~~

~~B. That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the Town Council and submission of the Town Engineer's estimate of the amount needed to complete the improvements by the Town Council to the financial institution immediately either pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.~~

~~D. **Default:** Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Town Council, pay all or any portion of the bond or escrow fund to the Town of China Grove up to the amount needed to complete the improvements based on the Town Engineer's estimate. Upon payment, the Town Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the developer shall nonetheless be responsible for providing the funds to cover such costs. The developer shall at all times bear the financial burden for the installation of all required improvements.~~

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

~~E. **Release of Guarantee Security:** The Town Council may authorize the Subdivision Administrator to release a portion of any security posted as the improvements are completed and approved by the County. Such funds shall then be released within ten (10) days after the corresponding improvements have been so approved.~~

**Commented [BH6]:** In 160D-804.1, note additional standards regarding duration, extension, release, amount, timing, coverage, legal responsibilities, multiple guarantees, and exclusion.

### 9.4.9 Final Plat Approved

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the final plat.

## Section 9.5 Major Site Plan Approval

### 9.5.1 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed development. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

### 9.5.2 Application for Review

A Site Plan meeting the requirements of Section 10.6 and Architectural Plans meeting the requirements of Chapter 5 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.

### 9.5.3 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Plans to the Technical Review Committee. The Plans will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plans to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed below:

#### Technical Review Committee

Zoning Administrator (Planning Department)  
Town Manager  
Public Works Department  
Police Department  
Fire Department  
Town Engineer  
Town Council Member  
Planning Board Member

#### Others

Town Attorney  
Parks and Recreation Committee  
Utilities Providers  
Rowan County Health Department  
Rowan County Board of Education  
Metropolitan Planning Organization  
Metropolitan Transit Commission  
Metropolitan Transit Commission  
NCDOT  
NC DENR  
US Army Corps of Engineers  
US Soil Conservation Services

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.5.4 Public Hearing by Planning Board

The Planning Board shall conduct a public hearing for approval of Major Site Plans. Notice of the public hearing shall be given as follows:

- A. A notice shall be published in a newspaper having general circulation in the town not less than 10 days or more than 25 days prior to the date established for the Public Hearing.
- B. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all contiguous property owners.

### 9.5.5 Consideration by the Planning Board:

- A. After the public hearing, the Planning Board shall have up to 60 days to defer, approve, or deny the Plan. Alternatively, the Planning Board may suspend the review period and request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the plan or deferral of its consideration.
- B. Following denial by the Planning Board, the Applicant may file a new Application and associated fee. Unless the Planning Board explicitly states conditions that must be met prior to the resubmission of an application, the applicant shall not submit a new application for the same property within one (1) year of the date of denial by the Planning Board unless the application is significantly different from the previously denied application. All applications shall be resubmitted for full review unless the application is resubmitted to address conditions set forth by the Planning Board for reapplication.

### 9.5.6 Application for Engineering Drawings Review

The Engineering Drawings as outlined in Section 10.7 of this Ordinance shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council. The types of plans to be included in a set of Engineering Drawings are as follows:

- Site Plan
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

### 9.5.7 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Drawings to the Technical Review Committee. The Drawings will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed in Section 9.5.3.

### 9.5.8 Engineering Drawing Approved

If the Drawings are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the engineering drawings.

### 9.5.9 Permit Issued

If all the Plans are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit for the Site Plan.

**Commented [BH7]:** Note the clarification in 160D-602(a) for mailed notice for zoning map amendments that "properties are "abutting" even if separated by a street, railroad, or other transportation corridor." Consider using the same definition for all mailed notice for consistency and ease of operation.

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.5.10 Zoning Inspections and Certificates of Occupancy

- A. An as-built survey shall be submitted to the Zoning Administrator by the Developer upon completion of the building foundation to ensure that setbacks and building orientation match the approved Site Plan. If the survey shows that the placement of the building is incorrect, then the Zoning Administrator shall issue a Stop-Work Order and all construction shall be halted until the problem is remedied.
- B. Prior to the issuance of a Certificate of Occupancy by Rowan County Building Inspections, the Zoning Administrator or his designee shall conduct a final zoning inspection to ensure that the approved plans have been followed and all required improvements have been installed to Town standards.

## Section 9.6 Major Subdivision Approval

### 9.6.1 Major Subdivisions

A major subdivision is defined as a subdivision where any one or more of the following conditions exist:

- Dedication of public right-of-way or other public tracts; or,
- Dedication of private right-of-way; or
- The entire tract to be subdivided is greater than ten (10) acres; or,
- The resultant subdivision will produce more than five (5) lots.

### 9.6.2 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed development. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

### 9.6.3 Application for Preliminary Plat Review

- A. A Preliminary Plat meeting the requirements of Section 10.3 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.
- B. If a rezoning is a part of the request, a statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area must also be included
- C. If a [new Conditional Use Zoning](#) District [Rezoning](#) is a part of the request, a statement regarding the reasonableness of the request must also be included.

### 9.6.4 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the plans to the Technical Review Committee. The Plans will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require that the Plan be circulated to the relevant governmental agencies and

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

officials for comments and recommendations. The reviewing agencies and officials may include, but need not be limited to those listed below:

### Technical Review Committee

Zoning Administrator (Planning Department)  
Town Manager  
Public Works Department  
Police Department  
Fire Department  
Town Engineer  
Town Council Member  
Planning Board Member

### Others

Town Attorney  
Parks and Recreation Committee  
Utilities Providers  
Rowan County Health Department  
Rowan County Board of Education  
Metropolitan Planning Organization  
Metropolitan Transit Commission  
Metropolitan Transit Commission  
NCDOT  
NC DENR  
US Army Corps of Engineers  
US Soil Conservation Services

### 9.6.5 Review and Recommendation by the Planning Board

- A. Following a complete review by the Planning Staff and TRC, the Zoning Administrator shall schedule the application for review by the Planning Board at the next regularly scheduled meeting.
- B. The Planning Board shall have up to 30 days from the date of referral by the Zoning Administrator to recommend approval, approval with conditions, or denial of the request to the Town Council.
- C. For rezoning requests, the Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.
- D. For Conditional ~~Use-Zoning~~ District ~~Rezoning~~ requests, the Planning Board shall include with its recommendation a written statement regarding the reasonableness of the request.

### 9.6.6 Public Hearing by the Town Council

Upon receipt of a recommendation from the Planning Board, the Town Council shall conduct a public hearing. For ~~Conditional-Special~~ Use Permits, ~~Conditional-Use-District Rezonings~~, and Vested Rights requests, quasi-judicial public hearings shall be held. Notice of the public hearing shall be given as follows:

- A. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for Rezonings (map amendments) noted in (B) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.
- B. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all contiguous property owners. The first class mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in (A).
- C. For Rezonings (map amendments), the Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are

**Commented [BH8]:** Note the clarification in 160D-602(a) for mailed notice for zoning map amendments that "properties are "abutting" even if separated by a street, railroad, or other transportation corridor." Consider using the same definition for all mailed notice for consistency and ease of operation.

**Commented [BH9]:** Note that 160D-602(c) provides minor clarifications regarding posted notice for zoning map amendments, including that "the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way."

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included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.

### 9.6.7 Consideration by the Town Council

- A. After the public hearing, the Town Council shall have up to 60 days to refer back to the Planning Board, approve, approve with conditions, or deny the request. Alternatively, the Town Council may suspend the review period and request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the request or deferral of its consideration.
- B. Following denial by the Town Council, the applicant may file a new application and associated fee. Unless the Town Council explicitly states conditions that must be met prior to the resubmission of an application, the applicant shall not submit a new application for the same property within one (1) year of the date of denial by the Town Council unless the application is significantly different from the previously denied application. All applications shall be resubmitted for full review unless the application is resubmitted to address conditions set forth by the Town Council for reapplication.

### 9.6.8 Time Frame of Approval of Preliminary Plat

Preliminary plat approval shall be valid for two (2) years unless a greater time period is granted through a Vested Rights request. If final plat approval has not been obtained within said two (2) year period, preliminary plat approval shall become void. A new preliminary plat shall be required to be submitted and such plat shall be in conformity with all current and applicable standards this Ordinance. Notwithstanding, the developer may submit a request to the Zoning Administrator for a time extension for up to one (1) year for final plat submittal. Said request must be submitted to the Zoning Administrator prior to the original plat expiration date. No more than one (1) such extension may be granted by the Zoning Administrator per subdivision. The developer may submit a final plat for only a portion of the subdivision given preliminary plat approval. Said submission shall extend the expiration date for the remaining portion(s) of the subdivision for an additional two (2) years past the date of said final plat approval.

### 9.6.9 Application for Engineering Drawings Review

The Engineering Drawings shall be drawn to the specifications in Section 10.4 and shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council. The types of plans to be included in a set of Engineering Drawings are as follows:

- Site Plan or Preliminary Plat
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

### 9.6.10 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Plan to the Technical Review Committee. The Plan will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed in Section 9.5.3.

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.6.11 Engineering Plan Approved

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the engineering plans.

### 9.6.12 Homeowners Association Covenants Review

Prior to approval of any final plat for a major subdivision, the TRC shall review the covenants of the Homeowners Association to ensure compliance with Town requirements.

### 9.6.13 Improvement Installation and Guarantees

Upon approval of the Preliminary Plat and Engineering Drawings, the developer may proceed with the installation of or arrangement for required improvements in accordance with the approved Preliminary Plat and the requirements of this Ordinance. Prior to approval of a final plat, the developer shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided herein.

A. **Agreement and Security Required:** In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Town of China Grove may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the China Grove Town Council Commissioners, if all other requirements of this Ordinance are met. To secure this agreement, the developer shall provide to the Town Council either one, or a combination of the following guarantees shown. The amount of such guarantee shall be equal to 1.25 times the cost of installing all required improvements, as determined by the Town Engineer. All such guarantees shall be subject to the approval of the Town Council and shall be made payable to the Town of China Grove.

~~B. **Surety Performance Bond(s):** The developer shall obtain one or more performance bond(s) from a surety bonding company authorized to do business in North Carolina. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town Council.~~

~~C. **Cash or Equivalent Security:** The developer shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town of China Grove.~~

~~If cash or other instrument is deposited in escrow with a financial institution as herein provided, the developer shall then file with the Town Council an agreement between the financial institution and himself guaranteeing the following:~~

~~C. That said escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the developer in any other matter during the term of the escrow; and~~

~~D. That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the Town Council and submission of the Town Engineer's estimate of the amount needed to complete the improvements by the Town Council to the financial institution immediately either pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.~~

~~D. **Default:** Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Town Council, pay all or any portion of the bond or escrow fund to the Town of China Grove up to the~~

**Commented [BH10]:** Consider synchronizing the language on performance guarantees in Section 9.4.8 with this. One option is to only list the full language in one section, and to include a cross reference to it from the other applicable sections to avoid the issue of ending up with different language covering the same topic in different sections.



## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

~~amount needed to complete the improvements based on the Town Engineer's estimate. Upon payment, the Town Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the developer shall nonetheless be responsible for providing the funds to cover such costs. The developer shall at all times bear the financial burden for the installation of all required improvements.~~

~~E. **Release of Guarantee Security:** The Town Council may authorize the Subdivision Administrator to release a portion of any security posted as the improvements are completed and approved by the County. Such funds shall then be released within ten (10) days after the corresponding improvements have been so approved.~~

### **9.6.14 Application of Final Plat Review**

The Final Plat shall be drawn to the specifications in Section 10.5 and shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council.

### **9.6.15 Planning Staff and TRC Review**

The Zoning Administrator or his/her designee will present the Final Plat to the Technical Review Committee. The Plat will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed in Section 9.6.3.

### **9.6.16 Final Plat Approved**

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the final plat.

## **Section 9.7 Subdivision Procedures**

### **9.7.1 School Site Reservation**

If the Town Council and the Rowan-Salisbury School System have jointly determined the specific location and size of any school sites to be reserved, Planning Staff shall immediately notify the Board of Education in writing whenever a sketch plan or for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the developer may treat the land as freed of the reservation.

### **9.7.2 Plat Approval General Procedures**

After the effective date of this Ordinance, no subdivision plat of land within the jurisdiction of this Ordinance shall be filed or recorded unless it has first been submitted to the Zoning Administrator and approved by the proper body as set forth in this Ordinance, and until this approval is entered in writing on the face of the plat by the Zoning Administrator. Such shall not be required of any subdivision of land which, by definition herein, is exempt from the terms of this Ordinance.

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

The Register of Deeds shall not file or record a plat of a subdivision of land located within the jurisdiction of this Ordinance that has not been first approved in accordance with these provisions.

### 9.7.3 Statement by Owner

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the jurisdiction of the Town of China Grove.

### 9.7.4 Issuance of Zoning Permits and Conveyance of Subdivision Lots

No zoning permit shall be issued by the Town of China Grove for the erection of any building on any lot within a proposed subdivision until a final plat of said subdivision has been approved in a manner as prescribed by this Ordinance and recorded at the Register of Deeds Office and where applicable, an improvements permit has been issued by the Rowan County Health Department.

After the effective date of this Ordinance, it shall be illegal for any person being the owner or agent of the owner of any land located within the territorial jurisdiction of this Ordinance, to subdivide his land in violation of this Ordinance or to transfer or sell 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 Ordinance.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town Council, through its attorney or other official so designated, may enjoin an illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by NCGS 14-4. Civil penalties may be issued in accordance with Chapter 13.

### 9.7.5 Subdivision Exceptions

This section shall be applicable to all subdivisions, except those located in a Water Supply Watershed. The Planning Board may authorize exceptions for Subdivisions from any portion of this Ordinance when, in its opinion, undue hardship may result from their strict compliance. In granting an exception, the Planning Board shall hold a quasi-judicial public hearing and make the findings required herein, 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. No relief shall be granted unless it is found:

- A. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and
- B. That the relief is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and
- C. That the circumstances giving rise to the need for the relief are peculiar to the subdivision and are not generally characteristic of other subdivisions in the jurisdiction of this Ordinance; and
- D. That the granting of the relief will not be detrimental to the public health, safety and welfare or injurious to other property in the area in which said property is situated.

**Commented [BH11]:** This section describes a variance, and so the procedure must meet the updated requirements in 160D, such as a 4/5 vote (160D-406(i)), and more specific standards of review (160D-705(d)). In addition, variances may only be granted for dimensional exceptions, not use exceptions.

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Every decision of the Planning Board pertaining to the granting of Subdivision exceptions shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within 30 days after the decision or recommendation of the TRC or Town Council is filed in the Office of the Subdivision Administrator, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Zoning Administrator at the time of the Planning Board's hearing of the case, whichever is later.

### 9.8 Performance Guarantees

#### 9.8.1. Purpose

A performance guarantee in accordance with the standards in this section shall be furnished the Town prior to Engineering Plan Approval in the following circumstances:

- A. To ensure completion of public infrastructure improvements (e.g. streets, alleys, bike lanes, curb and gutter, sidewalks, bike paths, crosswalks, traffic signs and controls, street lights, fire lanes, bus shelters, and greenway paths) that are required as part of Engineering Plan Approval.
- B. To ensure completion of required plantings of replacement trees, buffer screening, and landscaping.

#### 9.8.2 Term of Performance Guarantee

The term of a performance guarantee shall reflect anytime limit for completing installation of required improvements that is included in the Engineering Plan Approval in a condition deemed acceptable by the Zoning Administrator or Town Engineer. In any case the term shall not exceed three years. The Zoning Administrator or Town Engineer, as appropriate, may, for good cause shown and with approval of the provider of the guarantee, grant extensions of the term for up to a total extended period of two years.

#### 9.8.3 Form of Performance Guarantee

- A. Where required, the owner or developer shall furnish a performance guarantee in any of the following forms with terms and conditions acceptable by the Finance Director and Town Attorney:
  - a. Cash deposit with the Town
  - b. Surety bond issued by any company authorized to do business in this state;
  - c. Letter of credit issued by any financial institution licensed to do business in this state;
  - d. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- B. The performance guarantee shall be conditioned on the performance of all work necessary to complete the installation of the required improvements within the term of the performance guarantees shall provide that in case of the owner's or developer's failure to complete the guaranteed improvements, the town shall be able to immediately obtain the funds necessary to complete installation of the improvements.

#### 9.8.4 Amount of Performance Guarantee

A.

**Commented [BH12]:** Consider adding a section to address the requirement in 160D-802(c) that reads as follows: “(c) A local government may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

- (1) The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of this section.
- (2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (3) The entire area of the tract or parcel to be divided is greater than 5 acres.
- (4) After division, no more than three lots result from the division.
- (5) After division, all resultant lots comply with all of the following:
  - a. All lot dimension size requirements of the applicable land-use regulations, if any.
  - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
  - c. A permanent means of ingress and egress is recorded for each lot.”

**Commented [BH13]:** Note the exemption included in 160D-802(a)(5) that reads: “but the following shall not be included within this definition nor be subject to the regulations authorized by this Article:” . . . “(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.”

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### Section 9.8 ~~Conditional~~ Special Use Permit Procedures

#### 9.8.1 Purpose and Applicability

This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard and off-street parking and loading requirements. In addition to these uses, the Ordinance allows some uses on a conditional basis subject to the issuance of a ~~Conditional~~ Special Use Permit by the Town Council. The purpose of having such uses being "~~conditional~~ special" is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located. Those uses shown as

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

~~Conditional-Special~~ in the Permitted Uses Table of Section 3.14 shall be subject the requirements and review process of in this Section.

### 9.8.2 Approval Process

~~Conditional-Special~~ Use Permits shall follow the Town Council Approval process, conducting an evidentiary hearing in accordance with N.C.G.S. 160D-406. An application shall be filed with the Zoning Administrator and shall be accompanied by a site specific plan meeting the requirements of a Major Site Plan. A complete application and site plan shall come before the Planning Board for review and recommendation. The Planning Board may, in its review, suggest reasonable conditions to the location, nature, and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other appropriate conditions. Such conditions may include dedication of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. Following Planning Board review and recommendation, the Town Council shall hold an evidentiary quasi-judicial public hearing and consider the application in accordance with the findings-of-fact in Section 9.408.3 below.

**Commented [BH14]:** The public notice and review procedures for quasi-judicial cases are fairly specific, so it may be helpful to include more of the details from 160D-406 directly in the ordinance, or provide a cheat sheet to boards to help them remember what procedures they need to follow.

### 9.8.3 Conditions, Evidence, & Findings-of-Fact

In approving an application for a ~~Conditional-Special~~ Use Permit, the Town Council may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. In no instance shall any of these conditions be less restrictive than any requirements which would pertain to that particular development found elsewhere in a similar zoning district. The applicant shall provide consent in writing to the conditions before the Special Use Permit will be issued. The applicant has the burden of producing competent, material, and substantial evidence to establish the facts and conditions. If any person submits evidence allegedly contrary to any of the facts or conditions, the burden of proof for overcoming such evidence shall rest with the applicant.

**Commented [BH15]:** 160D-705(c) now includes the following language: "Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the local government does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the local government, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land."

The Town Council shall issue a ~~Conditional-Special~~ Use Permit if it has evaluated an application and determined that:

- A. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and
- B. The use meets all required conditions and specifications, and
- C. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and
- D. 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 and will be in general conformity with the adopted land use plans and other plans for physical development of the China Grove area as adopted by the Town Council.

**Commented [BH16]:** Consider adding language such as this to help make sure to meet the need to secure written consent to conditions from the applicant and the landowner. If a local government does not get written consent, it may have trouble enforcing the conditions. 160-1403.2 reads that "A local government may not assert before a board of adjustment or in any civil action the defense of estoppel as a result of actions by the landowner or permit applicant to proceed with development authorized by a development permit as defined in G.S. 143-755 if the landowner or permit applicant is challenging conditions that were imposed and not consented to in writing by a landowner or permit applicant."

### 9.8.4 Effect of Approval & Expiration of Approval

If an application for a ~~Conditional-Special~~ Use Permit is approved by the Town Council, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the ~~Conditional-Special~~ Use Permit or develop any other use listed as a "permitted use" for the general zoning district in which it is located. Any ~~Conditional-Special~~ Use Permit so authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Town

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Council.

Unless the Town Council issues a ~~Conditional-Special~~ Use Permit which either is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant must secure a valid building permit within a ~~one-two~~ (2) years period from date of issuance of the ~~conditional special~~ use permit. In addition, if the project for which a ~~Conditional-Special~~ Use Permit was issued is not complete and a valid building permit is not in place at the end of said ~~twelve-twenty-four~~ month period, the Zoning Administrator shall notify the applicant of either such finding, and within 60 days of said notification, the Planning Board shall make a recommendation concerning the rescission of the ~~conditional-special~~ use permit to the Town Council. The Town Council, after having conducted a public hearing to consider the rescission, may then rescind the ~~Conditional-Special~~ Use Permit, or extend the life of the ~~Conditional-Special~~ Use Permit for a specified period of time.

**Commented [BH17]:** Looks like this need to be 24 months.

### 9.8.5 Alterations to Site & Amendments to ~~Conditional-Special~~ Use Permit

Minor changes may be made with the approval of the Zoning Administrator on a one-time basis only. Further changes to the development may only be made by the Town Council by amending the ~~Conditional-Special~~ Use Permit. Any request to materially change the ~~Conditional-Special~~ Use Permit once it has been issued shall be reviewed in entirety through the Town Council approval process. Minor changes are those that:

- will not alter the basic relationship of the proposed development to adjacent property, and
- will not increase the gross floor area of any non-residential use by the smaller of 10 percent or ten 10,000 square feet, and
- will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site by greater than five (5) feet

**Commented [BH18]:** 160D now includes specific authorization for minor deviations to be handled administratively, but does not allow a change in use or density to be handled in this way. Here's the language in 160D-705(c): "The regulations may provide that defined minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification."

### 9.8.6 Reapplication Following Denial

If a request for ~~Conditional-Special~~ Use Permit is denied by the Town Council, a similar application for the same property or any portion thereof shall not be filed until the expiration of a 12 month period from the date of the most recent denial by the Town Council. This waiting period shall not be applicable where the application for a ~~Conditional-Special~~ Use Permit is substantially different from the original application. The term "substantially different" as herein applied shall mean:

- The proposed principal use is different than the use contained in the original application; or
- The gross floor area of the proposed development is 50 percent or more smaller than contained in the original application.

## Section 9.9 Rezoning Procedures

Rezoning (zoning map amendments) shall follow the approval process in Chapter 13.

### 9.9.1 Standard Rezonings

For Standard Rezonings, a ~~site-specific~~ site-specific plan is not required. Approval of a Standard Rezoning shall result in an official amendment to the Town of China Grove Zoning Map. Any development of the property shall be reviewed and approved in accordance with the appropriate procedure depending on the type of development proposed.

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### 9.9.2 Conditional Use Zoning District Rezoning

For Conditional Use Zoning District Rezoning, a site-specific plan meeting the requirements for a Major Site Plan or Major Subdivision is required. Approval of a Conditional Use Zoning District shall result in official amendment to the Town of China Grove Zoning map.

### Section 9.10 Vested Rights Procedures

Pursuant to NCGS 160A-385.1-160D-108 and not withstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site specific development vesting plan approval which shall entitle said landowner to develop property in accordance with said site specific plan. To apply for vested right, a landowner shall first submit to the Zoning Administrator a site-specific site-specific vesting plan. Approved site specific plans. The plan shall be submitted in accordance with the requirements for a Major Site Plan or Major Subdivision listed in chapter 10.

#### 9.10.1 Establishment of a vested right

- A. A vested right shall be deemed established upon the valid approval, by Town Council, or Planning Board as applicable, of a site-specific development vesting plan following notice and public hearing as provided for by law.
- B. The Town Council may approve a site-specific development vesting plan upon such terms and conditions as may be reasonably necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right being established; provided, that failure to satisfy any of the terms and conditions so imposed will result in a forfeiture of vested rights.
- C. A site-specific development vesting plan shall be deemed approved as of the effective date of approval authority's final action or adoption of an ordinance relating thereto. The following development approvals qualify as site-specific vesting plans: special use permits, conditional zoning districts, major subdivision plans, major site plans, mixed residential developments, and plan unit developments.
- D. Building Permits are valid for six (6) months. N.C.G.S 160D-108(d)(1)
- E. Zoning Permits are valid for one (1) year.

#### 9.10.1.2 Approval Criteria

- A. In approving an application for vested rights of a site-specific site-specific vesting plan, the Town Council may attach fair and reasonable ad hoc conditions which tend to support the required finding of facts as herein listed. The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. The Town Council may not require the landowner to waive his vested right as a condition of developmental approval.
- B. The Town Council may approve the site-specific site-specific vesting plan if it has evaluated an application and determined that:
  1. The use meets all required specifications of the Zoning Ordinance, and
  2. The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site-specific site-specific development plan by the Town Council shall be adequate to meet this requirement.

**Commented [BH19]:** Consider inserting a section that acknowledges that each project has the approval period specified for that type of development permit. Then add a section that addresses permit expiration and notes that projects that have "substantially commenced" may be completed under the ordinance standards in place at the time of their approval, with any changes meeting the current development standards. Here's some sample language to consider: "1. A valid development approval shall not expire if work on the project has substantially commenced within the initial validity period. Substantial commencement of work shall be determined by the [INSERT NAME OF STAFF POSITION IN CHARGE OF MAKING ORDINANCE DETERMINATIONS] based on any of the following:

- (a) The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;
  - (b) The development has installed substantial on-site infrastructure; or
  - (c) The development has received and maintained a valid building permit for the construction and approval of a building foundation.
2. Even if work has substantially commenced, a development approval still expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, as calculated and tolled pursuant to N.C.G.S. 160D-108." Then continue with the statutory vested rights currently discussed.

**Commented [BH20]:** This is the new name for this document included in 160D.

**Commented [BH21]:** Is this meant to be a subsection header?

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**Commented [BH22]:** One option is to sync this process up with what the Town already requires for each type of development permit, since you've already changed the period of validity to 2 years for the various approvals. To sync it up, specify that the review process shall follow that specified in the UDO for that type of development permit. Otherwise, the process defaults to the process provided in the statutes in 160D-108.1(a). Also consider identifying which types of development permits qualify. You might start with this and move Section C up to A. Here's some sample language on syncing the process:

- "Process for submittal, approval, and amendment of a site-specific vesting plan.
- a. Each site-specific vesting plan shall include the information required by the [INSERT TYPE OF LOCAL GOVERNMENT] for the underlying type of development plan.
  - b. Each site-specific vesting plan shall provide the notice and hearing required for the underlying type of development plan.
  - c. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government [...]

**Commented [BH23]:** If you sync this section up with the Town's existing process, then you can cut this subsection.

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**Commented [BH24]:** These conditions require the use of discretion, and so would require a quasi-judicial process. This may be another reason to sync this framework up with the existing approval process for each development type.

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

3. If the ~~site specific~~site-specific development plan is vested for a period of greater than two (2) years, this shall be based on one or more factors so described in Section 9.12.2 (A).
- C. 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.
- D. If the use or development for which the site specific ~~development~~vesting plan is submitted is a ~~conditional special~~ use, the Town Council may approve the site specific ~~development~~vesting plan contemporaneously with the approval of the ~~Conditional Special~~ Use Permit. In no case, however, may a site specific ~~development~~vesting plan be approved for a use or development which requires the issuance of a ~~conditional Special~~ use permit without the ~~conditional special~~ use permit having first been issued.

### 9.10.2 Effect of Approval

- A. The effect of the Town Council approving a site-specific plan shall be to vest such site plan for a period of two (2) years from the date of approval. If the landowner requests, however, the Town Council may approve a vesting period not to exceed five (5) years from the date of approval. The vesting of any site plan beyond a two (2) year period may only be authorized by the Town Council where it is found that due to:
- sizing and phasing of the development; or
  - level of investment; or
  - need for the development; or
  - economic cycles; or
  - market conditions, building permits for all phases of the development cannot be secured within two (2) years
- ~~B.~~ A multi-phased development shall be vested for the entire development with the zoning regulations in place at the time a site plan was approval is granted for the initial phase of the multi-phase development. This right shall remain vested for a period of seven (7) years from the time a site plan approval is granted for the initial phase of the multi-phase development. A multi-phase development must encompasses 25 acres or more that is submitted for site plan approval for construction to occur in more than one phase and is subject to a master development plan with committed elements, including a requirement to offer land for public uses as a condition of its master development plan approval.
- ~~B.C.~~ 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~~site-specific ~~development~~vesting 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.
- ~~C.D.~~ A vested right, once established as herein provided, shall preclude any zoning action by the Town 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:
- The affected landowner provides written consent to the Town of his desire to terminate the vested

**Commented [BH25]:** How often do applicants request more than two years?

**Commented [BH26]:** If the Town wanted to still offer the options of requesting more than 2 years up to 5 years, it could include a requirement for a public hearing and a legislative decision by the Town Council to make this determination.

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**Commented [BH27]:** Consider moving this sentence to the Definitions section and referencing a "multi-phased development" as defined in that section.

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

right; or

- The Town determines, after having advertised and held a public hearing, that natural or man-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; or
- Compensation is made by the Town 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; or
- The Town determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Town of the site specific development plan; or
- 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 Town 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.

~~D.~~E. Once a vested right is granted to a particular site specific plan, nothing in this section shall preclude the Town 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.

### 9.10.3 Revocation or Expiration of a Vested Right

- A. The vested right resulting from the approval of a site specific plan may be revoked by the Town Council. In addition, a revocation may occur if the Town Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Zoning Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Town Council.
- B. A building permit issued by the Rowan County Building Inspector pursuant to NCGS ~~160A-417~~160D-403, 1108 may not be revoked because of the running of time on a piece of property for which a site-specific development plan has been approved and the vested right period has not otherwise expired.
- C. The establishment of a vested right on a piece of property for a site specific plan shall not preclude the Town from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.

**Commented [BH28]:** 160D-1108 is the conflict of interest section for building inspectors and 160D-1110 is the section that addresses building permits, so swap out 1108 for 1110.



# CHAPTER 9: DEVELOPMENT REVIEW PROCESS

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## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### Section 9.1 Purpose and Applicability

The purpose of this Chapter is to establish an orderly process to develop land within the Town of China Grove. It is also the intent of this Chapter to provide a clear and comprehensible development process that is fair and equitable to all interests including the petitioners, affected neighbors, Town staff, related agencies, the Planning Board, and the Town Council. Approved plans shall be the guiding documents for final approval and permitting.

The development review process applies to all new developments within the Town of China Grove except for existing individual lots for single-family detached residential and two-family residential (duplex) development. The provisions of this chapter shall be applicable to all Minor and Major Subdivisions, Minor and Major Site Plans, ~~Conditional-Special~~ Use Site Plans, and Vested Rights Site Plans. The Zoning Administrator or designee may waive the required development review process only in the following cases when he determines that the submission of a development plan in accordance with this Chapter would serve no useful purpose:

- A. Accessory structures
- B. Any enlargement of a principal building by less than 20 percent of its existing size provided such enlargement will not result in parking or landscaping ~~improvements~~ improvements.
- C. A change in principal use where such change would not result in a change in lot coverage, parking, or other site ~~characteristics~~ characteristics.

#### 9.1.1 Application Completeness

An application for development approval shall be deemed complete if it is ~~submitted~~ in the required number and form, includes all requested information and is accompanied by the applicable fee. A determination of application completeness shall be made within five (5) working days of application filing. If an application is determined to be incomplete, then it has not been submitted for the purposes of this ordinance, ~~and~~ and the Zoning Administrator shall provide written notice to the applicant along with explanation of the applications deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within twenty (20) working days, the application shall be withdrawn.

**Commented [BH1]:** The key word in 160D-108(b) is "submitted". The section reads "If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made", then the applicant gets to choose which standards apply. As a result, consider making the suggested revisions shown to establish that an application has not been "submitted" if it is not complete.

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#### 9.1.2 Permit Choice

If an application is made in accordance with this ordinance, and deemed complete by the Zoning Administrator, for a development approval and development regulations change between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of permit application, the applicant shall not be required to await the outcome of the amendment to the rule, map or ordinance prior to acting on the development permit. N.C.G.S. 160D-108(b).

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If a land development regulation is amended by the Town Council between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application in the manner established in G.S. § 143-755.

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

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- A. If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.
- B. If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.
- C. If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the local or State government for a period of six consecutive months or more, the application review shall be discontinued and the development regulations in effect at the time permit processing is resumed shall be applied to the application.
- D. Multiple Permits for Development Project. – Subject to G.S. § 160D-108(d) of this section, where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

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**Commented [BH2]:** Consider adding a section on Permit Choice, since local governments are at great risk of having to pay attorneys' fees if they lose a lawsuit on this topic. Here's some sample language drawn almost directly from the statutes: "(A) If a land development regulation is amended by the Town Council between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application in the manner established in G.S. § 143-755.

(B) If the development permit applicant chooses the version of the rule or ordinance applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or ordinance prior to acting on the development permit.

(C) If an applicable rule or ordinance is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the rule or ordinance will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the rule or ordinance that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.

(D) If a permit application is placed on hold at the request of the applicant for a period of six consecutive months or more, or the applicant fails to respond to comments or provide additional information reasonably requested by the local or State government for a period of six consecutive months or more, the application review shall be discontinued and the development regulations in effect at the time permit processing is resumed shall be applied to the application.

(E) Multiple Permits for Development Project. – Subject to G.S. § 160D-108(d) of this section, where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit."

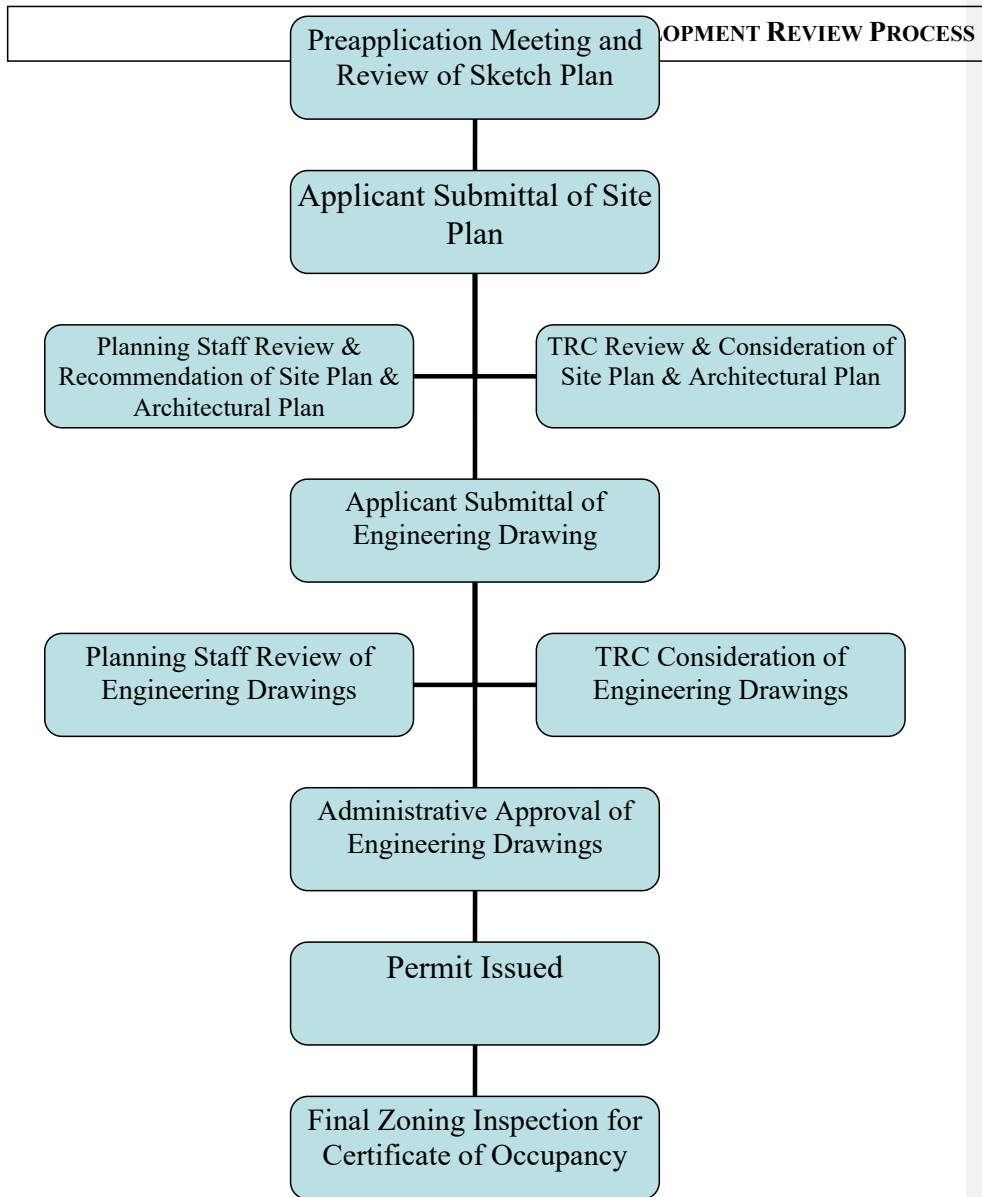
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## **CHAPTER 9: DEVELOPMENT REVIEW PROCESS**

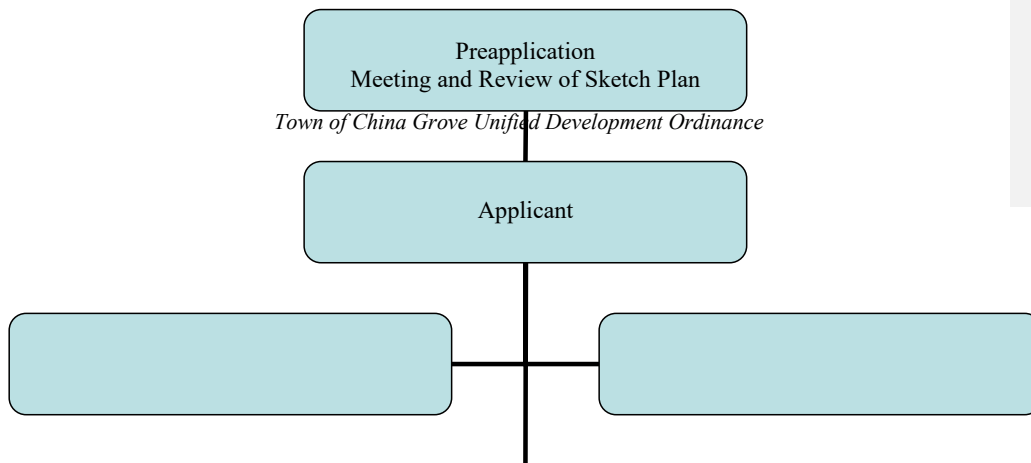
### **Section 9.2 Development Review Process Flow Charts**

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#### **9.2.1 Minor Site Plans** (See Section 9.3 for details)

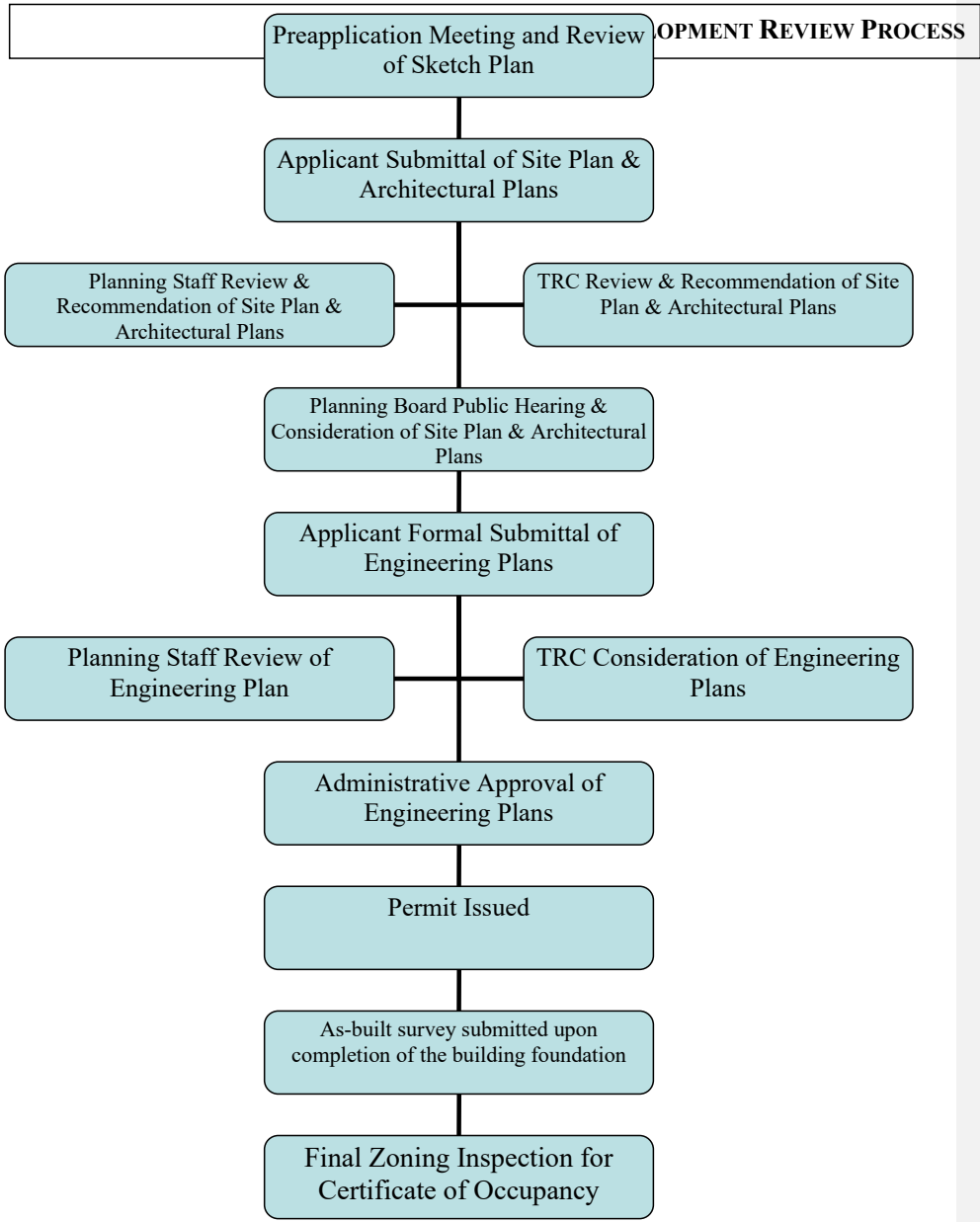


**9.2.2 Minor Subdivision Plans** (See Section 9.4 for details)



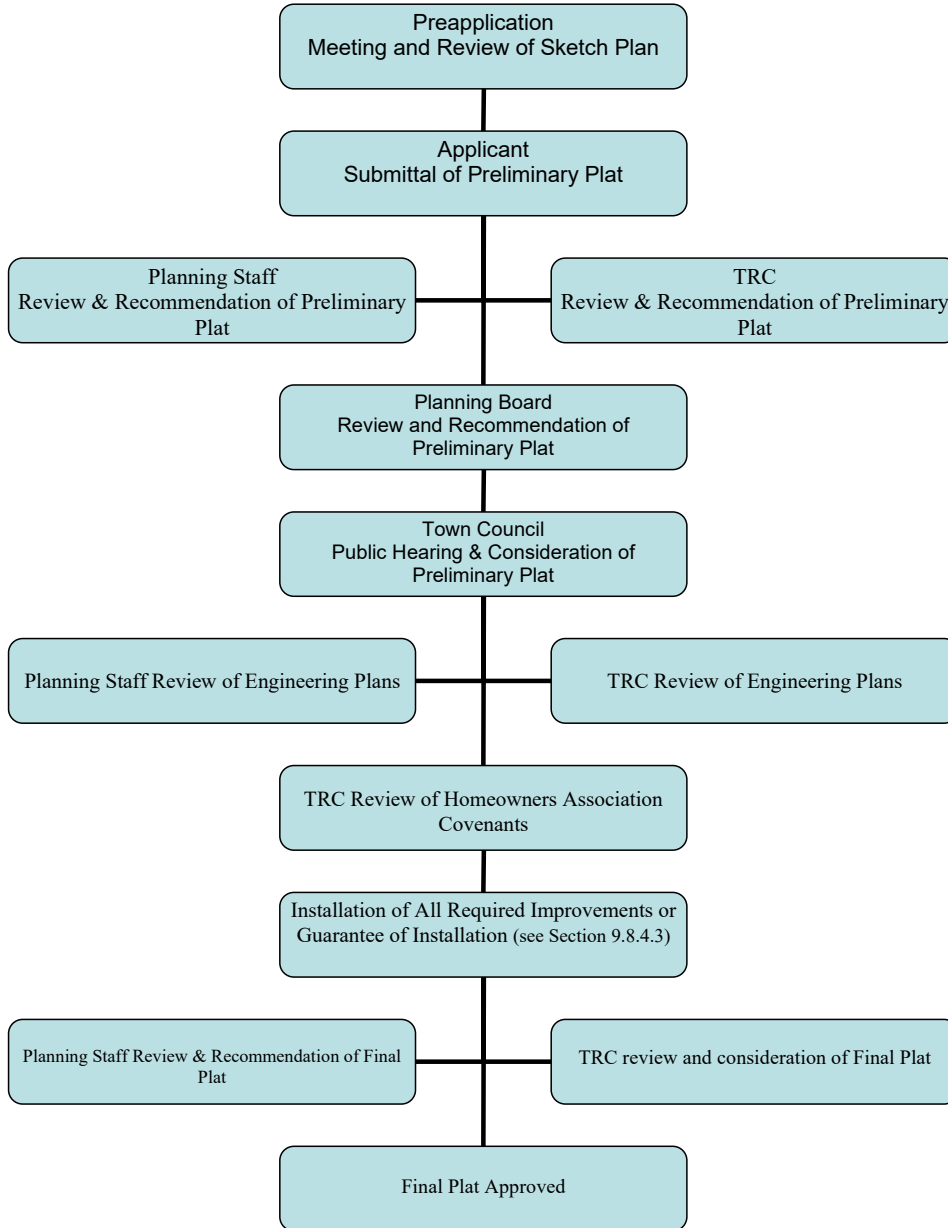
## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.2.3 Major Site Plans (See Section 9.5 for details)



**9.2.4 Major Subdivisions** (See Section 9.6 for details)

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS





## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### Section 9.3 Minor Site Plan Approval

#### 9.3.1 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed development. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

#### 9.3.2 Application for Site Plan Review

A site plan meeting the requirements of Section 10.6 and architectural plans meeting the requirements of Chapter 5 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.

#### 9.3.3 Planning Staff and TRC Site Plan Review

The Zoning Administrator or his/her designee will present the Plans to the Technical Review Committee. The Plans will be review for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may also circulate the Plans to the relevant governmental agencies and officials may include, but need not be limited to those listed below:

##### Technical Review Committee

Zoning Administrator  
Town Manager  
Public Works Department  
Police Department  
Fire Department  
Town Engineer  
Town Council Member  
Planning Board Member

##### Others

Town Attorney  
Parks and Recreation Committee  
Utility Providers  
Rowan County Health Department  
Rowan County Board of Education  
Metropolitan Planning Organization  
Metropolitan Transit Commission  
NCDOT  
NC DENR  
US Army Corp of Engineers  
US Soil Conservation Services

#### 9.3.4 Application for Engineering Drawing Review

The Engineering Drawings shall be drawn to the specification of Section 10.7 and shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council. The types of Plans to be included in a set of Engineering Drawings are as follows:

- Site Plan
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.3.5 Planning Staff and TRC Engineering Drawing Review

The Zoning Administrator or his/her designee will present the Drawings to the Technical Review Committee. The Drawings will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Drawings to be circulated to the relevant governmental agencies and officials. These included but are not limited to those listed in 9.3.2.

### 9.3.6 Engineering Drawing Approval

If the Drawings are found to meet all the applicable requirements of this Ordinance, then the Zoning Administrator shall approve the Engineering Drawings.

### 9.3.7 Permit Issued

If all the Plans are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit for the Site Plan.

### 9.3.8 Zoning Inspections and Certificates of Occupancy

Prior to the issuance of a Certificate of Occupancy by Rowan County Building Inspections, the Zoning Administrator or his designee shall conduct a final zoning inspection to ensure that the approved plans have been followed and all required improvements have been installed to Town standards.

## Section 9.4 Minor Subdivision Approval

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### 9.4.1 Minor Subdivision

A minor subdivision is defined as a subdivision where all the following conditions exist:

- No public right-of-way dedication; and
- The entire tract to be subdivided is ten (10) acres or less in size; and
- The resultant subdivision will produce five (5) or fewer lots.

A preliminary plat shall not be required. Engineering Drawings may be required prior to the approval of a final plat depending on the circumstances of the Subdivision.

### 9.4.2 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed subdivision. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

### 9.4.3 Application for Review

The Final Plat meeting the requirements of Section 10.3 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.4.4 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Plan to the Technical Review Committee. The Plan will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may also circulate the Plan to the relevant governmental agencies and officials may include, but need not be limited to those listed below.

The reviewing government agencies and officials may include, but need not be limited to the following:

#### **Technical Review Committee**

Zoning Administrator (Planning Department)  
Town Manager  
Public Works Department  
Police Department  
Fire Department  
Town Engineer  
Town Council Member  
Planning Board Member

#### **Others**

Town Attorney  
Parks and Recreation Committee  
Utilities Providers  
Rowan County Health Department  
Rowan County Board of Education  
Metropolitan Planning Organization  
Metropolitan Transit Commission  
Metropolitan Transit Commission  
NCDOT  
NC DENR  
US Army Corps of Engineers  
US Soil Conservation Services

### 9.4.5 Engineering Drawing Submittal

If Engineering Drawings are required for approval, the drawings shall be drawn to the specifications of Section 10.7 and shall be submitted and be accompanied by a completed application and payment of a fee as adopted by the Town Council. The plans may be altered by no more than ten percent (10%) of the total subdivision area due to issues discovered during the Engineering Drawing process. If changes to more than ten percent (10%) of the total subdivision area result, a new plat must be submitted and reviewed. Also, the total number of lots or units may be decreased but not increased. The types of plans to be included in a set of Engineering Drawings are as follows:

- Plat
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

### 9.4.6 Planning Staff and TRC Review

The Zoning Administrator or his designee will present the Plan to the Technical Review Committee. The Plan will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed in Section 9.5.3.

### 9.4.7 Engineering Plan Approved

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the engineering plans.

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.4.8 Improvement Installation and Guarantees

Upon approval Engineering Drawings, the developer may proceed with the installation of or arrangement for required improvements in accordance with the approved Plat and the requirements of this Ordinance. Prior to approval of a final plat, the developer shall have installed the improvements specified in this Ordinance or guaranteed their installation [in accordance with Section 9.8 Performance Guarantees, as provided herein.](#)

**Commented [BH3]:** See 160D-804.1 for the updated statutes regarding performance guarantees.

~~A. **Agreement and Security Required:** In lieu of requiring the completion, installation and dedication of all improvements prior to final plat approval, the Town of China Grove may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the China Grove Town Council Commissioners, if all other requirements of this Ordinance are met. To secure this agreement, the developer shall provide to the Town Council either one, or a combination of the following guarantees shown. The amount of such guarantee shall be equal to 1.25 times the cost of installing all required improvements, as determined by the Town Engineer. All such guarantees shall be subject to the approval of the Town Council and shall be made payable to the Town of China Grove.~~

~~B. **Surety Performance Bond(s):** The developer shall obtain one or more performance bond(s) from a surety bonding company authorized to do business in North Carolina. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town Council.~~

**Commented [BH4]:** 160D-804.1(1) identifies three options that a developer gets to choose from: a surety bond, a letter of credit, or "Other form of guarantee that provides equivalent security to a surety bond or letter of credit." It is important to list these options.

~~C. **Cash or Equivalent Security:** The developer shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town of China Grove.~~

**Commented [BH5]:** Integrate this option with those in Subsection B above, and list as one option available to developers to comply with updated statutes. Cash represents an "other form of guarantee that provides equivalent security".

~~If cash or other instrument is deposited in escrow with a financial institution as herein provided, the developer shall then file with the Town Council an agreement between the financial institution and himself guaranteeing the following:~~

~~A. That said escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the developer in any other matter during the term of the escrow; and~~

~~B. That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the Town Council and submission of the Town Engineer's estimate of the amount needed to complete the improvements by the Town Council to the financial institution immediately either pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.~~

~~D. **Default:** Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Town Council, pay all or any portion of the bond or escrow fund to the Town of China Grove up to the amount needed to complete the improvements based on the Town Engineer's estimate. Upon payment, the Town Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds~~

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

~~needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the developer shall nonetheless be responsible for providing the funds to cover such costs. The developer shall at all times bear the financial burden for the installation of all required improvements.~~

~~E. **Release of Guarantee Security:** The Town Council may authorize the Subdivision Administrator to release a portion of any security posted as the improvements are completed and approved by the County. Such funds shall then be released within ten (10) days after the corresponding improvements have been so approved.~~

**Commented [BH6]:** In 160D-804.1, note additional standards regarding duration, extension, release, amount, timing, coverage, legal responsibilities, multiple guarantees, and exclusion.

### 9.4.9 Final Plat Approved

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the final plat.

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## Section 9.5 Major Site Plan Approval

### 9.5.1 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed development. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

### 9.5.2 Application for Review

A Site Plan meeting the requirements of Section 10.6 and Architectural Plans meeting the requirements of Chapter 5 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.

### 9.5.3 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Plans to the Technical Review Committee. The Plans will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plans to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed below:

#### Technical Review Committee

Zoning Administrator (Planning Department)  
Town Manager  
Public Works Department  
Police Department  
Fire Department  
Town Engineer  
Town Council Member  
Planning Board Member

#### Others

Town Attorney  
Parks and Recreation Committee  
Utilities Providers  
Rowan County Health Department  
Rowan County Board of Education  
Metropolitan Planning Organization  
Metropolitan Transit Commission  
Metropolitan Transit Commission

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NCDOT  
NC DENR  
US Army Corps of Engineers  
US Soil Conservation Services

### 9.5.4 Public Hearing by Planning Board

The Planning Board shall conduct a public hearing for approval of Major Site Plans. Notice of the public hearing shall be given as follows:

- A. A notice shall be published in a newspaper having general circulation in the town not less than 10 days or more than 25 days prior to the date established for the Public Hearing.
- B. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all ~~contiguous~~ abutting property owners even if separated by a street, railroad, or other transportation corridor.

**Commented [BH7]:** Note the clarification in 160D-602(a) for mailed notice for zoning map amendments that "properties are "abutting" even if separated by a street, railroad, or other transportation corridor." Consider using the same definition for all mailed notice for consistency and ease of operation.

### 9.5.5 Consideration by the Planning Board:

- A. After the public hearing, the Planning Board shall have up to 60 days to defer, approve, or deny the Plan. Alternatively, the Planning Board may suspend the review period and request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the plan or deferral of its consideration.
- B. Following denial by the Planning Board, the Applicant may file a new Application and associated fee. Unless the Planning Board explicitly states conditions that must be met prior to the resubmission of an application, the applicant shall not submit a new application for the same property within one (1) year of the date of denial by the Planning Board unless the application is significantly different from the previously denied application. All applications shall be resubmitted for full review unless the application is resubmitted to address conditions set forth by the Planning Board for reapplication.

### 9.5.6 Application for Engineering Drawings Review

The Engineering Drawings as outlined in Section 10.7 of this Ordinance shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council. The types of plans to be included in a set of Engineering Drawings are as follows:

- Site Plan
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

### 9.5.7 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Drawings to the Technical Review Committee. The Drawings will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may ~~include, but~~ include but need not be limited to those listed in Section 9.5.3.

### 9.5.8 Engineering Drawing Approved

If the Drawings are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the engineering drawings.

### 9.5.9 Permit Issued

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If all the Plans are found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall issue a Zoning Permit for the Site Plan.

### 9.5.10 Zoning Inspections and Certificates of Occupancy

A. An as-built survey shall be submitted to the Zoning Administrator by the Developer upon completion of the building foundation to ensure that setbacks and building orientation match the approved Site Plan. If the survey shows that the placement of the building is incorrect, then the Zoning Administrator shall issue a Stop-Work Order and all construction shall be halted until the problem is remedied.

~~A.~~

B. Prior to the issuance of a Certificate of Occupancy by Rowan County Building Inspections, the Zoning Administrator or his designee shall conduct a final zoning inspection to ensure that the approved plans have been followed and all required improvements have been installed to Town standards.

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## Section 9.6 Major Subdivision Approval

### 9.6.1 Major Subdivisions

A major subdivision is defined as a subdivision where any one or more of the following conditions exist:

- Dedication of public right-of-way or other public tracts; or,
- Dedication of private right-of-way; or
- The entire tract to be subdivided is greater than ten (10) acres; or,
- The resultant subdivision will produce more than five (5) lots.

### 9.6.2 Preapplication Meeting & Sketch Plan

The applicant shall schedule a pre-application meeting with the Zoning Administrator to review a Sketch Plan of the proposed development. The Sketch Plan shall meet the requirements of Section 10.2. The Zoning Administrator will advise the applicant of all applicable Town regulations and policies, suggest development alternatives, application procedures, and fees. The China Grove Town Council may adopt from time to time, a schedule of fees for application and approval processing as specified in this Ordinance. The pre-application meeting is a non-binding and informal review of a development proposal intended to provide information to the applicant on the procedures and policies of the Town of China Grove and does not confer upon the applicant any development rights. The Zoning Administrator may submit a Sketch Plan to other departments or agencies or departments for input and recommendations. After a reasonable review of the Sketch Plan, the Zoning Administrator shall forward all appropriate comments to the applicant.

### 9.6.3 Application for Preliminary Plat Review

A. A Preliminary Plat meeting the requirements of Section 10.3 shall be submitted and shall be accompanied by a completed application and payment of a fee as adopted by the Town Council.

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- B. If a rezoning is a part of the request, a statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area must also be ~~included~~included.
- C. If a new Conditional Use-Zoning District Rezoning is a part of the request, a statement regarding the reasonableness of the request must also be included.

### 9.6.4 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the plans to the Technical Review Committee. The Plans will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require that the Plan be circulated to the relevant governmental agencies and officials for comments and recommendations. The reviewing agencies and officials may include, but need not be limited to those listed below:

#### Technical Review Committee

Zoning Administrator (Planning Department)  
Town Manager  
Public Works Department  
Police Department  
Fire Department  
Town Engineer  
Town Council Member  
Planning Board Member

#### Others

Town Attorney  
Parks and Recreation Committee  
Utilities Providers  
Rowan County Health Department  
Rowan County Board of Education  
Metropolitan Planning Organization  
Metropolitan Transit Commission  
Metropolitan Transit Commission  
NCDOT  
NC DENR  
US Army Corps of Engineers  
US Soil Conservation Services

### 9.6.5 Review and Recommendation by the Planning Board

- A. Following a complete review by the Planning Staff and TRC, the Zoning Administrator shall schedule the application for review by the Planning Board at the next regularly scheduled meeting.
- B. The Planning Board shall have up to 30 days from the date of referral by the Zoning Administrator to recommend approval, approval with conditions, or denial of the request to the Town Council.
- C. For rezoning requests, the Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.
- D. For Conditional Use-Zoning District Rezoning requests, the Planning Board shall include with its recommendation a written statement regarding the reasonableness of the request.

### 9.6.6 Public Hearing by the Town Council

Upon receipt of a recommendation from the Planning Board, the Town Council shall conduct a public hearing. For Conditional-Special Use Permits, ~~Conditional Use District Rezonings, and Vested Rights~~ requests ~~a~~ quasi-judicial public hearings shall be held. Notice of the public hearing shall be given as follows:

- A. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for Rezonings (map amendments) noted in (B) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.



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- B. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all ~~contiguous~~ abutting property owners. The ~~first class first-class~~ mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. ~~Instead~~ Instead, the Town may elect to use expanded published notice as noted above in (A).
- C. ~~For~~ Rezoning(s) (map amendments), the Town shall ~~conspicuously~~ prominently post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.

**Commented [BH8]:** Note the clarification in 160D-602(a) for mailed notice for zoning map amendments that "properties are "abutting" even if separated by a street, railroad, or other transportation corridor." Consider using the same definition for all mailed notice for consistency and ease of operation.

**Commented [BH9]:** Note that 160D-602(c) provides minor clarifications regarding posted notice for zoning map amendments, including that "the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way."

### 9.6.7 Consideration by the Town Council

- A. After the public hearing, the Town Council shall have up to 60 days to refer back to the Planning Board, approve, approve with conditions, or deny the request. Alternatively, the Town Council may suspend the review period and request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the request or deferral of its consideration.
- B. Following denial by the Town Council, the applicant may file a new application and associated fee. Unless the Town Council explicitly states conditions that must be met prior to the resubmission of an application, the applicant shall not submit a new application for the same property within one (1) year of the date of denial by the Town Council unless the application is significantly different from the previously denied application. All applications shall be resubmitted for full review unless the application is resubmitted to address conditions set forth by the Town Council for reapplication.

### 9.6.8 Time Frame of Approval of Preliminary Plat

Preliminary plat approval shall be valid for two (2) years unless a greater time period is granted through a Vested Rights request. If final plat approval has not been obtained within said two (2) year period, preliminary plat approval shall become void. A new preliminary plat shall be required to be submitted and such plat shall be in conformity with all current and applicable standards this Ordinance. Notwithstanding, the developer may submit a request to the Zoning Administrator for a time extension for up to one (1) year for final plat submittal. Said request must be submitted to the Zoning Administrator prior to the original plat expiration date. No more than one (1) such extension may be granted by the Zoning Administrator per subdivision. The developer may submit a final plat for only a portion of the subdivision given preliminary plat approval. Said submission shall extend the expiration date for the remaining portion(s) of the subdivision for an additional two (2) years past the date of said final plat approval.

### 9.6.9 Application for Engineering Drawings Review

The Engineering Drawings shall be drawn to the specifications in Section 10.4 and shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council. The types of plans to be included in a set of Engineering Drawings are as follows:

- Site Plan or Preliminary Plat
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan

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- Lighting Plan
- Street Details
- Infrastructure Details

### 9.6.10 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Plan to the Technical Review Committee. The Plan will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may include, but need not be limited to those listed in Section 9.5.3.

### 9.6.11 Engineering Plan Approved

If the Plan is found to meet all of the applicable regulations of this Ordinance, then the Zoning Administrator shall approve the engineering plans.

### 9.6.12 Homeowners Association Covenants Review

Prior to approval of any final plat for a major subdivision, the TRC shall review the covenants of the Homeowners Association to ensure compliance with Town requirements.

### 9.6.13 Improvement Installation and Guarantees

Upon approval of the Preliminary Plat and Engineering Drawings, the developer may proceed with the installation of or arrangement for required improvements in accordance with the approved Preliminary Plat and the requirements of this Ordinance. Prior to approval of a final plat, the developer shall have installed the improvements specified in this Ordinance or guaranteed their installation as provided ~~herein~~ in [Section 9.8 Performance Guarantees](#).

~~1. **Agreement and Security Required:** In lieu of requiring the completion, ~~installation~~ installation, and dedication of all improvements prior to final plat approval, the Town of China Grove may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements. Once said agreement is signed by both parties and the security required herein is provided, the final plat may be approved by the China Grove Town Council ~~Commissioners~~, if all other requirements of this Ordinance are met. ~~To secure this agreement, the developer shall provide to the Town Council either one, or a combination of the following guarantees shown. The amount of such guarantee shall be equal to 1.25 times the cost of installing all required improvements, as determined by the Town Engineer.~~ All such guarantees shall be subject to the approval of the Town Council and shall be made payable to the Town of China Grove.~~

~~2. **Surety Performance Bond(s):** The developer shall obtain one or more performance bond(s) from a surety bonding company authorized to do business in North Carolina. The duration of the bond(s) shall be until such time as the improvements are accepted by the Town Council.~~

~~3. **Cash or Equivalent Security:** The developer shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town of China Grove.~~

~~If cash or other instrument is deposited in escrow with a financial institution as herein provided, the developer shall then file with the Town Council an agreement between the financial institution and himself guaranteeing the following:~~

~~C. That said escrow account shall be held in trust until released by the Town Council and may not be used or pledged by the developer in any other matter during the term of the escrow; and~~

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**Commented [BH10]:** Consider synchronizing the language on performance guarantees in Section 9.4.8 with this. One option is to only list the full language in one section, and to include a cross reference to it from the other applicable sections to avoid the issue of ending up with different language covering the same topic in different sections.

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~~D. That in case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the Town Council and submission of the Town Engineer's estimate of the amount needed to complete the improvements by the Town Council to the financial institution immediately either pay to the Town the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the Town any other instruments fully endorsed or otherwise made payable in full to the Town.~~

~~4. **Default:** Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as spelled out in the performance bond or escrow agreement, then the surety, or the financial institution holding the escrow account, shall, if requested by the Town Council, pay all or any portion of the bond or escrow fund to the Town of China Grove up to the amount needed to complete the improvements based on the Town Engineer's estimate. Upon payment, the Town Council, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The Town shall return to the bonding firm any funds not spent in completing the improvements. Should the amount of funds needed to complete the installation of all required improvements exceed the amount in the bond or escrow account, the developer shall nonetheless be responsible for providing the funds to cover such costs. The developer shall at all times bear the financial burden for the installation of all required improvements.~~

~~5. **Release of Guarantee Security:** The Town Council may authorize the Subdivision Administrator to release a portion of any security posted as the improvements are completed and approved by the County. Such funds shall then be released within ten (10) days after the corresponding improvements have been so approved.~~

### 9.6.14 Application of Final Plat Review

The Final Plat shall be drawn to the specifications in Section 10.5 and shall be submitted and accompanied by a completed application and payment of a fee as adopted by the Town Council.

### 9.6.15 Planning Staff and TRC Review

The Zoning Administrator or his/her designee will present the Final Plat to the Technical Review Committee. The Plat will be reviewed for compliance with this Ordinance and all related plans and policies. The Zoning Administrator may require the Plan to be circulated to the relevant governmental agencies and officials may ~~include, but~~ include but need not be limited to those listed in Section 9.6.3.

### 9.6.16 Final Plat Approved

If the Plan is found to meet all ~~of the~~ applicable regulations of this Ordinance, then the Zoning Administrator shall approve the final plat.

## Section 9.7 Subdivision Procedures

### 9.7.1 School Site Reservation

If the Town Council and the Rowan-Salisbury School System have jointly determined the specific location and size of any school sites to be reserved, Planning Staff shall immediately notify the Board of Education in writing whenever a sketch plan or for a subdivision is submitted which includes all or part of a school site to be reserved. The Board of Education shall promptly decide whether it still wishes the site to be reserved. If the Board of Education does wish to reserve the site, the subdivision shall not be approved without such reservation. The Board of Education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating

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condemnation proceedings. If the Board of Education has not purchased or begun proceedings to condemn the site within 18 months, the developer may treat the land as freed of the reservation.

### 9.7.2 Plat Approval General Procedures

After the effective date of this Ordinance, no subdivision plat of land within the jurisdiction of this Ordinance shall be filed or recorded unless it has first been submitted to the Zoning Administrator and approved by the proper body as set forth in this Ordinance, and until this approval is entered in writing on the face of the plat by the Zoning Administrator. Such shall not be required of any subdivision of land which, by definition herein, is exempt from the terms of this Ordinance.

The Register of Deeds shall not file or record a plat of a subdivision of land located within the jurisdiction of this Ordinance that has not been first approved in accordance with these provisions.

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### 9.7.3 Statement by Owner

The owner of land shown on a subdivision plat submitted for recording, or his authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the jurisdiction of the Town of China Grove.

### 9.7.4 Issuance of Zoning Permits and Conveyance of Subdivision Lots

No zoning permit shall be issued by the Town of China Grove for the erection of any building on any lot within a proposed subdivision until a final plat of said subdivision has been approved in a manner as prescribed by this Ordinance and recorded at the Register of Deeds Office and where applicable, an improvements permit has been issued by the Rowan County Health Department.

After the effective date of this Ordinance, it shall be illegal for any person being the owner or agent of the owner of any land located within the territorial jurisdiction of this Ordinance, to subdivide his land in violation of this Ordinance or to transfer or sell 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 Ordinance.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town Council, through its attorney or other official so designated, may enjoin an illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by NCGS 14-4. Civil penalties may be issued in accordance with Chapter 13.

### 9.7.5 Subdivision Exceptions

~~This section shall be applicable to all subdivisions, except those located in a Water Supply Watershed. The Planning Board may authorize exceptions for Subdivisions from any portion of this Ordinance when, in its opinion, undue hardship may result from their strict compliance. In granting an exception, the Planning Board shall hold a quasi-judicial public hearing and make the findings required herein, 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. No relief shall be granted unless it is found:~~

**Commented [BH11]:** This section describes a variance, and so the procedure must meet the updated requirements in 160D, such as a 4/5 vote (160D-406(i)), and more specific standards of review (160D-705(d)). In addition, variances may only be granted for dimensional exceptions, not use exceptions.

~~A. That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of his land; and~~

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- ~~B. That the relief is necessary for the preservation and enjoyment of a substantial property right of the petitioner; and~~
- ~~C. That the circumstances giving rise to the need for the relief are peculiar to the subdivision and are not generally characteristic of other subdivisions in the jurisdiction of this Ordinance; and~~
- ~~D. That the granting of the relief will not be detrimental to the public health, safety and welfare or injurious to other property in the area in which said property is situated.~~

~~Every decision of the Planning Board pertaining to the granting of Subdivision exceptions shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within 30 days after the decision or recommendation of the TRC or Town Council is filed in the Office of the Subdivision Administrator, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Zoning Administrator at the time of the Planning Board's hearing of the case, whichever is later.~~

~~A subdivision is any division of a tract or parcel of land into two or more lots, building sites, or any other division of land for the purpose of, whether immediate or future, of sale or building development, and any division of land involving the dedication of a new street or a change in an existing street, but the following shall not be included within this definition nor be subject to the regulations of this Ordinance; provided, however, that any document or plat to be recorded pursuant to any such exclusion shall bear the notation "no approval required" and the signature of the Subdivision Administrator for his designated agent before being presented for certification by the County Review Officer. A local government may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the criteria are met:~~

- ~~1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Ordinance.~~
- ~~2. The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.~~
- ~~3. The public acquisition by purchase of strips of land for the widening or opening of the streets or for public transportation system corridors.~~
- ~~4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots or tracts, where no street right-of-way dedication is involved or proposed, and where the resultant lots are equal to or exceed the standards of this Ordinance.~~
- ~~5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the North Carolina General Statutes.~~
- ~~6. A local government may require only a plat of recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:
  - ~~a. The tract or parcel to be divided is not exempted in subsections 1 through 5 above;~~
  - ~~b. No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to this division;~~
  - ~~c. The entire area of the tract or parcel to be divided is greater than 5 acres;~~~~

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## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

- d. After division, no more than three lots result from the division;
- e. After division, all resultant lots comply with the following:
  - i. All lot dimension size requirements of the applicable land-use regulation, if any;
  - ii. The use of the lots is in conformity with the applicable zoning requirements, if any;
  - iii. A permanent means of ingress and egress is recorded for each lot.

### 9.8 Performance Guarantees

#### 9.8.1 Purpose

A performance guarantee in accordance with the standards of this section shall be furnished to the Town prior to Engineering Plan Approval in the following circumstances:

- A. To ensure completion of public infrastructure improvements (e.g. streets, alleys, bike lanes, curb and gutter, sidewalks, bike paths, crosswalks, traffic signs and controls, street lights, fire lanes, bus shelters, and greenway paths) that are required as part of Engineering Plan Approval.
- B. To ensure completion of required plantings of replacement trees, buffer screening, and landscaping.

#### 9.8.2 Term of Performance Guarantee

The term of a performance guarantee shall reflect any time limit for completing installation of required improvements that is included in the Engineering Plan Approval in a condition deemed acceptable by the Zoning Administrator or Town Engineer. In any case the term shall not exceed three years. The Zoning Administrator or Town Engineer, as appropriate, may, for good cause shown and with approval of the provider of the guarantee, grant extensions of the term for up to a total extended period of two years.

#### 9.8.3 Form of Performance Guarantee

- A. Where required, the owner or developer shall furnish a performance guarantee in any of the following forms with terms and conditions acceptable by the Finance Director and Town Attorney:
  - a. Cash deposit with the Town
  - b. Surety bond issued by any company authorized to do business in this state;
  - c. Letter of credit issued by any financial institution licensed to do business in this state;
  - d. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
- B. The performance guarantee shall be conditioned on the performance of all work necessary to complete the installation of the required improvements within the term of the performance guarantees shall provide that in case of the owner's or developer's failure to complete the guaranteed improvements, the town shall be able to immediately obtain the funds necessary to complete installation of the improvements.

#### 9.8.4 Amount of Performance Guarantee

- A. Performance guarantees for required improvements shall be in an amount equal to 125 percent of the estimated full cost of completing the installation of the required improvements within the term of the guarantee, including the costs of engineering, labor, materials, and project management.
- B. Estimated costs for completing installation of required public infrastructure improvements shall be itemized by improvement type and certified by the owner's or developer's licensed Professional Engineer, and subject to approval by the Town Engineer, or Zoning Administrator.

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**Commented [BH12]:** Consider adding a section to address the requirement in 160D-802(c) that reads as follows: "

(c) A local government may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

- (1) The tract or parcel to be divided is not exempted under subdivision (2) of subsection (a) of this section.
- (2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (3) The entire area of the tract or parcel to be divided is greater than 5 acres.
- (4) After division, no more than three lots result from the division.
- (5) After division, all resultant lots comply with all of the following:
  - a. All lot dimension size requirements of the applicable land-use regulations, if any.
  - b. The use of the lots is in conformity with the applicable zoning requirements, if any.
  - c. A permanent means of ingress and egress is recorded for each lot."

**Commented [BH13]:** Note the exemption included in 160D-802(a)(5) that reads: "but the following shall not be included within this definition nor be subject to the regulations authorized by this Article:" . . . "(5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes."

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## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

- C. Estimated costs for completing installation of replacement trees, buffer screening, and landscaping shall be itemized and certified by the owner's or developer's registered landscape architect or licensed Professional Engineer and are subject to approval by the Zoning Administrator.
- D. If the guarantee is renewed, the Town Engineer or Zoning Administrator, as appropriate may require the amount of the guarantee be updated to reflect cost increases overtime.
- E. The amount of the performance guarantee may be waived or reduced by the Town Council where the improvements are being installed with federal funds or in other circumstances where similar third-party assurances of their completion.

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### **9.8.4 Release or Reduction of Performance Guarantees**

#### **A. Requirements for Release or Reduction**

The Town Engineer or Zoning Administrator shall release or reduce a performance guarantee only after:

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1. The owner or developer has submitted to the Town Engineer or Zoning Administrator, as appropriate, as application for a release or reduction of the performance guarantee that includes certification by the owner's or developer's engineer or landscape architect, as appropriate, that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications.
2. The Town Engineer or Zoning Administrator, as appropriate, has performed a final inspection of the improvements for which a release or reduction is requested, and certified in writing that installation of the guaranteed improvements has been completed in accordance with approved plans and specifications.
3. The owner or developer has reimbursed the Town for all costs associated with conducting an inspection that finds the guaranteed improvements for which a release or reduction is requested have not been installed in accordance with approved plans and specifications;
4. The owner or developer has provided the Town Engineer or Zoning Administrator, as appropriate, assurances that liens against guaranteed public infrastructure improvements will not be filed after their acceptance by the Town (e.g., through affidavits, releases, as waivers of liens from all contractors and subcontractors); and
5. The owner or developer has provided the Town Engineer or Zoning Administrator, as appropriate, any required maintenance guarantee for the same improvements

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#### **B. Limits on Reductions**

1. No performance guarantee for public infrastructure improvements shall be reduced to less than 30 percent of the full amount of the performance guarantee until all guaranteed public infrastructure improvements have been completed by the owner or developer.
2. No performance guarantee for required site improvements such as replacement trees, buffer screening, and landscaping shall be reduced to less than 75 percent of the full amount of the performance guarantee until all guaranteed site improvements have been completed by the owner or developer.

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### **9.8.5 Default and Forfeiture of Performance Guarantee**

#### **A. Notice of Failure to Install or Complete Improvements**

If the owner or developer fails to complete installation of the guaranteed improvements within the term of the performance guarantee (as may be extended) the Town Engineer or Zoning Administrator shall give the owner or developer 30 day written notice of default by certified mail.

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## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### B. Town Completion of Improvements

After the 30-day notice period expires, the Town may:

1. Issue a Stop Work Order in accordance with Section 14.4.7 Issuance of Stop Work Order, and/or;
2. Draw on the security and use the funds to perform work necessary to complete the installation of the guaranteed improvements. After completing such work, the Town shall provide a complete accounting of the expenditures to the owner or developer and, as applicable, refund all unused security deposited without interest.

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### Section 9.89 Conditional-Special Use Permit Procedures

#### 9.89.1 Purpose and Applicability

This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard and off-street parking and loading requirements. In addition to these uses, the Ordinance allows some uses on a conditional basis subject to the issuance of a Conditional-Special Use Permit by the Town Council. The purpose of having such uses being "conditional-Special" is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located. Those uses shown as Conditional-Special in the Permitted Uses Table of Section 3.14 shall be subject the requirements and review process of in this Section.

#### 9.89.2 Approval Process

Conditional-Special Use Permits shall follow the Town Council Approval process, conducting an evidentiary hearing in accordance with N.C.G.S. 160D-406. An application shall be filed with the Zoning Administrator and shall be accompanied by a site-specific site-specific plan meeting the requirements of a Major Site Plan. A complete application and site plan shall come before the Planning Board for review and recommendation. The Planning Board may, in its review, suggest reasonable conditions to the location, nature, and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other appropriate conditions. Such conditions may include dedication of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. Conditions and safeguards imposed under this subsection shall not include requirements for which the local government does not have authority under statute to regulate; nor requirements for which the courts have held to be unenforceable if imposed directly by the local government, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. Following Planning Board review and recommendation, the Town Council shall hold an evidentiary quasi-judicial public hearing and consider the application in accordance with the findings-of-fact in Section 9.109.34 below.

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Commented [BH14]: The public notice and review procedures for quasi-judicial cases are fairly specific, so it may be helpful to include more of the details from 160D-406 directly in the ordinance, or provide a cheat sheet to boards to help them remember what procedures they need to follow.

Commented [BH15]: 160D-705(c) now includes the following language: "Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the local government does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the local government, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

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#### 9.9.3 Notice of Hearing

Notice of evidentiary hearings conducted pursuant to this Section shall be mailed to the person or entity whose application is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing, and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The Town Council may continue an evidentiary hearing that has been convened without further advertisement.



## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

### 9.89.43 Conditions, Evidence, & Findings-of-Fact

In approving an application for a Conditional-Special Use Permit, the Town Council may attach fair and reasonable conditions to the approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. In no instance shall any of these conditions be less restrictive than any requirements which would pertain to that particular development found elsewhere in a similar zoning district. The applicant shall provide consent in writing to the conditions before the Special Use Permit will be issued. The applicant has the burden of producing competent, material, and substantial evidence to establish the facts and conditions. If any person submits evidence allegedly contrary to any of the facts or conditions, the burden of proof for overcoming such evidence shall rest with the applicant.

The Town Council shall issue a Conditional-Special Use Permit if it has evaluated an application and determined that:

- ~~A. The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and;~~
- A.
- B. The use meets all required conditions and specifications, and;
- C. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and;
- D. 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 and will be in general conformity with the adopted land use plans and other plans for physical development of the China Grove area as adopted by the Town Council.

~~The use will not materially endanger the public health or safety if located where proposed and developed according to plan, and~~

~~A. The use meets all required conditions and specifications, and~~

~~B. The use will not substantially injure the value of adjoining or abutting property unless the use is a public necessity, and~~

~~C. 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 and will be in general conformity with the adopted land use plans and other plans for physical development of the China Grove area as adopted by the Town Council.~~

### 9.89.45 Effect of Approval & Expiration of Approval

If an application for a Conditional-Special Use Permit is approved by the Town Council, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the Conditional-Special Use Permit or develop any other use listed as a "permitted use" for the general zoning district in which it is located. Any Conditional-Special Use Permit so authorized shall be perpetually binding to the property included in such permit unless subsequently changed or amended by the Town Council.

**Commented [BH16]:** Consider adding language such as this to help make sure to meet the need to secure written consent to conditions from the applicant and the landowner. If a local government does not get written consent, it may have trouble enforcing the conditions. 160-1403.2 reads that "A local government may not assert before a board of adjustment or in any civil action the defense of estoppel as a result of actions by the landowner or permit applicant to proceed with development authorized by a development permit as defined in G.S. 143-755 if the landowner or permit applicant is challenging conditions that were imposed and not consented to in writing by a landowner or permit applicant."

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## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

Unless the Town Council issues a ~~Conditional-Special~~ Use Permit which either is specifically exempt from any time constraints or has some other specified time period for implementation, the applicant must secure a valid building permit within a ~~one-two (42)~~ years period from date of issuance of the ~~conditional special~~ use permit. In addition, if the project for which a ~~Conditional Special~~ Use Permit was issued is not complete and a valid building permit is not in place at the end of said ~~twelve twenty-four month~~ ~~two~~ (2) year period, the Zoning Administrator shall notify the applicant of either such finding, and within 60 days of said notification, the Planning Board shall make a recommendation concerning the rescission of the ~~conditional-special~~ use permit to the Town Council. The Town Council, after having conducted a public hearing to consider the rescission, may then rescind the ~~Conditional-Special~~ Use Permit, or extend the life of the ~~Conditional-Special~~ Use Permit for a specified period of time.

Commented [BH17]: Looks like this need to be 24 months.

### 9.98.56 Alterations to Site & Amendments to ~~Conditional-Special~~ Use Permit

~~Amendments to Special Use permits shall follow the process established in Section 9.12. Minor changes may be made with the approval of the Zoning Administrator on a one-time basis only. Further changes to the development may only be made by the Town Council by amending the Conditional Use Permit. Any request to materially change the Conditional Use Permit once it has been issued shall be reviewed in entirety through the Town Council approval process. Minor changes are those that will not alter the basic relationship of the proposed development to adjacent property, and will not increase the gross floor area of any non-residential use by the smaller of 10 percent or ten 10,000 square feet, and~~

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- ~~will not decrease the off-street parking ratio or reduce the yards provided at the periphery of the site by greater than five (5) feet~~ Administrative Modifications.

Commented [BH18]: 160D now includes specific authorization for minor deviations to be handled administratively, but does not allow a change in use or density to be handled in this way. Here's the language in 160D-705(c): "The regulations may provide that defined minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification."

### 9.89.67 Reapplication Following Denial

If a request for ~~Conditional-Special~~ Use Permit is denied by the Town Council, a similar application for the same property or any portion thereof shall not be filed until the expiration of a ~~12-month~~ ~~12-month~~ period from the date of the most recent denial by the Town Council. This waiting period shall not be applicable where the application for a ~~Conditional-Special~~ Use Permit is substantially different from the original application. The term "substantially different" as herein applied shall mean:

- The proposed principal use is different than the use contained in the original application; or
- The gross floor area of the proposed development is 50 percent or more smaller than contained in the original application.

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## Section 9.910 Rezoning Procedures

Rezoning (zoning map amendments) shall follow the approval process in Chapter 13.

### 9.910.1 ~~Standard-Conventional~~ Rezonings

For ~~Standard-Conventional~~ Rezonings, a ~~site-specific~~ site-specific plan is not required. Approval of a Standard Rezoning shall result in an official amendment to the Town of China Grove Zoning Map. Any development of the property shall be reviewed and approved in accordance with the appropriate procedure depending on the type of development proposed.

### 9.910.2 ~~Conditional-Use~~ Zoning Districts ~~Rezonings~~

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

For Conditional ~~Use Zoning~~ District ~~Rezoning~~s, a ~~site specific~~site-specific development plan meeting the requirements for a Major Site Plan or Major Subdivision is required. Approval of a Conditional ~~Use Rezoning~~District shall result in official amendment to the Town of China Grove Zoning map.

### Section 9.11 Quasi-judicial Procedure

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#### 9.11.1 Applicability

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Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, variances, or any other quasi-judicial decisions.

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#### 9.11.2 Notice of Hearing

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Notice of evidentiary hearings conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

#### 9.11.3 Materials

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The administrator or staff to the board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

#### 9.11.4 Presentation of Evidence

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The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

#### 9.11.5 Appearance of Official New Issues

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The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

local government would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

### 9.11.6 Oaths

The chair of the board or any member acting as chair and clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

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### 9.11.7 Subpoenas

The board making a quasi-judicial decision under this Chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the local government, and any person with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

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### 9.11.8 Appeals in Nature of Certiorari

When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j).

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### 9.11.9 Voting

The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

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### 9.11.10 Decision

The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

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## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.11.11 Judicial Review

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d).

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## Section 9.12 Administrative Modifications

### 9.12.1 Major Amendments

Except as allowed under Minor Modifications all changes to an approved Special Use Permit, Conditional Zoning, and other development approvals are major amendments and shall follow the same process applicable for the original approval. In any case, the following changes to Special Use Permit approval or Town Council approval shall constitute a major modification:

- a) A change in a condition of approval;
- b) A change in use permitted;
- c) A change in density of overall development;
- d) An increase greater than ten percent in the ratio of gross floor area devoted to residential uses to that devoted.

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### 9.12.2 Minor Modifications

The Zoning Administrator is authorized to review and approve administratively a minor modification to an approved Special Use Permit, Conditional Zoning, and other development approvals subject to the following limitations.

1. General Limitations. The minor modification:
  - a. Will not change the permitted uses, and.
  - b. Will not alter the basic relationship of the proposed development to adjacent property, and.
  - c. Will not increase or decrease the density of overall development, and.
  - d. Will not decrease the off-street parking ratio, reduce the yards provided at the periphery of the site by greater than five (5) feet, and.
  - e. Meets all other ordinance requirements.
2. Site Design. Site design minor modifications are limited adjustments to the terms or design of an approved development plan or plat, including a site plan attached as a condition to a conditional zoning or special use permit. In addition to the general limitations on minor modifications, a site design minor modification must:
  - a. Comply with underlying zoning standards and other applicable conditions of approval;
  - b. Be limited to a minor change such as, without limitation, a minor adjustment to road configuration or internal circulation, a minor adjustment to building location, or a minor adjustment to utility alignment.
3. Dimensional Standards. Dimensional standard minor modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may only be modified upon finding by the administrator, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval. In addition to the general limitations for minor modifications, dimensional standard modifications are limited to:
  - a. An adjustment in parking requirements up to the greater of 10 spaces or 10 percent.
  - b. An adjustment of setback requirements of 2 feet or 10 percent of the standard setback.
  - c. An adjustment to landscaping standards including required species, or location.

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## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

### 9.12.3 Changes to Individual Parcels within a Conditional District

If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification.

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### 9.12.4 Appeals and Variances

A decision on minor modification may be appealed to the Board of Adjustment as a n administrative determination. An application for a minor modification does not preclude an applicant from seeking a variance from the Board of Adjustment.

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## Section 9.13 Vested Rights Procedure

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### 9.13.1 Site-specific Vesting Plans

Upon approval by the Planning Board or Town Council, as appropriate, site-specific development plans are concurrently designated site-specific vesting plans establishing a vested right for at least two (2) years after the date of approval in accordance with Section 160D-108 of the North Carolina General Statutes.

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A. The process for submittal, approval, and amendment of a site-specific vesting plan is subject to the following:

- a) The following development approvals qualify as site-specific vesting plans: special use permits, conditional zoning districts, major subdivision plans, major site plans, mixed residential developments, and plan unit developments.
- b) Each site-specific vesting plan shall include the information required by the Town of China Grove for the underlying type of development plan.
- c) Each site-specific vesting plan shall provide the notice and hearing required for the underlying type of development plan.
- d) An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government in the same manner as required for the underlying type of development plan.”

B. A multi-phased development, as defined by this ordinance, shall be vested for the entire development with the zoning regulations in place at the time a site plan was approval is granted for the initial phase of the multi-phase development. This right shall remain vested for a period of seven (7) years from the time a site plan approval is granted for the initial phase of the multi-phase development.

C. Building Permits are valid for six (6) months. N.C.G.S 160D-108(d)(1)

D. Zoning Permits are valid for one (1) year.

### 9.13.2 Effect of Approval

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A. 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 vesting 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.

B. A vested right, once established as herein provided, shall preclude any zoning action by the Town 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:

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

1. The affected landowner provides written consent to the Town of his desire to terminate the vested right; or
2. The Town determines, after having advertised and held a public hearing, that natural or man-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; or
3. Compensation is made by the Town 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; or
4. The Town determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Town of the site-specific development plan; or
5. 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 Town 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.

C. Once a vested right is granted to a particular site-specific plan, nothing in this section shall preclude the Town 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.

### Section 9.13.3 Extension

The Town Council may extend the vested rights period from two (2) to five (5) years if it determines the extension is warranted in light of all relevant circumstances including but, not limited to the size and phasing of the development, the level of investment, the need for development, economic cycles, and market conditions. If the landowner requests, the Town Council may conduct a public hearing to extend a vesting period not to exceed five (5) years from the date of approval. The vesting of any site plan beyond a two (2) year period shall only be authorized by the Town Council.

#### a. Required Public Notice of Hearing

- i. Notice shall be mailed to the person or entity whose application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; and to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing.
- ii. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

### Section 9.13.4 Expiration, Limitations, and Revocation

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**Commented [BH19]:** If the Town wanted to still offer the options of requesting more than 2 years up to 5 years, it could include a requirement for a public hearing and a legislative decision by the Town Council to make this determination.

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## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

- A. The vested right resulting from the approval of a site-specific plan may be revoked by the Town Council. In addition, a revocation may occur if the Town Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Zoning Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Town Council.
- B. A valid development approval shall not expire if work on the project has substantially commenced within the initial validity period. Substantial commencement of work shall be determined by the Zoning Administrator based on any of the following:
- The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;
  - The development has installed substantial on-site infrastructure; or
  - The development has received and maintained a valid building permit for the construction and approval of a building foundation.
- C. Even if work has substantially commenced, a development approval still expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, as calculated and tolled pursuant to N.C.G.S. 160D-108.”
- D. A building permit issued by the Rowan County Building Inspector pursuant to NCGS 160D-403, 1110 may not be revoked because of the running of time on a piece of property for which a site-specific development plan has been approved and the vested right period has not otherwise expired.
- E. The establishment of a vested right on a piece of property for a site-specific plan shall not preclude the Town from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.
- F. Revocation of any site-specific development plan designation eliminates the vested right established by approval of the site-specific development plan designation but does not itself terminate any unexpired development permit or approval associated with the plan.

### Section 9.10 Vested Rights Procedures

~~Pursuant to NCGS 160A-385.1 and notwithstanding any other provision of this Ordinance or amendment thereto, a landowner may apply for a site specific development vesting plan approval which shall entitle said landowner to develop property in accordance with said site specific plan. To apply for vested right, a landowner shall first submit to the Zoning Administrator a site specific vesting plan. The plan shall be submitted in accordance with the requirements for a Major Site Plan or Major Subdivision. vesting vesting vesting~~

#### 9.10.1 Approval Criteria

- A. ~~In approving an application for vested rights of a site specific vesting plan, the Town Council may attach fair and reasonable ad hoc conditions which tend to support the requiring finding of facts as herein listed. The petitioner shall be given reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the Town Council. The Town Council may not require the landowner to waive his vested right as a condition of developmental approval.~~
- B. ~~The Town Council may approve the site specific vesting plan if it has evaluated an application and determined that:~~
- ~~The use meets all required specifications of the Zoning Ordinance, and~~
  - ~~The use will not materially endanger the public health or safety and will not substantially injure the value of adjoining property if located where proposed. Conditions, if any, placed on the site~~

**Commented [BH20]:** 160D-1108 is the conflict of interest section for building inspectors and 160D-1110 is the section that addresses building permits, so swap out 1108 for 1110.

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**Commented [BH21]:** Consider inserting a section that acknowledges that each project has the approval period specified for that type of development permit. Then add a section that addresses permit expiration and notes that projects that have “substantially commenced” may be completed under the ordinance standards in place at the time of their approval, with any changes meeting the current development standards. Here’s some sample language to consider: “1. A valid development approval shall not expire if work on the project has substantially commenced within the initial validity period. Substantial commencement of work shall be determined by the [INSERT NAME OF STAFF POSITION IN CHARGE OF MAKING ORDINANCE DETERMINATIONS] based on any of the following:

- The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than thirty (30) days;
  - The development has installed substantial on-site infrastructure; or
  - The development has received and maintained a valid building permit for the construction and approval of a building foundation.
2. Even if work has substantially commenced, a development approval still expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, as calculated and tolled pursuant to N.C.G.S. 160D-108.” Then continue with the statutory vested rights currently discussed.

**Commented [BH22]:** This is the new name for this document included in 160D.

**Commented [BH23]:** Is this meant to be a subsection header?

**Commented [BH24]:** One option is to sync this process up with what the Town already requires for each type of development permit, since you’ve already changed the period of validity to 2 years for the various approvals. To sync it up, specify that the review process shall follow that specified in the UDO for that type of development permit. Otherwise, the process defaults to the process provided in the statutes in 160D-108.1(a). Also consider identifying which types of development permits qualify. You might start with this and move Section C up to A. Here’s some sample language on syncing the process:

- “Process for submittal, approval, and amendment of a site-specific vesting plan.
- Each site-specific vesting plan shall include the information required by the [INSERT TYPE OF LOCAL GOVERNMENT] for the underlying type of development plan.
  - Each site-specific vesting plan shall provide the notice and hearing required for the underlying type of development plan.
  - An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government in the same manner as required for the underlying type of development plan.”

**Commented [BH25]:** If you sync this section up with the Town’s existing process, then you can cut this subsection.



## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

~~specific development plan by the Town Council shall be adequate to meet this requirement.~~

~~3. If the site specific development plan is vested for a period of greater than two (2) years, this shall be based on one or more factors so described in Section 9.12.2 (A).~~

~~C. 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.~~

~~D. If the use or development for which the site specific development vesting plan is submitted is a conditional use, the Town Council may approve the site specific development vesting plan contemporaneously with the approval of the Conditional Use Permit. In no case, however, may a site specific development vesting 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.~~

### 9.10.2 Effect of Approval

~~A. The effect of the Town Council approving a site specific plan shall be to vest such site plan for a period of two (2) years from the date of approval. If the landowner requests, however, the Town Council may approve a vesting period not to exceed five (5) years from the date of approval. The vesting of any site plan beyond a two (2) year period may only be authorized by the Town Council where it is found that due to:~~

- ~~• sizing and phasing of the development; or~~
- ~~• level of investment; or~~
- ~~• need for the development; or~~
- ~~• economic cycles; or~~
- ~~• market conditions, building permits for all phases of the development cannot be secured within two (2) years.~~

~~B. 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 vesting 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.~~

~~C. A vested right, once established as herein provided, shall preclude any zoning action by the Town 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:~~

- ~~• The affected landowner provides written consent to the Town of his desire to terminate the vested right; or~~
- ~~• The Town determines, after having advertised and held a public hearing, that natural or man-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; or~~
- ~~• Compensation is made by the Town to the landowner for all costs, expenses, and other losses~~

**Commented [BH26]:** These conditions require the use of discretion, and so would require a quasi-judicial process. This may be another reason to sync this framework up with the existing approval process for each development type.

**Commented [BH27]:** How often do applicants request more than two years?

**Commented [BH28]:** If the Town wanted to still offer the options of requesting more than 2 years up to 5 years, it could include a requirement for a public hearing and a legislative decision by the Town Council to make this determination.

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**Commented [BH29]:** Consider moving this sentence to the Definitions section and referencing a "multi-phased development" as defined in that section.

## CHAPTER 9: DEVELOPMENT REVIEW PROCESS

~~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; or~~

- ~~• The Town determines, after having advertised and held a public hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Town of the site specific development plan; or~~
- ~~• 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 Town 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.~~

~~D. Once a vested right is granted to a particular site specific plan, nothing in this section shall preclude the Town 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.~~

### **9.10.3 Revocation or Expiration of a Vested Right**

~~A. The vested right resulting from the approval of a site specific plan may be revoked by the Town Council. In addition, a revocation may occur if the Town Council determines that the landowner has failed to comply with the terms and conditions of the approval or with any other applicable portion of the Zoning Ordinance. The vested right shall otherwise expire at the end of the approval period established by the Town Council.~~

~~B. A building permit issued by the Rowan County Building Inspector pursuant to NCGS 160A-417 may not be revoked because of the running of time on a piece of property for which a site specific development plan has been approved and the vested right period has not otherwise expired.~~

~~C. The establishment of a vested right on a piece of property for a site specific plan shall not preclude the Town from establishing and enforcing on the property any additional regulations (adopted during the time the vested right was in effect) which are general in nature and applicable to all property subject to the regulations of this Ordinance.~~

**Commented [BH30]:** 160D-1108 is the conflict of interest section for building inspectors and 160D-1110 is the section that addresses building permits, so swap out 1108 for 1110.

# CHAPTER 10: DEVELOPMENT PLAN REQUIREMENTS

## Section

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10.2	Sketch Plans.....	10-2
10.3	Major and Minor Subdivisions.....	10-2
10.4	Subdivision Engineering Drawings.....	10-3
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10.7	Site Plan Engineering Drawings.....	10-8

## **CHAPTER 10: DEVELOPMENT PLAN REQUIREMENTS**

### **Section 10.1 Purpose and Applicability**

---

The purpose of this chapter is to provide uniform standards for all development plans requiring approval by the Town of China Grove in accordance with Chapter 9. Every development plan shall include notes and graphics depicting the requirements of all applicable sections of this Ordinance.

### **Section 10.2 Sketch Plans**

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A Sketch Plan shall be required for the pre-application meeting with the Zoning Administrator. The plan shall be scaled and show in simple sketch form the proposed layout of streets, lots, buildings, open spaces, and other features in relation to existing conditions. It shall also include the following information:

- The boundaries of the property;
- The tax map number(s) of the property;
- The total acreage;
- The existing street layout and right-of-way width;
- The name of the proposed development;
- The zoning classification of the property to be developed and of adjacent properties
- The existing topographic conditions of the property.

#### **Submittal Requirements:**

2 copies for pre-application meeting

### **Section 10.3 Major and Minor Subdivisions**

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#### **10.3.1 Major Subdivisions**

All Major Subdivision Preliminary Plats shall include but are not limited to the following information:

- Title
- Original submittal date
- Revision dates
- Vicinity map
- North arrow
- Scale (no smaller than 1"=100')
- Lot lines with bearings and distances
- Zoning district and applicable overlay districts
- Adjacent property owner names, parcel numbers, and zoning
- Total acreage
- Acreage in lots
- Acreage in right-of-way
- Density per acre
- Building setbacks in table format and building envelopes show on lots
- Locations of existing structures
- Landscaping notes
- Boundaries of flood plains or note stating that property is not within one
- Open space calculations

## CHAPTER 10: DEVELOPMENT PLAN REQUIREMENTS

- Topography and environmental information
- Preliminary grading plan
- Street types and cross sections

### **Submittal Requirements:**

- 6 full-size copies for initial submittal
- 2 full-size copies for revisions
- 15 full-size copies & 1 reduced (11x17) copy for Planning Board & Town Board
- 2 full-size copies & 1 reduced (11x17) copy for file
- 1 digital copy in pdf and dwg formats.

### **10.3.2 Minor Subdivisions**

Minor Subdivisions are approved administratively and shall meet the requirements of Final Plats as set forth in Section 10.5. In addition to the requirements of Section 10.5, minor subdivisions shall also meet the applicable street improvement and landscaping standards of this Ordinance. Unless otherwise specified by this Ordinance, Minor Subdivisions are not required to have construction plans. They may, however, be subject to Soil and Erosion Control requirements.

## **Section 10.4 Subdivision Engineering Drawings**

---

Engineering Drawings are required for Major Subdivisions following approval by the Town Board and prior to Final Plat approval and permitting. The Final Plat shall substantially match the Preliminary Plat and Engineering Drawings. Any deviations from the Preliminary Plat shall be the result of issues discovered during field work and engineering. In no case shall the number of lots or building area increase. Substantial deviations from the Preliminary Plat shall result in the entire approval process starting over. Engineering Drawings for Major Subdivisions shall include but are not limited to the following information:

### **10.4.1 Labeling**

- Title
- Original submittal date
- Revision dates
- Vicinity map
- North arrow
- Scale (no smaller than 1"=100')
- Lot lines with bearings and distances
- Zoning district and applicable overlay districts
- Adjacent property owner names, parcel numbers, and zoning
- Total acreage
- Acreage in lots
- Acreage in right-of-way
- Density per acre
- Building setbacks in table format and building envelopes show on lots
- Locations of existing structures
- Boundaries of flood plains or note stating that property is not within one
- Open space calculations

## CHAPTER 10: DEVELOPMENT PLAN REQUIREMENTS

### 10.4.2 Plans and Details

- Preliminary Plat
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Street Details
- Infrastructure Details

### 10.4.3 Submittal Requirements:

- 3 full-size copies for initial submittal
- 2 full-size copies for revisions
- 2 full-size copies for final submittal and approval
- 1 digital copy in pdf and dwg formats
- 1 full-size copy of as-built drawings
- 1 digital copy of as-built drawings in pdf and dwg formats.

## Section 10.5 Final Plats

---

Final Plats shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The final plat shall conform to the provisions for plats, subdivisions, and mapping requirements set forth in NCGS 47-30 and the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Rowan County Register of Deeds. The final plat shall be at such size suitable for recordation in the Register of Deeds Office. Material and drawing medium for the original shall be in accordance with the Standards of Practice for Land Surveying in North Carolina, where applicable, and the requirements of the Rowan County Register of Deeds.

### 10.5.1 Labeling

All Final Plats shall include the following information:

- Title
- Vicinity Map
- Township, county, and state
- Date of survey
- Date of revisions to plat
- North Arrow and Declaration
- Scale (no smaller than 1"=100')
- Name and address of owner
- Name, address, registration number, and seal of surveyor
- Tract boundaries shown by a heavy line including all bearings and distances
- All monuments, markers, and control points shown
- Location, purpose, and dimensions of areas outside of lots
- Lots numbered consecutively
- Adjoining property owner information
- Zoning district and applicable overlay districts
- Building setbacks
- Total Acreage
- Acreage in lots

**CHAPTER 10: DEVELOPMENT PLAN REQUIREMENTS**

- Acreage in right-of-way
- Purpose of Plat
- Utility easements
- Open space calculations
- Watershed notes

**10.5.2 Certificates**

The following certificates shall appear on all copies of the Final Plat for all subdivisions submitted to the Subdivision Administrator:

**A. Certificate of Ownership and Dedication**

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of China Grove and that I hereby adopt this plan of subdivision with my free consent and establish minimum lot size and building setback lines as noted.

\_\_\_\_\_  
OWNER

\_\_\_\_\_  
DATE

**B. Certificate of Survey and Accuracy**

There shall appear on each plat a certificate by the person under whose supervision such survey or such plat was made, stating the origin of the information shown on the plat, including recorded deed and plat references shown thereon. The ratio of precision before any adjustments must be shown. Any lines on the plat that were not actually surveyed must be clearly indicated and a statement included revealing the source of information. The execution of such certificate by the registered land surveyor preparing the plat shall be acknowledged before any officer authorized to take acknowledgments. All plats to be recorded shall be probated as required by law for the registration of deeds. Where a plat consists of more than one sheet, only one sheet must contain the certification and all other sheets must be signed and sealed.

This certificate shall include the source of information for the survey and data indicating the ratio of precision of the survey before adjustments and shall be in substantially the following form:

**STATE OF NORTH CAROLINA  
ROWAN COUNTY**

I, \_\_\_\_\_, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book \_\_\_\_\_, page \_\_\_\_\_, etc.) (other): that the boundaries not surveyed are clearly indicated as drawn from information found in Book \_\_\_\_\_, page \_\_\_\_\_; that the ratio of precision as calculated is 1: \_\_\_\_\_; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number and seal this \_\_\_ day of \_\_\_\_\_, AD, \_\_\_\_.

Seal or Stamp

**CHAPTER 10: DEVELOPMENT PLAN REQUIREMENTS**

\_\_\_\_\_  
Surveyor

\_\_\_\_\_  
Registration Number

The certificate of the Notary shall read as follows:

North Carolina, \_\_\_\_\_ County

I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_, a registered land surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this \_\_\_ day of \_\_\_\_\_, \_\_\_.

Seal or Stamp  
Notary Public  
My Commission expires \_\_\_\_\_

Nothing in this requirement shall prevent the recording of a map that was prepared in accordance with a previous version of G.S. 47-30 as amended, properly signed, and notarized under the statutes applicable at the time of the signing of the map. However, it shall be the responsibility of the person presenting the map to prove that the map was so prepared.

**C. Certificate of Approval for Recording (#1)**

I hereby certify that the subdivision plat shown hereon has been found to comply with the Town of China Grove, North Carolina Unified Development Ordinance and that this plat has been approved for recordation in the Rowan County Register of Deeds Office.

\_\_\_\_\_  
Subdivision Administrator

\_\_\_\_\_  
Date

**or**

**Certificate of Approval for Recording (#2)**

I hereby certify that the plat shown hereon has been is exempt from the subdivision requirements of the China Grove Unified Development Ordinance and no approval is required.

\_\_\_\_\_  
Subdivision Administrator

\_\_\_\_\_  
Date

**D. Watershed Certificate (choose from one of the following)**

- 1. This Subdivision, to the best of my knowledge, does not lie within a Water Supply Watershed designated by the North Carolina Department of Environment and Natural Resources.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Subdivision Administrator



**CHAPTER 10: DEVELOPMENT PLAN REQUIREMENTS**

2. This Subdivision, to the best of my knowledge, lies within a Water Supply Watershed as designated by the North Carolina Department of Environment and Natural Resources. Impervious area restrictions may apply.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Subdivision Administrator

**E. Review Officer Certificate**

I, \_\_\_\_\_ Review Officer of Rowan County certify that the map or plat to which this certification is affixed meets the statutory requirements for recording.

\_\_\_\_\_  
Review Officer

\_\_\_\_\_  
Date

**F. Streets and Utilities**

1. The following certificate shall appear on all copies of the final plat for Major Subdivisions submitted to the Subdivision Administrator:

**Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improvements**

I hereby certify that all streets, public utilities and other required improvements have been installed in an acceptable manner and according to N.C. Department of Transportation and/or the Town of China Grove specifications and standards or as otherwise provided for in this Ordinance, or that guarantees of the installation of the required improvements in an amount and manner satisfactory to the Town of China Grove has been received, and that the required filing fee for this plat, has been paid.

\_\_\_\_\_  
Town Engineer

\_\_\_\_\_  
Date

2. The following notation shall appear on all final plats of major subdivisions with new private streets:

**ROAD MAINTENANCE DISCLOSURE STATEMENT**

This subdivision contains private streets and storm drainage that were designed and (constructed or financially guaranteed in accordance with Section 9.6 of the Town of China Grove Unified Development Ordinance subdivision to be constructed) to NCDOT standards. Maintenance of these improvements shall be the responsibility of (the developer(s) or the property owners) until these responsibilities are assumed by a property owners association established by the collective lot owners. Neither NCDOT nor the Town of China Grove are responsible for any maintenance associated with these improvements or enforcement of the responsibilities noted within this statement. (Note: This statement shall not serve as a substitute for any other statutory disclosure requirement.)

**10.5.3 Submittal Requirements:**

- 6 full-size paper copies for initial submittal
- 2 full-size paper copies for revisions
- 1 full-size paper copy and 3 mylar copies for signature

## CHAPTER 10: DEVELOPMENT PLAN REQUIREMENTS

- 1 original mylar and 10 full-size paper copies for file and distribution
- 1 digital copy in pdf and dwg formats

### **Section 10.6 Major, Minor, ~~Conditional~~ Special Use Permit, and Vested Rights Site Plans**

#### **10.6.1 Site Plans Subject to Town Board Approval**

All Major, ~~Conditional~~ Special Use Permit, ~~Conditional Zoning~~, and Vested Rights Site Plans subject to the Town Board approval process shall include but are not limited to the following information:

- Title
- Original submittal date
- Revision dates
- Vicinity map
- North arrow
- Scale (no smaller than 1"=100')
- Lot lines with bearings and distances
- Zoning district and applicable overlay districts
- Adjacent property owner names, parcel numbers, and zoning
- Total acreage
- Acreage in right-of-way
- Density per acre
- Building setbacks in table format and building envelopes show on lots
- Locations of existing structures
- Landscaping notes
- Boundaries of flood plains or note stating that property is not within one
- Topography and environmental information

#### **Submittal Requirements:**

- 6 full-size copies for initial submittal
- 2 full-size copies for revisions
- 15 full-size copies & 1 reduced (11x17) copy for Planning Board & Town Board
- 2 full-size copies & 1 reduced (11x17) copy for file
- 1 digital copy in pdf and dwg formats

#### **10.6.2 Minor Site Plans**

Minor Site Plans are approved administratively and shall be submitted as part of a full set of Engineering Drawings. See Section 10.7.

### **Section 10.7 Site Plan Engineering Drawings**

Engineering Drawings are required for Site Plans. The Engineering Drawings shall substantially match approved Site Plan. Any deviations from the Site Plan shall be the result of issues discovered during field work and engineering. Substantial deviations from the Preliminary Plat shall result in the entire approval process starting over. Engineering Drawings for Site Plans shall include but are not limited to the following information:

#### **10.7.1 Labeling**

## CHAPTER 10: DEVELOPMENT PLAN REQUIREMENTS

- Title
- Original submittal date
- Revision dates
- Vicinity map
- North arrow
- Scale (no smaller than 1"=100')
- Lot lines with bearings and distances
- Zoning district and applicable overlay districts
- Adjacent property owner names, parcel numbers, and zoning
- Total acreage
- Acreage in lots
- Acreage in right-of-way
- Building setbacks in table format and building envelopes show on lots
- Locations of existing structures
- Boundaries of flood plains or note stating that property is not within one

### 10.7.2 Plans and Details

- Preliminary Plat
- Existing Conditions
- Grading Plan
- Soil and Erosion Control Plan
- Landscaping Plan
- Lighting Plan
- Street Details
- Infrastructure Details

### 10.7.3 Submittal Requirements:

- 3 full-size copies for initial submittal
- 2 full-size copies for revisions
- 2 full-size copies for final submittal and approval
- 1 digital copy in pdf and dwg formats

### 10.7.4 Certificates

#### A. Knox Box Certificate

The location of the required Knox Box has been reviewed and approved by the Town of China Grove Fire Department on \_\_\_\_\_

Signature: \_\_\_\_\_  
Fire Chief

# CHAPTER 11: SIGNS

**Section**

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<b>11.2</b>	General Provisions.....	11-2
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<b>11.5</b>	Prohibited Signs.....	11-9

## CHAPTER 11: SIGNS

### Section 11.1 Purpose and Applicability

The purpose of this section is to support and complement the various land uses allowed in the China Grove area by the adoption of policies and regulations concerning the placement of signs. The outdoor placement of signs is a legitimate use of private property, but the erection of signs should be controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on roadways, as well as protect the public investment in such roadways. The provisions of this section are also intended to promote the reasonable, orderly, and effective display of such signs, displays, and devices. It is also the intent of this section to prevent signs from dominating the visual appearance of the area in which they are located and to enhance the aesthetic environment of the China Grove area.

Except as otherwise provided in this Ordinance, it shall be unlawful for any person to erect, construct, enlarge, move, or replace any sign, without first having obtained a sign permit for such sign from the Zoning Administrator as required by this Ordinance. A fee, in accordance with a fee schedule adopted by the Town Council, shall be charged for each sign permit issued.

### Section 11.2 General Provisions

#### 11.2.1 Sign Design Guidelines

- A. Materials, colors, and shapes of proposed signs should be compatible with the buildings and the surrounding area.
- B. The sign shall not be the dominant feature of its location.
- C. A uniform sign plan shall be required for all office and retail complexes and multi-tenant buildings. All tenants shall comply with the approved uniform sign plan.

#### 11.2.2 Sign Area

- A. For wall signs, placard signs, and window signs, the area of the sign shall be the smallest rectangle that can encompass all letters and logos included in the sign.
- B. For freestanding signs, neighborhood identification signs, banners, and other similar signs, the area shall include the rectangular area of the surface to which the sign is affixed.

#### 11.2.3 Sign Height

The height of a sign shall be measured from the highest point of a sign to the point of ground surface beneath it. Ornamentation such as caps, spires, and finials shall not extend more than two (2) feet from the top of the sign. The use of berms or raised landscape areas is only permitted to raise the base of the sign to the mean elevation of the fronting street.

#### 11.2.4 Sign Setbacks

All signs shall be set back a minimum five (5) feet from the right-of-way of a public or private street. At intersections, no sign shall be in the sight triangle as defined by this ordinance. No freestanding sign shall be located within 100 feet of any other freestanding sign unless the Zoning Administrator determines that practical difficulties exist for locating the sign.

#### 11.2.5 Sign Illumination

Illuminated signs shall conform to the following:

- A. All illuminated signs shall have their lighting directed in such a manner as to illuminate only the face of the sign.

**Commented [BH1]:** Consider adding another General Provision at the end of this list to address the Reed v. Gilbert Supreme Court case. Here's some sample language: "Non-commercial message. Whenever the ordinance permits a commercial sign, a non-commercial message may be substituted for the commercial message. The right to substitute the non-commercial message does not waive any other requirement imposed by this ordinance as to the number, size, type, construction, location, lighting, safety or other regulated attribute."

## CHAPTER 11: SIGNS

- B. External light sources shall not be visible from the right-of-way nor cause glare hazards to pedestrians, motorists, or adjacent properties.
- C. A maximum of 10 foot candles may be permitted on any portion of sign.
- D. All lighting shall meet all applicable electrical codes.
- E. A new commercial sign within 100 feet of an existing residential structure shall not be illuminated between the hours of 12:00 midnight and 6:00 a.m.
- F. Lighting for signs shall be maintained and shall not create excessive noise.

### 11.2.6 Maintenance and Upkeep of Signs

- A. All signs and all components thereof, including supports, braces, and anchors shall be kept in a good state of repair, in compliance with all building and electrical codes, and in conformance with the requirements of this Ordinance (unless deemed a legal non-conforming sign by Chapter 12 of this Ordinance). Any sign which is determined by the Zoning Administrator or building inspector as being insecure, in danger of falling or otherwise endangering the public safety shall be immediately removed by its owner unless it is repaired and made to otherwise comply with the requirements of this Ordinance.
- B. If a sign advertises a business, service, commodity, attraction or other enterprise or activity that is no longer operating or being offered or conducted, then that sign and sign structure shall be considered discontinued regardless of reason or intent and shall, within 180 days after such discontinuation, be removed by the owner of the property where the sign is located.

### 11.2.7 Removal of Signs in the Right-of-Way

The Zoning Administrator or his designee may remove and destroy or otherwise dispose of any sign placed on public property or within any right-of-way of any public or private street. Penalties shall be levied for each such sign as outlined in Chapter 14 of this Ordinance.

## CHAPTER 11: SIGNS

### Section 11.3 Signs That Do Not Require a Permit

The following types of signs are exempt from permit requirements this Chapter and may be placed in any zoning district. Such signs shall otherwise be in conformance with all applicable requirements contained in this Ordinance. All such signs (except government signs) shall be located outside a road right-of-way.

- A. Government and public interest signs.
- B. Memorial signs, plaques or grave markers which are noncommercial in nature.
- C. Flags, pennants, insignia, or religious symbols of any government, non-profit or not-for-profit organization when not displayed in connection with a commercial promotion or as an advertising device. Flag poles are limited to 35 feet in height.
- D. Integral decorative or architectural features of buildings; works of art; so long as such features or works do not contain letters, trademarks, moving parts or lights.
- E. On-premise directional and instructional signs not exceeding six (6) square feet in area apiece.
- F. Identification signs for residential uses not exceeding four (4) square feet in area [one (1) only per premises]
- G. Incidental signs. However, in no case shall a drive-through service window menu board be oriented to a public right-of-way or exceed 32 square feet in area. Any such drive-through service window menu board containing a loud speaker shall be located at least 50 feet from any pre-existing residential structure located in a residential district.
- H. Campaign and election signs provided that:
  - Each sign shall not exceed eight (8) square feet in area.
  - All such signs shall not be placed more than 60 days prior to the election and shall be removed within seven (7) days after the election for which they were made. Removal shall be the responsibility of the candidate. Failure to remove signs within the prescribed time period will result in civil penalties as set forth in Section 14.4.
- I. Temporary real estate signs advertising a specific property for sale, lease, rent or development shall be located as follows:
  - One sign per street frontage advertising real estate "For Sale", "For Rent", "For Lease" or "For Development" not greater than 10 square feet in area in a residential district and 64 square feet in area in nonresidential districts may be located on the property being advertised so long as said sign is located behind the street right-of-way line. If the property so advertised lies on a corner lot or double frontage lot, then a second sign may be oriented along the second street so long as the two signs are at least 100 feet apart as measured by the shortest straight line.
  - In addition to the on-site real estate sign(s), a maximum of three (3) directional signs, each not exceeding four (4) square feet in area, shall be permitted off the subject premises. The message of said signs shall be limited to the name of the property or development being advertised, an address, a telephone number, a directional arrow, mileage to the subject property, and the terms "Lot/Home For Sale", "For Rent", "For Lease", "For Development", etc.
  - No more than three (3) temporary directional signs advertising a specific planned commercial or mixed use development, subdivision, multi-family development, etc. may also be permitted off-site. Each such sign may have a maximum area of three (3) square feet.

**Commented [BH2]:** Note the legislation regarding temporary signs in NCDOT rights of way, and the allowance under certain standards for political signs. For more, see Adam Lovelady's blog on the topic at <https://canons.sog.unc.edu/temporary-signs-in-the-right-of-way/>.

## CHAPTER 11: SIGNS

- All such temporary signs shall be removed within seven (7) days after the property has been sold, rented, leased, etc.
  - No sign allowed under this subsection shall be lighted.
- J. Temporary construction signs provided that:
- Signs in conjunction with any residential use shall not exceed 10 square feet each.
  - Signs in conjunction with all other uses shall have a maximum area of 50 square feet each.
  - Only one (1) such sign oriented per street front per premises shall be erected. Any two (2) such signs located on the same premises shall be located at least 100 feet apart as measured by using a straight line.
  - Such signs shall not be illuminated.
  - Such signs shall only appear at the construction site.
  - Such signs shall be removed within seven (7) days after a completion of the project.
- K. Temporary farm product signs provided that:
- One on-premises sign may be used. Said sign shall be located off the street right-of-way and at least 10 feet away from any side lot line. Such sign shall have a maximum area of nine (9) square feet and may not be illuminated.
  - A maximum of two off-premise signs shall be permitted. Said off-premise signs may be no greater than four (4) square feet apiece and shall not be illuminated. No such sign shall be allowed in the street right-of-way or within 10 feet of a side lot line.
  - Portable signs shall not be used for any sign allowed under this Subsection.
- L. Temporary special event signs for religious, charitable, civic, fraternal or similar non-profit or not-for-profit organizations provided that:
- Signs shall be erected no sooner than 10 days prior and removed no later than two (2) days after the event.
  - Portable signs for such uses may be allowed.
  - No such sign shall exceed 32 square feet.
  - No such sign shall be illuminated.
  - All such signs shall be located off the street right-of-way, unless otherwise granted permission for such location by the Town of China Grove or NCDOT. In no case may any such sign extend onto or over a street pavement or impede the view of any motorists or pedestrians. Location of such signs within a road right-of-way shall be limited to the day of the event.
- M. Temporary displays as part of a holiday or civic event so long as any such displays are not located within a street right-of-way unless permission for such is first granted by the Town of China Grove or NCDOT.
- N. One (1) on-premise and three (3) off-premises yard sale signs per yard sale. All such signs shall be removed within 24 hours after the yard sale has been terminated. No such sign shall be greater than four (4) square feet in area. All such signs shall be located off the street right-of-way.
- O. Bulletin boards and signs which contains information of a non-commercial nature. Such bulletin boards and signs may have a maximum area of 32 square feet.
- P. Directional Signs (for public and semi-public uses only) provided that:
- No more than three (3) directional sign per principal use may be erected. No two directional signs advertising the same principal use shall be located within 1,000 feet of each other as measured using the straightest short line distance.



## CHAPTER 11: SIGNS

- Directional signs greater than three (3) feet in height as measured from the grade of the road upon which it fronts shall be located outside the required sight triangle.
  - Directional signs shall not be illuminated.
  - All directional signs shall be free-standing signs. Portable signs shall be prohibited.
  - There shall be no greater than four (4) directional signs on separate supports at the intersection of any two (2) roads.
  - More than one (1) sign may be placed on the same supports.
  - No two (2) directional signs hung from separate supports shall be located within five (5) feet of each other.
  - The maximum area of any directional sign shall be six (6) square feet.
- Q. Other signs containing non-commercial copy messages, provided that:
- Such signs have an area of no greater than 32 square feet.
  - Such signs do not fit under the category of prohibited signs with the exception of portable signs, vehicular signs, and roof signs.
  - Such signs shall not be illuminated.
- R. Directory Signs provided that:
- No sign is located in a road right-of-way.
  - The maximum sign area shall be 40 square feet or one-half the area of the largest free-standing sign permitted for said use, whichever is less.
  - Letters do not exceed six (6) inches in height.
  - Height of sign does not exceed six (6) feet.
- S. Temporary window signs located inside the window provided that they do not exceed 25 percent of the window area.
- T. "Warning", "No Trespassing" and similar informational signs provided that they do not exceed four (4) square feet.
- U. Signs located within a stadium intended to be read only by persons seated within the stadium.
- V. Permanent municipal, school, recreational and civic club sponsored signs, schedule of events, rules and regulations signs. Identification signs require a permit as set forth in Section 11.4.
- W. Any sign inside a building, not attached to or placed within an external window or piece of glass that is not legible more than three (3) feet beyond the building in which it is located.
- X. Signs placed on newspaper boxes designed for placement of delivered newspaper to a particular location.
- Y. Temporary banners that do not exceed 32 square feet and are attached flush to a wall face and do not remain in place for more than 30 days.

## CHAPTER 11: SIGNS

### Section 11.4 Signs That Require a Permit

#### 11.4.1 Signs Permitted by Zoning District

Sign Type	R-P	R-S	R-T	R-M	R-MH	O-I	N-C	C-B	C-P	H-B	L-I	H-I
Neighborhood Identification	XL*	XL*	XL*	XL*	XL*	XL*	XL*	XL*				
Placard	X	X	X	X	X	X	X	X	X	X	X	X
Wall	XL*	C	C	C	C	XL	XL	XL	XL	XL	XL	XL
Freestanding	XL	CL	CL	CL	CL	XL	CL	CL	XL	XL	XL	XL
Projecting							XL	XL				

X: Sign Allowed

C: Sign Allowed for Civic Uses only

L: Illumination Allowed

\*: External illumination only

#### 11.4.2 Sign Requirements by Type

##### A. Neighborhood Identification Sign

- One (1) per main street frontage entrance (except as noted in 2 below).
- Maximum area is 32 square feet. Area may be split between two (2) signs on either side of entrance.
- Maximum height is six (6) feet.
- Minimum setback is five (5) feet from adjacent property lines and from the street right-of-way.

##### B. Placard Sign (Door Entrance Sign)

- One (1) wall-mounted sign per street frontage.
- Maximum area is four (4) square feet.

##### C. Wall Sign

The following shall be included in the wall sign category: canopy signs, awning signs, permanent window signs. The following regulations apply to wall signs:

- Wall signs shall front on a public street or face a parking lot where a main building entrance is located.
- Maximum sign area is 10 percent of the wall area. Any number of signs may make up the allowable area. In districts where both wall signs and freestanding signs area allowed, and a freestanding sign is not utilized, then the wall sign area may be increased up to 20 percent of the wall face.
- Maximum projection is 18 inches from the wall face.
- Signs shall not extend above the parapet or eave of the building.
- Accessory structures subordinate to the principle structure are permitted one (1) wall sign not to exceed 20 square feet.

##### D. Freestanding Sign

- Freestanding signs shall be monument style with the bottom of the sign portion of the structure beginning no more than three (3) feet from the ground.
- One (1) sign per street frontage.
- Developments with two (2) or more tenants shall utilize a multi-tenant sign.
- Maximum sign area is 32 square feet. For multi-tenant signs, four (4) square feet per tenant may be added up to a maximum of 64 square feet.
- Maximum height is 10 feet.
- Minimum setback is five (5) feet from adjacent property lines and from the street right-of-way.

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7. Freestanding signs are not permitted on the same street frontage on a parcel where a projecting sign is also located.

### ***E. Projecting Sign***

1. Projecting Signs shall be no more than 16 square feet in size and no side dimension being greater than 4 feet.
2. One (1) per store front.
3. Sign must be on front façade.
4. Minimum height above sidewalk (ground) (7) seven feet.
5. 12” (inches) maximum space between wall and sign.
6. Buildings on corner lots may place sign so as to be visible from both streets and may have the vertical dimension greater than 4 ‘ in length, with approval of Zoning Administrator.
7. Projecting signs are not permitted on the same street frontage on a parcel where a freestanding sign is also located.

## CHAPTER 11: SIGNS

### Section 11.5 Prohibited Signs

- A. Any sign which the Zoning Administrator determines obstructs the view of bicyclists or motorists using any street, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal shall be prohibited.
- B. Illuminated, highly reflective signs, or spot lights which hamper the vision of motorists or bicyclists.
- C. Signs not erected by a public authority which may be erroneously construed as government signs or emergency warning signs. An example of this is a sign which contains a picture of a traffic sign plus the word "Stop", "Yield", etc.
- D. Any sign located outdoors which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air.
- E. Any sign (other than a government sign), banner or display placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other surface located on, over, or across any public street or right-of-way, unless otherwise permitted.
- F. Any sign located to intentionally deny an adjoining property owner visual access to an existing sign.
- G. Flashing signs, signs with flashing or reflective disks, signs with flashing lights or lights of changing degree of intensity or color or signs with electrically scrolled messages (except government signs and signs which give time and temperature information). If a time and temperature sign alternates between a time message and a temperature message it shall continuously show one message a minimum of three (3) seconds in time before switching to the other message.
- H. Portable signs.
- I. Facsimile signs, three-dimensional objects, or human figures which may or may not contain advertising matter, and may or may not contain information about products sold on the premises, and is located in such a manner as to attract attention.
- J. Parked vehicles with messages (exempting vehicles with commercial advertising which are used regularly and customarily to transport persons or property for business).
- K. Rotating signs, other than on-premise rotating identification names which contain a logo and/or business name on it.
- L. Roof signs.
- M. Pole Signs.
- N. Billboards (off-premises advertising).
- O. Banners that are greater than 32 square feet, are not placed on a wall, or are in place for more than 30 days.
- P. Signs placed on a piece of property without permission of its owners or agent.

## CHAPTER 11: SIGNS

- Q. Inflatable signs including inflated balloons having a diameter of greater than two (2) feet.
- R. Any sign whose sign face was initially constructed and designed to be placed and/or transported on wheels, regardless if said sign face is removed from its base and placed on or in the ground so as to otherwise classify said sign as a "freestanding" sign as herein defined.
- S. Other signs not expressly permitted in this Ordinance
- T. Signs of closed or re-located businesses must have the sign copy removed (sign made blank) within 60 days after said closing or re-location.

# CHAPTER 12: NONCONFORMITIES

## Section

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## **CHAPTER 12: NONCONFORMITIES**

### **Section 12.1 Purpose and Applicability**

The purpose of this Chapter is to regulate and limit the continued existence of uses and structures established prior to the effective date of this Ordinance (or any amendment subsequent thereto) that do not conform to this Ordinance. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this chapter. Many nonconformities may continue, but the provisions of this chapter are designed to curtail substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming properties in order to preserve the integrity of the area in which it is located and the intent of this Ordinance. Nonconforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in this Article.

### **Section 12.2 General Provisions for Nonconforming Situations**

#### **12.2.1 Extension or Enlargement of Nonconforming Situations**

Except as specifically provided for in this Section, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.

- A. A nonconforming use may be extended through any portion of a completed building that, when the use was made nonconforming by this Ordinance, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.
- B. A nonconforming use may not be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied, by that use when it became nonconforming.
- C. The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this Section occur.
- D. Physical alteration of nonconforming structures or structures containing a nonconforming use is unlawful if it results in:
  - An increase in the total amount of space devoted to a nonconforming use.
  - Greater nonconformity with respect to dimension restrictions such as yard requirements, height limitations, or density requirements.
  - The enclosure of previously unenclosed areas, even through those areas are or were used in connection with the nonconforming activity.
- E. Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation - i.e., work estimated to cost more than 10 percent but less than 60 percent of the taxed value of the structure to be renovated may be done provided that the work will not result in a violation of any other paragraphs of this subsection. In no case, however, shall work costing more than 60 percent of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.
- F. Provided, nothing herein shall prevent the maintenance, repair and extension of a single-family dwelling that is nonconforming as to use, provided done in conformance with the dimensional

requirements of the R-M Mixed Residential District, nor prevent the maintenance, repair, extension, or construction of a residential accessory building or swimming pool, provided done in conformance with the requirements of this Ordinance.

**12.2.2 Re-establishment of a Nonconforming Situation Prohibited**

- A. If a nonconforming use is abandoned for 180 days or more, the use shall not be allowed to re-establish. All new uses in said structure shall thereafter be conforming.
- B. Any nonconforming building or structure or any building or structure containing a nonconforming use for which major repair or reconstruction is proposed in any amount equal to 60 percent or more of the taxed value of the building or structure or which has been damaged by any cause to an extent equal to 60 percent or more of its taxed value shall only be repaired and/or reconstructed and used as a conforming structure and a conforming use.
- C. Nothing herein shall prevent the reconstruction of a single-family dwelling that is nonconforming as to use provided such reconstruction conforms to the dimensional requirements of the R-M Mixed Residential District.

**Section 12.3 Nonconforming Uses**

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- A. A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.
- B. A nonconforming use shall not be changed to another nonconforming use nor shall a nonconforming structure be replaced after it has been destroyed except upon approval by the Board of Adjustment. Such interpretation and finding by the Board of Adjustment shall follow the provisions set forth in Chapter 16.
- C. If a nonconforming use and a conforming use, or any combination of nonconforming uses exist on one lot, the use made of the property may be changed only to a conforming use.
- D. Conforming uses, except Adult Oriented Businesses, may be established or re-established in nonconforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated.

**Section 12.4 Nonconforming Structures**

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**12.4.1 Nonconforming Principal Structures**

- A. A nonconforming structure containing a use permitted in the zoning district in which it is located may continue only in accordance with the provisions of this section.
- B. Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.
- C. A nonconforming structure may not, under any circumstances, be enlarged or altered in a way which increases its nonconformity.



## CHAPTER 12: NONCONFORMITIES

- D. Should a nonconforming structure be moved for any distance on the lot upon which it is located, if possible, it shall be moved so as to make the structure conforming. Otherwise the structure, if moved shall be placed on the lot in as conforming a manner as possible.

### 12.4.2 Nonconforming Accessory Structures

- A. A nonconforming accessory use or accessory structure may be expanded only if the nonconforming features of that use or structure are not expanded so as to increase the degree of nonconformity.
- B. No nonconforming accessory use or accessory structure shall continue after the principal use or structure is terminated by abandonment, damage, or destruction unless such accessory use or accessory structure thereafter is made to conform to the standards for the zoning district in which it is located.

### Section 12.5 Nonconforming Lots

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A nonconforming lot of record in existence prior to the adoption of this Ordinance, that does not meet minimum area or width requirements may be developed for any of the uses permitted by these regulations in the zoning district in which it is located, provided that the use meets all applicable yard, setback requirements for the zoning district in which the lot is located.

### Section 12.6 Nonconforming Signs

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- A. Subject to the restrictions of this Section, nonconforming signs that were otherwise lawful on the effective date of this Ordinance may be continued.
- B. No person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming sign or causes a previously conforming sign to become nonconforming.
- C. A nonconforming sign may remain if only the sign face is replaced. The structure of a nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Ordinance. Once a nonconforming sign is removed from the premises or otherwise taken down or moved, said sign may only be replaced with a sign which is in conformance with the terms of this Ordinance.
- D. Minor repairs and maintenance of nonconforming signs necessary to keep a nonconforming sign in sound condition are permitted. If repair or maintenance of a nonconforming sign results in the removal of the sign frame structure for any length of time, the replaced sign frame structure and any copy placed on it shall be in conformance with this Ordinance.
- E. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all the provisions of this Ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this Section, a nonconforming sign shall be considered "destroyed" if it receives damage to an extent of more than 60 percent of the cost of replacing the sign copy.
- F. Notwithstanding other provisions contained in this Section, the message of a nonconforming sign may be changed so long as this does not create any new nonconformities.

- G. If a nonconforming sign which advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within 30 days after the use has ceased operation or the service or commodity has ceased being offered. If there is a change of use or name of business on a particular piece of property, and there were one (1) or more on-premise signs which advertised the business, any new signs placed for the new use or business name must meet all sign requirements for the underlying zoning district.
- H. If a nonconforming sign remains blank for a continuous period of 180 days, that sign shall be deemed abandoned and shall, within 30 days after such abandonment, be altered to comply with this Ordinance or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this Ordinance, a sign shall be deemed "blank" if:
- It advertises a business, service, commodity, accommodations, attraction, or other enterprise or activity that is no longer operating or being offered or conducted; or
  - The advertising message it displays becomes illegible in whole or substantial part; or
  - It does not contain an advertising message. (For such purposes, the terms "Sign For Rent", "Sign For Lease", "Sign For Sale", etc. shall not be deemed to be an advertising message except for billboards).

**Section 12.7 Nonconforming Landscaping and Buffering**

In accordance with Chapter 7 of this Ordinance, certain uses are required to provide screening and/or landscaping on-site.

- A. Except as herein provided, any expansion of an existing use which is deficient in landscaping and/or buffering or any change in principal use cannot occur without the required screening and/or landscaping having first been provided on-site. The Central Business (C-B) District is exempt from this requirement.
- B. Expansions to the parking area or loading areas which increase the total area more than 20 percent shall be required to comply with all applicable parking and loading area landscaping and screening.

**Section 12.8 Nonconforming Parking or Loading**

- A. On any lot in any zoning district except the Central-Business (C-B) district, which contains a use which does not comply with the off-street parking and loading regulations contained in Chapter 8 of this Ordinance, a certificate of occupancy shall not be issued for any expansion or any change of use which would result in a need to increase the number of off-street parking and/or loading spaces required (except as herein provided), until the requisite number of off-street parking spaces and all paving requirements have been met.
- B. A certificate of occupancy may be issued when there has been a change in a principal use and the number of off-street parking spaces required for the new use (per Chapter 8 of this Ordinance) is within ten (10) percent or ten (10) spaces, whichever is less, of the number of off-street parking spaces actually provided. Such relief may be granted on a one-time only basis per lot or planned

## CHAPTER 12: NONCONFORMITIES

development. In such instances where relief is provided, the additional parking spaces need not be paved (but shall have a graded gravel, crushed-stone or similar dust-reducing surface) if the parking lot prior to said expansion was not paved.

### **Section 12.9 Nonconforming Automobile Storage, Junk Yards, and Salvage Yards**

Nonconforming automobile storage, junk yards, and salvage yards shall provide a Type A opaque buffer in accordance with Chapter 7 no later than one (1) year after the date of notification by the Zoning Administrator.

### **Section 12.10 Nonconforming Manufactured Homes and Manufactured Home Parks**

- A. Nonconforming manufactured homes on individual lots may not be replaced except with a use that conforms with all the requirements of this Ordinance for the zoning district in which located.
- B. Nonconforming manufactured homes may be placed and replaced in nonconforming manufactured home parks so long as the manufactured home park retains its nonconforming status, meets the requirements of Section 4.18 and Section 12.10 (c) below, and the space was designed and arranged as a manufactured home space prior to the adoption of this Ordinance.
- C. Any nonconforming manufactured home park that is existing on the date of the adoption of this ordinance, or any amendment thereto, that fails to meet all of the requirements of this Ordinance, shall cease to operate and all manufactured homes and related structures in the manufactured home park shall be removed not later than five (5) years after the date that the manufactured home park owner is notified by the Zoning Administrator that the manufactured home park is nonconforming. Such notification shall be in writing by the Zoning Administrator and shall be by one of the following methods:
  - Certified or registered mail;
  - Personal service; or
  - If the name or whereabouts of the owner cannot, after due diligence be discovered, the notice shall be considered properly served if a copy thereof is posted in a prominent location on the property and the notice is published once in a newspaper having general circulation in the Town.
- D. The date the notice is mailed, served or posted and published, whichever is the effective notice, shall constitute the date of notification. Certification of notice by the Zoning Administrator shall be deemed conclusive evidence of notification in the absence of fraud. No other notice shall be required in this cessation process.
- E. Notwithstanding the cessation requirements for manufactured home parks as set forth above, a nonconforming manufactured home park may continue to operate provided the manufactured home park meets one of the following conditions:
  1. The manufactured home park may be reconstructed to meet all of the requirements of Section 3.6 and Section 4.18. The manufactured home park shall be in an R-MH zoning district and shall be subject to the issuance of a ~~Conditional~~ Special Use Permit by the Town Council following the ~~Conditional~~ Special Use Permit approval process set forth in Chapter 9. All reconstruction is to

be done without extension or enlargement of the nonconforming situation. This condition may be met at any time prior to the date of required cessation.

2. All nonconforming manufactured home parks will be given the option of subdividing the property into individual lots. To be eligible to qualify under this condition the manufactured home park must be located within an R-MH zoning district. Each individual lot must satisfy the lot size, lot width, setbacks, street access requirement, and all other requirements for subdivision within said zoning district. Each manufactured home must meet all requirements set forth in Section 4.17. Furthermore, no additional land may be used to meet these requirements. No additional nonconforming manufactured homes shall be brought onto the property nor shall any nonconforming manufactured home be replaced at any time. This option shall cease to be available upon the final date of cessation for manufactured home parks.
3. The manufactured home park may be reconstructed without regard to zoning classification, but shall be done without extension or enlargement of the nonconforming situation. This condition must be met no later than 18 months after the date of notification by the Zoning Administrator. If this condition is met, the manufactured home park will be allowed to continue as a nonconforming situation. If this condition is not met by that date, the manufactured home park must either be reconstructed to meet the requirement of Condition #1, above, or cease to operate and all manufactured homes and related structures must be removed by the cessation date. The owner of the manufactured home park submits a site plan and ~~Conditional~~ Special Use Permit application for review by the Town Council that meets the requirements for site plans as set forth in Chapter 10. The plan shall depict how the manufactured home park is to be reconstructed to meet the following minimum standards. Prior to receiving a ~~Conditional~~ Special Use Permit, the manufactured home park shall have been reconstructed to meet these minimum standards:
  - a. Minimum site area (in acres): 1.5
  - b. Minimum number of Manufactured home Spaces per park: 6
  - c. Maximum number of Manufactured home Spaces per acre: 8
  - d. Minimum area per Manufactured home Space
    - Single-wide: 3500 square feet
    - Multi-sectional: 4200 square feet
  - e. Minimum area per Manufactured home Space width
    - Single-wide: 38 linear feet
    - Multi-sectional: 50 linear feet
  - f. Maximum number of Manufactured homes per Mobile Home Space: 1
  - g. Minimum number of Parking Spaces per Mobile Home Space (located on each space): 2
  - h. Minimum area of landing/patio per Manufactured home Space (located on each space): 32 square feet
  - i. Minimum width of paved or graveled private street: NCDOT standards for two-way street; 12 feet for one-way street
  - j. Minimum percentage of Manufactured home Spaces with approved water supply and sewage disposal facilities: 100 percent
  - k. Minimum percentage Manufactured home Spaces with garbage collection/disposal services provided by owner/operator: 100 percent
  - l. Minimum separation between each unit: 20 linear feet
  - m. Identification Sign conforming to Chapter 11 required
  - n. Vehicle speed control devices required
  - o. Accessory buildings prohibited between manufactured home and street
  - p. Accessory buildings to be on same space as principal manufactured home

## CHAPTER 12: NONCONFORMITIES

- q. Skirting shall be of material acceptable for exterior construction that will not support combustion. Skirting material shall be durable and suitable for exterior exposures. Any wood framing used to support this skirting shall be approved moisture resistant treated wood. Skirting shall be continuous and unpierced except for ventilation. Skirting manufactured specifically for underpinning shall be installed in accordance with the manufacturer's specifications. Skirting shall be kept in good repair.

### Section 12.11 Nonconforming Adult Oriented Businesses

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- A. Any Adult Oriented Business that fails to comply with the use and locational requirements of this Ordinance but which was lawfully operating before the effective date of this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be nonconforming. Any such business which ceases active operation for a period of 30 days regardless of the purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.
- B. Any Adult Oriented Business lawfully operating as of the effective date of this Ordinance, but which subsequently fails to comply with the use and locational requirements of this Ordinance as the result of changes within the vicinity or amendment to this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be nonconforming. Any such business which ceases active operation for a period of 30 days regardless of purpose or reason shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.
- C. Any Adult Oriented Business that is rendered a nonconforming use as a result of (A) and (B) above shall either cease to operate or meet all of the requirements of this Ordinance for the use no later than five (5) years from the date that the Adult Oriented Business becomes a nonconforming use.

# CHAPTER 13: MAP AND TEXT AMENDMENTS

**Section**

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13.~~7~~.~~8~~ Resubmission of Request..... 13-~~6~~

**Commented [BH1]:** Protest petitions are no longer authorized by state statutes, and that section should be removed.

## CHAPTER 13: MAP AND TEXT AMENDMENTS

### Section 13.1 Purpose

The purpose of this chapter is to set forth procedures for amending the text of these regulations and the zoning classification of land as shown on the Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. Procedures for making amendments to the Unified Development Ordinance text or Zoning Map are also set forth.

### Section 13.2 Amendment Initiation

A. Any amendment may be initiated by the Town Council or Planning Board on its own resolution, by any owner of a legal or equitable interest in the property affected by the amendment, or by a local government agency of China Grove, or by any other person living or owning property within the zoning jurisdiction of China Grove in accordance with the procedures set forth herein.

B. For Conditional ~~Use-District~~ Rezoning, only ~~an~~the owner(s) of a legal or equitable interest in the property may initiate the amendment, ~~with consent required from all owners of the property to be included.~~

~~B.~~

**Commented [BH2]:** This reflects the current wording in 160D-703(b).

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### Section 13.3 Application Submittal

#### 13.3.1 Applications for All Amendments

An application form and fee shall be submitted by the applicant to the Zoning Administrator. The application shall include a description of the proposed change. The application form and fee shall be waived for any amendment request submitted by a China Grove official or agency acting on behalf of the Town of China Grove. Completed applications shall be forwarded by the Zoning Administrator to the Planning Board at their next regularly scheduled meeting.

#### 13.3.2 Text Amendments

For text amendments, the application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore.

#### 13.3.3 Map Amendments (Rezoning)

A. For all map amendments (rezonings), applications shall contain a statement regarding the consistency of the request with adopted Town plans and the surrounding area, ~~as well as a written statement of reasonableness when adopting or rejecting any petition for a zoning map amendment. The plan consistency statement and statement of reasonableness may be approved in a single statement.~~ ~~statement of reasonableness as specified in NCGS 160D-605(b).~~

**Commented [BH3]:** Consider including a reference back to the requirement earlier in the UDO that zoning amendments be consistent with adopted plans.

**Commented [BH4]:** It may be helpful to reference the need for a statement of reasonableness here as well as you've done in 13.5.3(C).

B. For Conditional ~~Zoning Use~~ District map amendments (rezonings), the application shall be accompanied by a ~~Conditional Use Permit request showing the use or uses proposed and any conditions being proposed by the applicant. The applicant shall also provide a statement of reasonableness regarding the request on the application. In addition to the application, the applicant shall submit a site-specific plan meeting the requirements of a Major Site Plan as specified in Chapter 10.~~

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**CHAPTER 13: MAP AND TEXT AMENDMENTS**



## CHAPTER 13: MAP AND TEXT AMENDMENTS

### Section 13.4 Text Amendment Process

#### 13.4.1 Planning Board Action

- A. The Planning Board shall have 30 days from the initial referral of the request by the Zoning Administrator to either recommend in favor of an amendment or in opposition to an amendment in writing by simple majority vote of those present and voting. The Planning Board shall include in their recommendation a statement of consistency. If the Planning Board should fail to act on any proposed amendment within 30 days after it is referred to the Board the request shall be forwarded to the Town Council without a recommendation.
- B. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies.

#### 13.4.2 Town Council Action

- A. Upon receipt of a recommendation from the Planning Board, the Town Council shall conduct a legislative public hearing. Notice of public hearing shall be given as required by NCGS ~~160A-364~~ [160D-601](#) once a week for two consecutive weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the public hearing date.
- B. The Town Council shall include with its decision a written statement regarding the consistency of the request with adopted Town plans and policies.
- C. Upon approval of the text amendment, the Zoning Administrator shall oversee the updating of this Ordinance to reflect the approved changes.

### Section 13.5 Standard Rezoning Process

#### 13.5.1 General Provisions

When considering a standard rezoning request neither the Planning Board nor the Town Council shall evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district, provided, however, such information may be presented and considered when on an application for a map amendment for a Conditional ~~Use~~ [Zoning](#) District as outlined below.

#### 13.5.2 Planning Board Action

- A. The Planning Board shall have up to 30 days from the date of referral by the Zoning Administrator to recommend approval, approval with conditions, or denial of the request to the Town Council.
- B. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.

#### 13.5.3 Town Council Action

- A. Upon receipt of a recommendation from the Planning Board, the Town Council shall conduct a legislative public hearing. Notice of the public hearing shall be given as follows:

## CHAPTER 13: MAP AND TEXT AMENDMENTS

1. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for Rezoning (map amendments) noted in (B2) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.
  2. A notice of the public hearing shall also be sent by through personal delivery or registered, certified, or delivery receipt mail by the Zoning Administrator or designee to the affected property and to all ~~contiguous-abutting~~ property owners. Properties are considered abutting even if separated by a street, railroad, or other transportation corridor. The notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in (A).
  3. For map amendments initiated by a third party, property owner(s) who are not signatories of the application for zoning map amendment must be notified through personal delivery or registered, certified, or delivery receipt mail. Such notice shall state the existing zoning classification and the classification requested by the third party and the date, time, and location of the public hearing. The notice will be written by the Zoning Administrator, yet the burden for making this actual notice is on the third party requesting the rezoning, the proof of which shall be provided to the Zoning Administrator prior to the public hearing. This requirement shall not apply if a map amendment is initiated by the Town.
  - ~~3.4.~~ Map amendments initiated by a third party may not decrease the development density of the land to be less than was allowed under its previous usage; or reduce the permitted uses of the land that are specified in the Section 3.14 Permitted Table of Uses to fewer uses than were previously allowed, without the consent of the all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government.
  - ~~4.5.~~ For Rezoning (map amendments), the Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.
- B. After the public hearing, the Town Council shall have up to 60 days to refer back to the Planning Board, approve, approve with conditions, or deny the request. Alternatively, the Town Council may suspend the review period and request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the request or deferral of its consideration.
- C. The Town Council shall include with its decision a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area. The Town Council shall also include a written statement of reasonableness when adopting or rejecting any petition for a zoning map amendment. The plan consistency statement and statement of reasonableness may be approved in a single statement.
- ~~C.D.~~ If a zoning map amendment is approved and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending the future land-use map in the approved future land-use plan.

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## CHAPTER 13: MAP AND TEXT AMENDMENTS

~~D.~~E. Upon approval of the map amendment, the Zoning Administrator shall oversee the updating of the Zoning Map to reflect the approved changes.

### Section 13.6 Conditional ~~Use District Rezoning~~ Zoning Process

#### 13.6.1 General Provisions

A. The Conditional ~~Use-Zoning District~~ (CUDZ) approval process is established to address those situations when a particular use may be acceptable but the general zoning district(s) that would allow that use would not be acceptable. Rezoning of property to any CUDZ 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 a tentative proposal that may be undertaken at some unknown time in the future. Such zones may be approved or changed only by the Town Council in accordance with the regulations contained herein.

~~A.~~  
B. The applicant initiating a CUDZ Rezoning shall provide at a minimum the drawings and information required for a Major Site Plan or Major Subdivision as outlined in Chapter 10.

C. When considering a petition for a rezoning to a Conditional ~~Use-Zoning~~ District, the Planning Board and the Town Council shall evaluate the petition based on specific proposal for the use or development of the affected property and the petitioner shall provide materials and descriptions of the proposed use and development.

~~D.~~ Any use permitted under this process must also, as a minimum, conform to the development regulations for the corresponding underlying general zoning district. Unless the Town Council approves conditions reducing dimensional standards.

~~E.~~ Proposals for rezoning to any Conditional Use District shall always be accompanied by a request for a Conditional Use Permit. Such proposals and requests shall be processed and considered a quasi-judicial manner.

~~F.~~ Any proposal for Conditional Use District rezoning and its accompanying request for a Conditional Use Permit shall be heard and considered simultaneously. If the Town Council should determine that the property involved in the proposal should be rezoned and the Conditional Use Permit issued, it shall adopt an Ordinance rezoning the property and authorizing the issuance of the Conditional Use Permit.

E. In approving a Conditional ~~Use-Zoning District~~ Rezoning, the Town Council may impose such additional ~~restrictions and requirements upon approval as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done~~ conditions and site-specific standards as needed to address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-501, or the impact reasonably expected to be generated by the development or use of the site.

~~G.~~ If all requirements and conditions are accepted by the applicant, the Town Council shall authorize the issuance of the associated Conditional Use Permit, otherwise the Permit shall be denied. These conditions must be agreed upon by all property owners within the Conditional Zoning District. Applicants and landowners must consent to approved conditions in writing. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, a local government may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of

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## CHAPTER 13: MAP AND TEXT AMENDMENTS

~~those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.~~

~~F.~~

~~H.G.~~ In order to secure Zoning Permit or Final Plat approval, the applicant shall follow through with the Administrative Approval process for Construction Drawings outlined in Chapter 9.

~~H.~~ Any request to materially change the conditions specified within a Conditional ~~Use~~Zoning District once it has been rezoned shall be subject to the entire Town Council Approval process.

~~J.~~ ~~The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions. If any person submits competent, material, and substantial evidence allegedly contrary to any of the facts or conditions, the burden of proof for overcoming such evidence shall rest with the applicant.~~

### 13.6.2 Planning Board Action

- A. The Planning Board shall have up to 30 days from the date of referral by the Zoning Administrator to recommend approval, approval with conditions, or denial of the request to the Town Council.
- B. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.
- C. The Planning Board shall also include with its recommendation a written statement regarding the reasonableness of the request.

### 13.6.3 Town Council Action

- A. Upon receipt of a recommendation from the Planning Board, the Town Council shall conduct a public hearing. ~~For Conditional Use Permits, Conditional Use District Rezoning, and Vested Rights requests, quasi-judicial public hearings shall be held.~~ Notice of the public hearing shall be given as follows:
  1. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for Rezoning (map amendments) noted in (B) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.
  2. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all contiguous property owners. The first class mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in (A).
  3. For Rezoning (map amendments), the Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.

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## CHAPTER 13: MAP AND TEXT AMENDMENTS

B. After the public hearing, the Town Council shall have up to 60 days to refer back to the Planning Board, approve, approve with conditions, or deny the request. Alternatively, the Town Council may suspend the review period and request additional information of the applicant, other governmental agencies, or interested/affected parties in order to aid in the review of the request or deferral of its consideration.

~~C. The Town Council shall issue a Conditional Use Permit for a Conditional Use District rezoning if it has evaluated an application and found each of the following findings in the affirmative:~~

- ~~1. That the Use requested is among those listed as an eligible Conditional Use in the District in which the subject property is located or is to be located.~~
- ~~2. That the Conditional Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed;~~
- ~~3. That the Conditional Use meets all required conditions and specifications; and,~~
- ~~4. That the location and character of the Conditional Use District if developed according to the site specific plan will be reasonable and consistent with the surrounding area and with adopted plans of the Town and its extraterritorial jurisdiction.~~

~~D.C.~~ Upon approval of the map amendment, the Zoning Administrator shall oversee the updating of the Zoning Map to reflect the approved changes.

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### 13.6.4 Effect of Approval and Expiration

A. If a petition for ~~a CUD-Conditional Zoning Rezoning and Conditional Use Permit are both~~ approved as provided for herein, 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 the Zoning Map. Subsequent development on the property(ies) in question shall be in accordance with the standards for the approved ~~CUD-CZ~~ district, ~~the Conditional Use Permit,~~ and any conditions attached to the approval. Except as herein provided for "minor ~~changes~~ modifications", changes to the approved petition or to the conditions attached to the approval shall be treated the same as an amendment to the Zoning Map and shall be processed in accordance with the Town Council approval process. Minor ~~changes~~ modifications in the detail of the approved application may be made with the approval of the Zoning Administrator subject to Section 9.12 Administrative Modifications. ~~The following criteria qualify as a "minor change":~~

- ~~• The proposed change(s) will not alter the basic relationship of the proposed development to adjacent property; and~~
- ~~• The proposed change(s) will not alter the uses permitted; and~~
- ~~• The proposed change(s) will not increase the height of any structure to the extent that additional usable floor space will be added; and~~
- ~~• The proposed change(s) will not increase the gross floor area of any non-residential use by the smaller of 10 percent or 10,000 square feet. Such limitations shall be cumulative and shall be based on the gross floor area of the conditional use permit as originally approved; and~~

## CHAPTER 13: MAP AND TEXT AMENDMENTS

- ~~The proposed change(s) will not result in an increase in the number of dwelling units constructed; and~~
- ~~The proposed change(s) will not decrease the off street parking ratio below the minimum number of parking spaces required by this Ordinance.~~

- B. It is intended that property be rezoned to a Conditional Use-Zoning District only in light of firm plans to develop the property. Therefore, after the date of approval of the Conditional Use-Zoning District, if a building permit has not been secured or final plat recorded at the end of two (2) years following the date of the approval of the Conditional Use-Zoning District, the Zoning Administrator shall notify the applicant of such a finding. The Zoning Administrator shall then have the Planning Board to make a recommendation to the Town Council regarding the rescission of the Conditional Use-Zoning District and the zoning of the property revert to the zoning district in effect prior to the initial approval.

### Section 13.7 Protest Petition

- A. ~~A valid protest petition against a map amendment request shall be signed by the owners of 20 percent or more of the subject area or five (5) percent of the surrounding property extending 100 feet from the subject area. Where the subject area abuts a street right of way, the 100 feet shall be measured starting from the opposite side of the street right of way unless the right of way is greater than 100 feet.~~
- B. ~~A protest petition shall not be valid unless it is in the form of a written petition bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least two (2) normal work days, excluding Saturday, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. The protest petition must be valid at the time that the vote is taken and shall meet the requirements of NCGS 160A-385 & 386.160D-603.~~
- C. ~~If a valid protest petition is filed, then a map amendment shall not become effective except by favorable vote of three fourths (3/4) of all the members of the Town Council.~~
- D. ~~Protest petitions shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise.~~

### Section 13.8 Resubmission of Request

- A. If the Town Council has denied an application for the rezoning of a piece of property or has approved a rezoning to a general zoning district which is more restrictive than that which was originally requested, the Planning Board shall not review any applications for the same changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous denial except as provided below.
- B. The Zoning Administrator may allow re-submission of such petition within said one (1) year period if

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**Commented [BH10]:** Please note that 160D-703(b) reads: "The zoning regulation may provide that defined minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively."

**Commented [BH11]:** Protest petitions are no longer authorized in the state statutes.

## CHAPTER 13: MAP AND TEXT AMENDMENTS

he determines that, since the date of action on the prior petition:

- There has been a significant change in the zoning district classification of an adjacent piece of property; or
- The Town Council has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed;
- Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification; or
- There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.

# CHAPTER 14: ZONING ADMINISTRATION

**Section**

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## CHAPTER 14: ZONING ADMINISTRATION

### Section 14.1 Zoning Administrator

The various provisions of this Unified Development Ordinance shall be administered by the Zoning Administrator and designated Planning Department. The Zoning Administrator may appoint any person in this Department to assume his duties. It shall be the duty of the Zoning Administrator to carry out and enforce this Ordinance, remedy violations of this Ordinance, and issue permits in compliance with this Ordinance.

### Section 14.2 Zoning Permits

#### 14.2.1 Zoning Permit Required

- A. No land shall be used or occupied and no building hereafter structurally altered, erected, or moved, shall be used, or its use changed, until a Zoning Permit is issued by the Zoning Administrator stating that the building and/or the proposed use complies with the provisions of this Ordinance. No Building Permit shall be issued and no building shall be occupied until that Permit is issued.
- B. The Zoning Administrator shall collect such fees for the issuance of Zoning Permits as are authorized by the fee schedule as adopted by the Town Council.
- C. The issuance of a valid Zoning Permit shall confer with it the right to undertake and complete the development and/or use of property under the terms and conditions of such Permit provided that such action as authorized by the Permit is commenced within ~~180 days~~ 12 months of issuance and provided that all other permits are obtained. Otherwise the Permit shall be void.

#### 14.2.2 Application Procedures

A. Applications for zoning permits may be made by the landowner, a lessee or person holding an option or contract to purchase or lease the land, or an authorized agent of the landowner.

~~A.~~B. Each application for a Zoning Permit shall be accompanied by a plan drawn to scale including the following information:

- The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
- The location of the said lot with respect to adjacent rights-of-way;
- The shape, dimensions, and location of all buildings, existing and proposed, on the said lot;
- The nature of the proposed use of the building or land, including the extent and location of the use, on the said lot;
- The location and dimensions of parking and driveways; and
- Any other information which the Zoning Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.

~~B.~~C. Those developments that require Planning Board or Town Council approval shall be subject to the approval process and submittal requirements of Chapters 9 and 10 prior the issuance of a Zoning Permit.

#### 14.2.3 Conditions of Approval

Zoning permits issued on the basis of an application and plan approved by the Zoning Administrator authorize only the use, arrangement, and construction set forth in such approved applications and plans. Use, arrangement, or construction which differs from that authorized shall be deemed a violation of this Ordinance and shall be punishable as indicated under Section 14.4 of this Ordinance.

## CHAPTER 14: ZONING ADMINISTRATION

### 14.2.4 Changes

After a zoning permit has been issued, no deviations from the terms of the application or approved permit shall be made until written approval of proposed changes or deviations has been obtained. The Zoning Administrator shall follow the same development review and approval process required for issuance of development approval in the review and approval of any major modification of that approval. Minor modification may be approved as allowed in Section 9.12.

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### 14.2.54 Right of Appeal

If the Zoning Permit is denied, the applicant may appeal the action of the Zoning Administrator to the Board of Adjustment as provided for herein. Such appeal shall be made within 30 days of such permit denial.

### 14.2.56 Expiration of Zoning Permit

Any zoning permit issued in accordance with this Ordinance will lapse and become invalid unless the work for which it was issued is started within ~~six~~one (6) months-year of the date of issue, or if the work authorized by it is suspended or abandoned for a period of at least one (1) year.

Commented [BH2]: Consider including this at the beginning of Chapter 9 and including a cross reference here, or vice versa.

### 14.2.67 Records Maintained

The Zoning Administrator shall maintain a record of all zoning permits on file at his office, and copies shall be made available on request to interested parties.

### 14.2.78 Zoning Permit Not Required

Notwithstanding any other provisions of this Ordinance, no zoning permit is necessary for the following uses:

- Street construction or repair
- 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
- Specific signs exempted in Chapter 11 of this Ordinance
- Mailboxes, newspaper boxes, walls, fences, birdhouses, flag poles, pump covers, and doghouses
- Interior alterations and renovations which do not alter the footprint, elevation, or height of an otherwise conforming use and/or structure

## Section 14.3 Certificate of Occupancy

### 14.3.1 Final Zoning Inspection

The Zoning Administrator shall conduct a final zoning inspection of any new or expanded structure (except single-family residential uses) prior to the issuance of a certificate of occupancy by the Rowan County Building Inspector. During the final zoning inspection, the Zoning Administrator shall ensure that all minimum requirements and conditions of approval have been met and that the project matches the approved site plan.

### 14.3.2 Certificate of Occupancy Required

No structure hereafter erected, moved, structurally altered or changed in use shall be used or occupied until a certificate of occupancy has been issued by the Rowan County Building Inspector. Any certificate of occupancy issued shall state that the structure or portion of a structure is in compliance with the

## CHAPTER 14: ZONING ADMINISTRATION

information stated on the zoning permit and with all applicable provisions of this Ordinance. A record of all certificates of occupancy shall be kept on file in the office of the Rowan County Building Inspector and copies shall be furnished, on request, to all interested parties. If a certificate of occupancy is denied, the reasons for such denial shall be specified in writing and provided to the applicant.

### 14.3.3 Temporary Certificate of Occupancy

A temporary certificate of occupancy shall not be issued for any structure or development that has not yet met all minimum requirements and conditions of approval. A temporary certificate of occupancy may only be issued for projects that have landscaping requirements and the weather is not suitable for the installation of such landscaping. A temporary certificate of occupancy shall expire after a period of 3 months. A final certificate of occupancy shall not be issued until such landscaping is installed.

### Section 14.4 Notice of Violation and Penalties

In case any structure or use is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this Ordinance as herein provided, an action for injunction or other appropriate action to prevent such violation may be instituted by the Zoning Administrator, the Rowan County Building Inspector, any other appropriate Town authority; or any person who may be damaged by such violation.

#### 14.4.1 Notice of Violation

When the Zoning Administrator determines work or activity has been undertaken in violation of this ordinance a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the involved property. The notice of violation may be delivered by personal deliver, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or person undertaking the work or activity. The notice of violation may be posted on the property.

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#### 14.4.2 Criminal

Any person, firm, or corporation convicted of violating the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined an amount not to exceed 500 dollars and/or imprisoned for a period not to exceed 30 days. Each day of violation shall be considered a separate offense, provided that the violation of this Ordinance is not corrected within 10 days of receipt of the warning citation as provided in Subsection G herein.

#### 14.4.3 Equitable Remedy

The Zoning Administrator may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this ordinance. It is not a defense to the Zoning Administrator's application for equitable relief that there are other remedies provided under general law or this Ordinance.

#### 14.4.4 Injunction

Enforcement of the provisions of this ordinance may also be achieved by injunction. When a violation occurs, the Zoning Administrator may, either before or after the institution of other authorized action, apply to the appropriate division of the General Court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

#### 14.4.5 Order of Abatement

In addition to an injunction, the Zoning Administrator may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:

## CHAPTER 14: ZONING ADMINISTRATION

- Buildings or other structures on the property be closed, demolished, or removed;
- Fixtures, furniture or other moveable property be moved or removed entirely;
- Improvements, alterations, modifications or repairs be made; or
- Any other action be taken that is necessary to bring the property into compliance with this Ordinance.

### 14.4.56 Execution of Court Decisions

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. The Zoning Administrator may execute the order of abatement and will have a lien on the property in the nature of a mechanic's and material man's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond must be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned of the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

### 14.4.67 Stop Work Order Issuance and Revocation of Permits

- A. Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this Ordinance, the Zoning Administrator may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work. [A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved. Violation of a stop work order shall constitute a Class 1 misdemeanor.](#)
- B. The Zoning Administrator may revoke any permit by written notification to the permit holder when violations of this Ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this Ordinance, or a permit has been mistakenly issued in violation of this Ordinance. [The Zoning Administrator shall follow the same development review and approval process required for the issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Revocation of development approval by the Zoning Administrator may be appealed to the Board of Adjustment.](#)

### 14.4.78 Civil Penalty

- A. In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, and pursuant to NCGS ~~+60A-175~~160D-404(c), the regulations and standards in this Ordinance may be enforced through the issuance of civil penalties by the Zoning Administrator.
- B. Subsequent citations for the same violation may be issued by the Zoning Administrator if the offender does not pay the citation (except as otherwise provided in a Warning Situation) after it has been issued unless the offender has sought an appeal to the actions of the Zoning Administrator through the Planning Board. Once the 10 day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Zoning Administrator.

**Commented [BH3]:** Consider cutting the reference to 160D-106. This section reads as follows: "Refund of illegal fees. If a local government is found to have illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the local government shall return the tax, fee, or monetary contribution plus interest of six percent (6%) per annum to the person who made the payment or as directed by a court if the person making the payment is no longer in existence."

**CHAPTER 14: ZONING ADMINISTRATION**

C. The following penalties are hereby established:

<b>Citation</b>	<b>Civil Penalty</b>
Warning	Correct Violation within 10 days
First	\$50.00
Second	\$100.00
Third and Subsequent	\$200.00

D. If the offender fails to pay the civil penalties within five (5) days after having been cited, the Town may recover the penalties in a civil action in the nature of debt.

# CHAPTER 15: PLANNING BOARD

**Section**

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## CHAPTER 15: PLANNING BOARD

### Section 15.1 Authority and Duties

The Planning Board shall have the following duties and responsibilities:

- A. To review and approve or deny requests for Major Subdivision Plans and Major Site Plans.
- B. To review, hold “courtesy hearings”, and make recommendations for ~~Conditional~~ Special Use Permits, Vested Rights Plans, Text Amendments, Map Amendments (Standard and Conditional ~~Use Rez~~Zonings).
- C. To render opinions and make recommendations on all issues related to the Unified Development Ordinance, Zoning Map, Comprehensive Plan, and other land use plans which may be adopted from time to time and which require approval by the Town Council.
- ~~C~~.D. Members of the Planning Board shall not vote on any advisory or legislative decision regarding development regulation adopted pursuant this ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associative relationship.

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### Section 15.2 Membership

The Planning Board shall consist of a total of nine (9) members. Extraterritorial planning and development regulation areas shall be represented proportionally ~~Representation shall be provided by appointing based on population. Representation shall be provided by appointing at least two one (21) residents of the extraterritorial jurisdiction.~~ The total membership of the Planning Board shall include a diverse geographical representation overall. Representatives from within the Town limits shall be appointed by the China Grove Town Council. Representatives from the ETJ area shall be appointed by the Rowan County Board of Commissioners. All members shall serve for overlapping terms of three (3) years.

**Commented [BH1]:** Note provision in 160D-307 to revisit ETJ representation at least every decennial census. “Extraterritorial representation on boards. (a) Proportional Representation. - When a city elects to exercise extraterritorial powers under this Chapter, it shall provide a means of proportional representation based on population for residents of the extraterritorial area to be regulated. The population estimates for this calculation shall be updated no less frequently than after each decennial census. Representation shall be provided by appointing at least one resident of the entire extraterritorial planning and development regulation area to the planning board, board of adjustment, appearance commission, and the historic preservation commission if there are historic districts or designated landmarks in the extraterritorial area.”

### Section 15.3 Meetings, Hearings, and Procedures

- 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 rules of procedure adopted by the Planning Board. Such rules of procedures may be amended by the Planning Board membership.
- B. Any rules of procedure adopted by the Planning Board shall be kept on file at the offices of the Zoning Administrator and shall be made available to the public at any meeting or hearing of the Planning Board.

### Section 15.4 Staff

The Zoning Administrator or his/her designee shall serve as staff to the Planning Board and shall provide technical assistance to the Planning Board as requested.

**CHAPTER 15: PLANNING BOARD**



# CHAPTER 16: BOARD OF ADJUSTMENT

**Section**

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## CHAPTER 16: BOARD OF ADJUSTMENT

### Section 16.1 Authority and Duties

The Board of Adjustment shall have the following duties and responsibilities:

- A. To hear and decide appeals from any ruling, decision, determination, or interpretation made by the Zoning Administrator pursuant to or regarding these regulations.
- B. To hear and decide petitions for variances from the requirements of the regulations of this ordinance.
- C. To change the use of, or expand certain nonconformities in accordance with Section 12.3.
- D. To serve as the Watershed Review Board and rule on all petitions in accordance with the procedures set forth in Section 3.16.

### Section 16.2 Membership

#### 16.2.1 Regular Members

Board shall consist of seven (7) members; five (5) members of the Board shall be appointed by the Town Council and shall be residents of the Town of China Grove, and two (2) members shall be appointed by the Board of County Commissioners of Rowan County, all for overlapping terms of three (3) years. Initial appointment of the Town members shall be as follows: two (2) members for a term of three (3) years, two (2) members for a term of two (2) years, and one (1) member for a term of one (1) year. Initial appointment of the County members shall be as follows: One (1) member for a term of three (3) years, and one (1) member for a term of one (1) year. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. The two (2) members appointed by the Board of County Commissioners as representatives of the extraterritorial area outside the Town of China Grove shall be residents of such area and citizens of Rowan County. Such members shall have equal rights, privileges, and duties with other members of the Board in all matters. ~~The concurring vote of six (6) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with enforcement of this ordinance or to decide in favor of the applicant any matter upon which it is required to pass under the Zoning Ordinance or to affect any variation of such ordinance.~~

#### 16.2.2 Alternate Members

In addition to the regular members, the Town Council may appoint one (1) alternate member, who shall be a resident of the Town of China Grove and the Board of Commissioners of Rowan County may appoint one (1) alternate member, who shall be a resident of the extraterritorial area, each for three (3) year terms. The Chairman of the Board of Adjustment, or in his absence the acting chairman, may appoint the alternates to sit for any regular members in case of the absence or disqualification of any regular members. In such case the alternate members shall have the same powers and duties of the regular members they are replacing during such time. In no case, however, shall more than seven (7) regular members or combination of regular members and the alternate members be empowered to vote on any matter that comes before the Board.

**Commented [BH1]:** Note provision in 160D-307 to revisit ETJ representation at least every decennial census. "Extraterritorial representation on boards. (a) Proportional Representation. - When a city elects to exercise extraterritorial powers under this Chapter, it shall provide a means of proportional representation based on population for residents of the extraterritorial area to be regulated. The population estimates for this calculation shall be updated no less frequently than after each decennial census. Representation shall be provided by appointing at least one resident of the entire extraterritorial planning and development regulation area to the planning board, board of adjustment, appearance commission, and the historic preservation commission if there are historic districts or designated landmarks in the extraterritorial area."

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**Commented [BH2]:** Consider cutting this language since voting is addressed later in the chapter, and because of the voting specifications in 160D-406(i), which specify that a majority vote shall decide administrative appeals and other decisions other than variances. This section reads "(i) Voting. - The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members."

## CHAPTER 16: BOARD OF ADJUSTMENT

### Section 16.3 Meetings, Hearings, and Procedures

#### 16.3.1 General Provisions

- A. The Board of Adjustment shall hold a public hearing on an application no later than 45 days after a complete application has been filed with the Zoning Administrator. The Board of Adjustment shall decide on the matter which was presented at the public hearing within 45 days of the close of the public hearing.
- B. 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 rules of procedure adopted by the Board of Adjustment. Such rules of procedures may be amended by the Board of Adjustment membership.
- C. Any rules of procedure adopted by the Board of Adjustment shall be kept on file at the offices of the Zoning Administrator and shall be made available to the public at any meeting or hearing of the Board of Adjustment.
- D. The Board of Adjustment shall elect a chair and a vice-chair from its members who shall serve for one (1) year or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be municipal officer, an employee of the Town, or a member of the Board of Adjustment. The Board shall adopt rules and by-laws in accordance with the provisions of this ordinance and of NCGS ~~Article 19~~, Chapter 160A ~~D-302~~. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine.
- ~~E.~~ The chair, or in his absence the vice-chair, or clerk to the Board, are authorized to administer oaths to witnesses in any matter coming before the board. The Board of Adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. ~~160A-393(d)~~ 160D-1-2-1402 may make a written request to the chair explaining why it is necessary for certain witnesses of evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection the board of adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all parties. All meetings of the Board shall be open to the public. Conflicts of interest shall be disclosed as per NCGS ~~160A-388~~ 160D-1-9d109-302.403.

Commented [BH3]: The conflict of interest language is all in 160D-109.

#### 16.3.2 Notice of Public Hearings

The Town of China Grove shall give notice of all public hearings for Board of Adjustment proceedings. Said notice shall become a part of the record of the proceedings of the Board of Adjustment. Notice shall be given in the following manner:

- A. Notice shall be sent by the Town by first class mail to the applicant, property owner, and the owners of all contiguous properties at least 10 days prior to the public hearing. Additionally, for Watershed Variances the Town shall also send notice of the hearing plus a description of the variance request by first class mail to the Clerk of all municipal and county governments having jurisdiction within the same watershed and to any entity using the water supply from that watershed for consumption purposes at least ten 10 days but no more than 25 days prior to the public hearing. The notice shall indicate the nature of the public hearing and the date, time and place at which it is to occur.
- B. Within the same time period the town shall conspicuously post a notice of hearing sign.

## CHAPTER 16: BOARD OF ADJUSTMENT

### 16.3.3 Decisions

- A. The concurrent vote of four-fifths (4/5) of the voting members of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in certiorati. A vacant or disqualified seat shall not be used in determining the vote. This provision does not include absences of members. In all matters coming before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application.
- B. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision will be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair, or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as ordinance specifies. The decision of the board shall be sent by personal delivery, electronic mail, or first-class mail to the applicant, property owner, or anyone who has submitted a request for copy prior to the date the decision becomes effective.
- C. Upon the denial of an original application, or upon the denial of an application from which a rehearing has been conducted, a similar application may not be filed for a period of one (1) year after the date of denial of the original application.

### Section 16.4 Staff

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The Zoning Administrator or his/her designee shall serve as staff to the Board of Adjustment and shall provide technical assistance to the Board of Adjustment as requested.

### Section 16.5 Applications

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Before a petition for an appeal, variance, or change or replacement of nonconformity, shall be heard by the Board of Adjustment, an application shall be submitted to the Zoning Administrator along with a fee in accordance with fee schedule established by the Town Council. Said fee shall be waived for any petition initiated by the Zoning Administrator or other officials of China Grove who initiate a request on behalf of China Grove. For variance requests, the application shall be accompanied by a map clearly identifying the subject property, all contiguous pieces of properties. In addition, a list of names and addresses of the owners of said properties, from the most recent official tax records, shall be provided by the applicant.

### Section 16.6 Appeals

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#### 16.6.1 Appeal Initiation

An appeal of any decision made by administrative official charged with enforcement of zoning or unified development ordinance that regulates land use or development may be made by any person who has standing under GS ~~160A-393(d)~~ [160D-405](#) or the Town to the board of adjustment. An appeal to the board of adjustment shall be filed with the town clerk within 30 days. Appeals must state grounds for appeal. The Zoning Administrator shall transmit to the Board all papers constituting the record upon which the action

## CHAPTER 16: BOARD OF ADJUSTMENT

appealed from was taken. The zoning administrator will also provide a copy of the record to the appellant and to the owner of the property if the appellant is not the property owner.

The official who made the decision shall give written notice to the owner of the property that is the subject of the [determination](#) and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.

Commented [BH4]: Missing word.

The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. 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.

It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words “Zoning Decision” or “Subdivision Decision” in letters at least six inches and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.

### 16.6.2 Stay of Proceedings

An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.

The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made.

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

### 16.6.3 Public Hearing

The Board of Adjustment may, after having held a quasi-judicial public hearing on the matter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed. On all appeals, applications and other matters brought before the Board of Adjustment, said Board shall inform in writing all the parties involved of its decisions and the reasons therefore.

## CHAPTER 16: BOARD OF ADJUSTMENT

### Section 16.7 Variances

#### 16.7.1 Intent

When unnecessary hardships would result from carrying out the strict letter of this ordinance, the Board of Adjustment shall vary any of the provisions of this ordinance relating to the construction or alteration of buildings or structures or the use of land.

#### 16.7.2 Public Hearing

- A. No variance shall be granted until a quasi-judicial public hearing is held by the Board of Adjustment. Due notice of the public hearing shall be given to all affected parties pursuant to section 16.3.2 of this ordinance.
- B. When unnecessary hardship would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:
1. Unnecessary hardship would result from the strict application of the ordinance. 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. Hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. [A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.](#)
  3. The hardship did not result from action taken by the applicant or the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
  4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
- C. No change in permitted use may be authorized by variance. Appropriate conditions may be imposed by the Board of Adjustment on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

**Commented [BH5]:** Note the provision in 160D-705(d) that "A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability." Consider adding this language to this item.

#### 16.7.3 Watershed Variances

The Board of Adjustment may authorize variances from the specific requirements of the Watershed Overlay Districts in the same manner and subject to the same procedures and requirements of this ordinance for authorizing other variances, provided that:

- A. A notice be mailed by first class mail to all other local governments having watershed regulation jurisdiction within the particular watershed regulation jurisdiction within the particular watershed where the variance is requested and to each entity using that water supply for consumption;
- B. If the variance request is for a major variance as defined herein the following procedure shall apply. If the Board of Adjustment decides in favor of granting the major variance, the Board shall then prepare a preliminary record of the hearing and submit it to the North Carolina Environmental Management Commission (EMC) for review and action. If the Board does not decide in favor of

granting the major variance such unfavorable action shall constitute denial;

## CHAPTER 16: BOARD OF ADJUSTMENT

- C. In the event of a favorable action by the Board on a major variance, the Board shall cause the record of their hearing to be promptly submitted to the EMC. The record of the hearing shall include but not be limited to:
1. The variance application;
  2. The hearing notices;
  3. The evidence presented;
  4. Motions, offers of proof, objections to evidence and rulings on them;
  5. Findings and exception; and
  6. The action of the Board including any conditions proposed.
- D. If the EMC approves the major variance or approves with conditions or stipulations added, the EMC shall prepare a decision which authorizes the Board of Adjustment to issue a final decision which would include any conditions or stipulations added by the EMC. If the EMC denies the major variance, then the EMC shall prepare a decision and transmit it to the Board of Adjustment. The Board shall then prepare a final decision denying the major variance.
- E. The Board of Adjustment may only grant a Variance, having first held a public hearing on the matter and having made the determinations described in Section 16.7.2B of this ordinance.
- F. The Board of Adjustment, in approving all Variances, may prescribe appropriate conditions provided they are reasonably related to the variance. Violation of such conditions and safeguards, when made a part of the terms under which a Variance is approved, shall be deemed a violation of this ordinance and shall be punishable as prescribed in Chapter 14 of this ordinance.
- G. Unless otherwise authorized by the Board of Adjustment and included in its decision to approve a Variance, any order of the Board of Adjustment in approving a variance shall expire, if a building permit, or certificate of occupancy (for a use for which a building permit is not required), has not been obtained within one (1) year from the date of its decision.

### 16.7.4 Floodplain Variance Procedures

- A. When unnecessary hardships would result from carrying out the strict letter of this ordinance, the Board of Adjustment shall vary any of the provisions of this ordinance relating to the construction or alteration of buildings or structures or the use of land.
- B. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- C. Floodplain variances may be issued for:
- 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; or
  - Functionally dependent facilities if determined to meet the definition as stated in Appendix A of this ordinance, provided provisions of 16.7.4.I have been satisfied, and such facilities are



## CHAPTER 16: BOARD OF ADJUSTMENT

protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

- Any other type of development, provided it meets the requirements of this subsection.

D. In passing upon floodplain variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in this section, and:

- The danger that materials may be swept onto other lands to the injury of others;
- The danger to life and property due to flooding or erosion damage;
- The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- The importance of the services provided by the proposed facility to the community;
- The necessity to the facility of a waterfront location as defined in Appendix A of this ordinance as a functionally dependent facility, where applicable;
- The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- The compatibility of the proposed use with existing and anticipated development;
- The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- The safety of access to the property in times of flood for ordinary and emergency vehicles;
- The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

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

F. Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of floodplain variances as it deems necessary to further the purposes and objectives of this ordinance.

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

## CHAPTER 16: BOARD OF ADJUSTMENT

H. The Floodplain Administrator shall maintain the records of all appeal actions and report any floodplain variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

I. Conditions for Variances:

1. Unnecessary hardship would result from the strict application of the ordinance. 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. 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 action taken by the applicant or the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Supplemental Conditions for Floodplain Variances:

- Variances shall not be issued when the floodplain variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- Variances shall not be issued within any designated floodway or non-encroachment area if the floodplain variance would result in any increase in flood levels during base flood discharge.
- Variances shall only be issued prior to development permit approval.
- Variances shall only be issued upon a determination that the granting of a floodplain variance will not result in the increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

J. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

- The use serves a critical need in the community.

No feasible location exists for the use outside the Special Flood Hazard Area.

- The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
- The use complies with all other applicable Federal, State and local laws.
- The Town of China Grove has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a floodplain variance at least thirty (30) calendar days prior to granting the floodplain variance.

## CHAPTER 16: BOARD OF ADJUSTMENT

### **Section 16.8 Nonconformities**

- A. A nonconforming use shall not be changed to another nonconforming use nor shall a nonconforming structure be replaced after it has been destroyed except upon approval by the Board of Adjustment.
- B. The Board of Adjustment may only grant a change in a nonconforming use or replacement of a nonconforming structure which has been destroyed after having first held a public hearing and having determined that:
- Said change or replacement will be more suitable and appropriate for the lot(s) on which it is located than the existing situation, and
  - That the proposed change will have a less harmful effect than the existing situation on the properties surrounding the lot(s) in question, and
  - That the decision to grant the change will be in harmony with the general purpose and intent of this ordinance and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare.
- C. The Board of Adjustment, in granting said changes, may prescribe appropriate conditions and safeguards in conformity with this ordinance in order to conform with (B) above. Violation of such conditions and safeguards when made a part of the terms upon which the change was granted, shall be deemed a violation of this ordinance and shall be punishable as prescribed in Chapter 14 of this ordinance.

### **Section 16.9 Rehearings and Appeals from the Board of Adjustment**

- A. An 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 the Board of Adjustment's decision. In addition, specific information to enable the Board of Adjustment to determine whether or not there has been a substantial change in facts, evidence, or conditions in the case, shall be presented in writing or graphically. A rehearing shall be denied by the Board of Adjustment, if, in its judgment, such change in facts, evidence or conditions has not been proven. A public hearing shall not be required to be held by the Board of Adjustment to consider holding such a rehearing. Approval of said consideration shall, however, require an affirmative vote of at least four (4) voting members. In the event that the Board of Adjustment finds that a rehearing is warranted, it shall thereupon proceed as in the original hearing except that the application fee shall be waived.
- B. Every quasi-judicial decision shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari pursuant to G.S. ~~160A-393~~ [160D-406\(k\)](#). A petition for review shall be duly verified and filed with the Clerk of Superior Court by the later of 30 days after the decision is effective, or after a written copy thereof is given in accordance with Section 16.3.3. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

# APPENDIX A: DEFINITIONS

**Section**

A.1 Purpose..... A-2

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## **APPENDIX A: DEFINITIONS**

### **Section A.1 Purpose**

For the purpose of interpreting this Ordinance, certain words, concepts, and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their everyday meaning as determined by their dictionary definition.

### **Section A.2 Interpretation**

- 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.
- C. Any word denoting gender includes the female and the male.
- D. The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
- E. The word "lot" includes the word "plot" or "parcel" or "tract".
- F. The word "shall" is always mandatory and not merely directory.
- G. The word "structure" shall include the word "building."
- H. The term "street" shall include the word "road".
- I. The term "Zoning Map," shall mean the Official Zoning Map of China Grove, North Carolina.
- J. The term "Town Council" shall mean the "Town Council of the Town of China Grove, North Carolina."
- K. The term "Planning Board" shall mean the "Planning Board of the Town of China Grove, North Carolina."
- L. The term "Zoning Administrator" shall mean the "Zoning Administrator of the Town of China Grove, North Carolina."
- M. The terms "Planning Department" and "Planning Staff" shall mean the "Planning Department of the Town of China Grove, North Carolina."
- N. The terms "Ordinance", "Code", and "Unified Development Ordinance" shall be synonymous and refer to the "Town of China Grove Unified Development Ordinance."

## APPENDIX A: DEFINITIONS

### Section A.3 Definitions

#### ***Abandonment***

A use shall be deemed to be abandoned when:

- The use is discontinued (other than in association with the settlement of an estate or for any use which is seasonal in nature); or
- The premises are devoted to another use; or
- When the characteristic equipment and furnishings of a non-conforming nonresidential use have been removed from the premises and have not been replaced by the same or similar equipment within 30 days; or
- 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 for lease.

#### ***Abutting***

Having a common boundary, even if separated by a street, railroad, or other transportation corridor.

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#### ***Accessory Building (Accessory Structure)***

A structure that is 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. Accessory structures include but are not limited to detached garages, storage buildings, pools and pool houses, piers and other water related 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.

#### ***Accessory Use (Ancillary Use)***

A use customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure.

#### ***Addition***

An extension or increase in the footprint or floor area of building or structure.

#### ***Adjacent***

Having common property boundaries or lot lines which are not separated by a street or alley or body of water.

#### ***Adult Establishment***

Any place defined as an "Adult Establishment" or "Sexually Oriented Establishment" as defined by NCGS 14-202.10 as such statute may be amended from time to time, including Adult Cabarets, except that the definition of "Massage Business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult Establishments specifically include any Massage Business where "massages" are rendered by any person exhibiting "Specified Anatomical Areas" and/or where "massages" are performed on any client's "Specified Anatomical Areas". "Specified Anatomical Areas" are those defined by NCGS 14-202.10 as such statute may be amended from time to time. Adult establishment may consist of, include, or have the characteristics of any or all of the following:

- Adult or Sexually Oriented Bookstore Sales and Distribution
- Adult or Sexually Oriented Paraphernalia Sales and Distribution
- Adult or Sexually Oriented Cabaret
- Adult or Sexually Oriented Mini Motion Picture Theater

## APPENDIX A: DEFINITIONS

- Adult or Sexually Oriented Motion Picture Theater

### *Agricultural Use*

The commercial production, keeping or maintenance, of plants and animals useful to man, 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 of 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. Uses which shall not be deemed as "agricultural uses" include (i) zoos, (ii) kennels, and (iii) riding stables and academics.

### *Alley*

A public or private way which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

### *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.

### *Amendment, Text*

A change to any text of the China Grove Unified Development Ordinance.

### *Amendment, Zoning Map*

A change of the zoning designation of a property or properties on the China Grove Zoning Map.

### *Amusement Arcade*

A commercial facility providing recreational activities that typically include coin-operated amusement machines such as pinball machines, electronic video games and skeetball machines. A facility shall be deemed an amusement arcade if it has eight (8) or more of such machines.

### ~~*Animal Services*~~

~~A public or private facility for medical or surgical treatment, grooming, breeding, selling, or boarding of animals. Unless outdoor kennels are specifically allowed, all facilities associated with animal services shall be located indoors.~~

### *Apartment*

See *Multi-Family*.

### *Appeal*

A request by an applicant for the Board of Adjustment to review a decision or interpretation by the Zoning Administrator.

### *Area of Special Flood Hazard*

See **Special Flood Hazard Area (SFHA)**

### ~~*Automotive/Boat/Heavy Equipment/Manufactured Home Sales and Service*~~

~~Any building, premises, and land, in which or upon the primary use of land is a business which involves the maintenance, servicing or sale of new or used automobiles, boats, heavy equipment and/or manufactured homes generally but may include light trucks or vans, trailers, or recreation vehicles and~~

## APPENDIX A: DEFINITIONS

~~including any vehicle leasing, rental, parking service, preparation or repair work conducted. This definition includes but is not limited to auto dealerships, auto body shops, auto service stations, boat repair or sales, car washes, convenience stores, gas stations, heavy equipment leasing, sales, or service, manufactured home sales or service, and oil/lube servicing. This does not include the sale of parts or related products (i.e. auto parts store).~~

### **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.

### **Banner**

A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, religious, educational, or corporate organizations.

### **Bar**

A commercial establishment in which the primary activity is the consumption of alcoholic beverages and the primary source of income is from the sale of alcoholic beverages.

### **Base Flood**

The flood having a one (1) percent chance of being equaled or exceeded in any given year.

### **Base Flood Elevation (BFE)**

A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

### **Basement**

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

### **Bed and Breakfast Inn**

A use that takes place within a building that prior to such establishment, was designed and used as a single-family residence, that consists of renting one or more rooms on a daily basis to tourists, vacationers and similar transients, where the provision of meals, if provision of meals is made, is limited to the breakfast meal, available only to guests, and 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 (1) full-time employee.

### ~~**Bedroom**~~

~~**Sleeping room.**~~

### **Best Management Practices (BMP)**

A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

### **Block**

**Commented [BH1]:** This is a definition required in 160D-706(b) to be consistent with state statutes including the State Building Code.

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## APPENDIX A: DEFINITIONS

A unit of land bounded by streets or by a combination of streets and public land, waterways, or any other barrier to the continuity of development.

### ***Boarding House***

A structure that was originally constructed as a dwelling that has been converted for the housing of residents in not more than six (6) guestrooms.

### ***Bona Fide Farm***

#### **Agricultural activities as set forth in G.S. 160D-903.**

~~The production of, activities relating to, or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agricultural or forest products having a domestic or foreign market meeting one of the following criteria:~~

- ~~• A tract of land containing at least three acres; or~~
- ~~• Registered as Farm Deferment on the county tax records; or~~
- ~~• Listed as a working farm with the local Farm Service Agency (formerly known as ASCS); or~~
- ~~• Provide a copy of the contract between the property owner and the contracting company.~~

~~If the applicant cannot meet one of the above, the applicant (or owner) has the option of applying for Bona Fide Farm status by showing that the property has farm income by submitting the previous year's Farm Schedule Form of the owner's federal income tax return.~~

### ***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.

### ***Buffer, Vegetative (Watershed Buffer or Riparian Buffer)***

An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

### ***Buildable Area***

The area of a lot remaining after the minimum yard and open space requirements of this Ordinance has been met.

### ***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 (Accessory Structure)***

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 Envelope***

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Commented [BH2]: Consider using the NC State Building Code definition to comply with the requirement in 160D-706(b), which reads "Any structure used or intended for supporting or sheltering any use or occupancy."

## APPENDIX A: DEFINITIONS

The three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations, and minimum yard setbacks or build-to lines, buffers, easements, or other applicable regulations.

### ***Building Footprint***

The land area on which a building is located or proposed for location.

### ***Building Height***

The vertical distance from the mean elevation of the finished grade along the front of the building 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 ridges for gable, hip and gambrel roofs.

### ***Building, Principal (Principal Structure)***

A building in which is conducted the principal use on the lot on which said building is situated. In any residential 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.

### ***Build Out***

The completed construction of all phases of a development as allowed by all Ordinances which regulate an area. The scale of build out can be from a single lot to the entire Town's jurisdiction.

### ***Built-upon Area***

Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g., tennis courts), etc. (**Note:** Wooden slatted decks and the water area of a swimming pool are considered pervious).

### ***Caliper***

The size of tree's trunk diameter as measured six (6) inches above the ground for trees four (4) inches or less, and as measured 12 inches above the ground for trees larger than four (4) inches.

### ***Campground, Family***

~~See Family Campground.~~

### ***Campsite***

~~Any plot of ground within a campground intended for the exclusive occupancy by a cabin, recreation vehicle, or tent.~~

### ***Canopy***

A permanent structure other than an awning made of cloth, metal or other material attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

## APPENDIX A: DEFINITIONS

### ***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. Setback for cemeteries shall be measured from the nearest structure or gravesite. This definition shall be construed to include bona fide pet cemeteries.

### ***Certificate of Occupancy (CO)***

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 Ordinance and all other applicable regulations.

### ***Change of Use***

Any use of a building or land that substantially differs from the previous use.

### ***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.~~

### ***Church (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.

### ***Civic Uses***

Uses intended to serve as public gathering places. Such uses include governmental offices, churches or other places of worship, schools, post offices, and non-profit or charitable clubs and organizations.

### ***Cluster Development, Rural***

The grouping of lots in order to conserve land, open space, and rural resources and provide for innovation in the design of a project within the Rural Preservation district. Overall density does not change in a cluster development.

### ***Cluster Development, Watershed***

The grouping of lots in order to conserve land and open space and provide for innovation in the design of a project within the Watershed Protection Overlay. Overall density does not change in a cluster development.

### ***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, ballfields, tennis courts, swimming pools, nature trails, clubhouses, etc. Not all of these uses may be appropriate in developments which lie in a Water Supply Watershed where there are restrictions on the amount of impervious surface area.

### ***Conditional Use***

~~A use that is permitted in a zoning district subject to the issuance of a Conditional Use Permit by the~~

## APPENDIX A: DEFINITIONS

~~Town Council.~~

### Conditional Zoning

A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

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### ~~Conditional Use District~~ Conditional Zoning District

~~A district created through the legislative approval of a zoning map amendment and related Conditional Use Permit with a site specific plan in which the uses are limited to those in the base zoning district and are subject to conditions imposed by the Town Council.~~

### ~~Conditional Use Permit~~

~~A special authorization for a conditional use which may be subject to any specific restrictions or conditions on its size, location, intent, character of use, etc. as determined by the Town Council.~~

### ~~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 man-made or natural configuration. The term "contiguous" shall also mean "abutting" or "adjacent".~~

### ~~Correctional Facility~~

~~A facility operated by Rowan County or the State of North Carolina (or a private contractor thereof) used for the temporary incarceration of persons after arrest or pending hearing or trial or for the incarceration and or housing of persons serving sentences or incarceration or housing of persons serving criminal sentences.~~

### ~~Country Club~~

~~A private recreational facility open to members and their guests. 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 free standing entity or as part of a residential community or planned residential development.~~

### ~~Critical Area~~

~~The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.~~

### ~~Cul-De-Sac~~

~~The turn around at the end of a dead-end street.~~

### ~~Daycare Center~~

~~A place where daytime care is provided to four (4) 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.~~

## APPENDIX A: DEFINITIONS

~~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.~~

### **Density**

A ratio expressed as the number of dwelling units per acre (DUA). The ratio is derived by dividing the total number of dwelling units by the total land area (in acres) used or proposed to be used for purposes such as buildings, roads, public facilities, and open spaces.

### **Development**

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

- a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- b. The excavation, grading, filling, clearing, or alteration of land.
- c. The subdivision of land as defined in G.S. 160D-802.
- d. The initiation or substantial change in the use of land or the intensity of use of land.

This definition does not alter the scope of regulatory authority granted by Chapter 160D.

### **Development approval.**

An administrative or quasi-judicial approval made pursuant to this Chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this Chapter, including plat approvals, permits issued, development agreements entered into, and building permits issued.

### **Development, Existing**

Those projects that are built or those projects that at a minimum have established a vested right under North Carolina Zoning Law as of the effective date of this Ordinance based on at least one of the following criteria:

- substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- having an outstanding valid building permit as authorized by the General Statutes (NCGS ~~160A-385-160D-108~~), or
- having an approved site specific or phased development plan as authorized by the General Statutes (NCGS ~~160A-385-160D-108~~).

### **Development regulation.**

A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this Chapter, or a local act or charter that regulates land use or development.

## APPENDIX A: DEFINITIONS

### **Disposal**

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

### **Distribution**

A use in which products or goods are brought in or manufactured on-site and are trucked off-site.

### **Drive-through use**

A facility designed to enable a person to transact business while remaining in a motor vehicle. This includes drive-in facilities in which vehicles pull into a designated parking spot to transact business.

### **Duplex**

See *Two-family Attached Residential*.

### **Dwelling**

Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

### **Dwelling, Attached**

A single-family dwelling attached to two or more one-family dwellings by common vertical walls. This may include duplexes, triplexes, quadraplexes, and townhomes. More than two units attached constitute as a multi-family residential use for the purposes of this Ordinance.

### **Dwelling, Detached**

A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes. A dwelling unit that is developed with open yards on all sides. This shall include modular homes but shall not include manufactured homes.

### **Dwelling Unit**

A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. A building, or portion thereof, providing complete and permanent living facilities for one (1) family. The term "dwelling" shall not be deemed to include a motel, hotel, bed and breakfast inn, manufactured home or other structure designed for transient residence. See also **Residential**.

**Commented [BH3]:** Note the NC State Building Code definition: "A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes."

**Commented [BH4]:** Consider using the NC State Building Code definition to comply with the requirement in 160D-706(b): "A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation."

### **Electronic gaming operations**

Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including, but not limited to, computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed is determined by electronic games played or by predetermined odds. The term includes, but is not limited to, internet sweepstakes, internet sweepstakes café, video sweepstakes or cybercafés who have a finite pool of winners. This does not include any lottery endorsed by the State of North Carolina.

## APPENDIX A: DEFINITIONS

### ***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.

### ***Engineering Drawings***

The drawings necessary to prepare a site for construction, guide the construction of improvements, and complete the site following construction of improvements. These plans may include an overall site plan, grading plan, soil and erosion control plan, landscaping plan, lighting plan, site details, street cross sections, storm water detention details, etc.

### ***Entertainment Use***

Any establishment which provides active recreational opportunities such as miniature golf, batting cages, arcades, carnival games, go-cart or other motorized vehicle tracks, waterslides, or passive recreation such as movie theaters.

### ***Essential Services***

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 services. 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. Essential Services are divided into the following three classes:

- **Class 1**  
Transmission lines (whether, subterranean or overhead) including electrical, natural gas, and water distribution lines; sewer gravity lines and pressure mains; underground septic tanks and drain fields, cable television and telephone transmission lines; or similar utility lines; pumping stations; lift stations; telephone switching facilities (up to 100 square feet gross floor area).
- **Class 2**  
Elevated water storage tanks; booster stations, telephone switching facilities (over 100 square feet gross floor area), substations, or other similarly required facilities in connection with telephone, electric, steam, water, sewer, or other similar utilities.
- **Class 3**  
Generation, production, or treatment facilities such as power plants, water treatment plant, sewage treatment plants (including package treatment plants), radio and television transmission towers, or similar utilities; microwave towers; wireless communication towers; sanitary landfills; septic tank waste disposal facilities.

### ***Evidentiary Hearing***

A hearing to gather competent material and substantial evidence in order to make findings for a quasi-judicial decision required by the Unified Development Ordinance

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### ***Existing Lot (Lot of Record)***

For the purpose of Watershed Protection, a lot which is part of a plat that has been recorded in the Office of the Register of Deeds prior to October 1, 1993 of this Ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to October 1, 1993.

## APPENDIX A: DEFINITIONS

### ***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.

### ***Façade***

The vertical surface of a building which is set along a frontage line. The elevation of a facade is the vertical surface area. Facades are subject to visual definition by building height, setback lines, openings, recess lines, and transition lines.

### ***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 Campgrounds***

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 used for recreation or vacation purposes.

### ***Family Care Home***

A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons, as defined by NCGS 168-21(2). This includes adult care homes, group homes, residential care homes, child or adolescent care homes, and health care homes.

### ***Farmer's Market***

An outdoor market open to vendors at which locally grown fruits and vegetables are sold on a retail basis.

### ***Final Plat***

A map depicting a subdivision (in its entirety or a phase of) intended for recordation at the Register of Deeds.

### ***Flag***

A piece of durable fabric of distinctive design attached to a permanent pole that is used as a symbol or decorative feature.

### ***Flag Lot***

A lot that has less than the minimum lot width at the minimum building setback.

### ***Flood or Flooding***

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

- the overflow of inland or tidal waters; and/or
- the unusual and rapid accumulation of runoff of surface waters from any source.

### ***Flood Insurance***

The insurance coverage provided under the National Flood Insurance Program.

### ***Flood Insurance Rate Map (FIRM)***



## APPENDIX A: DEFINITIONS

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 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 ordinance, 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***

The Flood Damage Prevention Overlay Section, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

### ***Floodproofing***

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

### ***Floodway***

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

### ***Floor Area Ratio***

The gross floor area of all buildings and structures on a lot divided by the lot area. When computing this figure, the gross floor area of all enclosed parking deck buildings shall be excluded.

### ***Footcandle***

## APPENDIX A: DEFINITIONS

A unit measuring the illuminance from a light source. Originally the footcandle was the illuminance at one foot from a standard candle. It was then defined as the illuminance produced by one lumen of “luminous flux” evenly distributed over a square foot. Though not an SI unit, footcandles are widely used to set lighting levels.

### ***Freeboard***

The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation plus the freeboard establishes the Regulatory Flood Protection Elevation.

### ***Frontage***

The lot boundary along a public street.

### ***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.

### ***Gated Community***

A residential development that is entirely surrounded by a wall or fence with restricted access at entrance gates.

### ***Golf Course***

~~A tract of land for playing golf, improved with tees, fairways, hazards and which may include clubhouses and shelters.~~

### ***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.

### ***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 center line 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 Ordinance, ground covers shall have the capability of soil stabilization and erosion control.

### ***Hazardous Material***

Any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

## APPENDIX A: DEFINITIONS

### ***Hazardous Waste Management Facility***

As defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

### ***Highest Adjacent Grade (HAG)***

The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

### ***Historic Structure***

Any structure that is:

- listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- 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;
- individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
- 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 US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

### ***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 nonresidential purpose. A home daycare may be operated as a home occupation if there are three (3) or less unrelated children, handicapped persons, or senior citizens cared for in the home. Persons who are related by blood or marriage to the attendant adult shall not be counted as patrons of the daycare.

### ***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/Motel***

~~A facility offering transient lodging accommodations to the general public and which may provide additional services such as restaurants, meeting rooms and recreation facilities.~~

### ***Impervious Surface***

Any material which reduces and prevents absorption of storm water into previously undeveloped land. This includes but is not limited to, buildings, roads, pavement, gravel surfaces, etc. Items not considered to be "impervious" include the water area of a swimming pool and wooden slatted decks.

## APPENDIX A: DEFINITIONS

### ***Impervious Surface Ratio***

The gross area of all impervious surfaces on a lot divided by the lot area.

### ***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.

### ***Infill***

The development of new buildings on vacant sites in a primarily built-up area.

### ***Institutional Use***

A use of a semi-public nature that typically serve community needs including but not limited to daycares, colleges, private schools, hospitals, research facilities, museums, assisted living facilities, residential care facilities, and other long-term medical care facilities.

### **Legislative decision**

[The adoption, amendment, or repeal of a regulation under this Chapter or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of this Chapter.](#)

### **Legislative hearing**

[A hearing to solicit public comment on a proposed legislative decision.](#)

### ***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.

### ***Lot Area***

The total area circumscribed by the boundaries of a lot, except that when the legal instrument creating a lot shows the boundary of the lot extending into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and thirty feet from the center of the traveled portion of the street.

### ***Lot, Corner***

A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than 45 degrees and less than one hundred and 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case the owner shall be required to specify which is the front when requesting a zoning permit.

### ***Lot Depth***

The mean horizontal distance between the front and rear lot lines.

### ***Lot, Interior***

## APPENDIX A: DEFINITIONS

A lot other than a corner lot.

### ***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.

### ***Lot Line, Front***

The lot line separating a lot from a street right-of-way.

### ***Lot Line, Interior***

A lot line which does not have street frontage.

### ***Lot Line, Rear***

The lot line opposite and most distant from the front lot line.

### ***Lot Line, Side***

Any lot line abutting another lot and which is not a front or rear lot line.

### ***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 Rowan County or a lot described by metes and bounds, the description of which has been so recorded.

### ***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.

### ***Lot Width***

The distance from side lot line to side lot line measured at the required minimum front yard setback parallel to the front property line.

### ***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 ordinance.

### ***Manufactured Home***

Factory-built, single-family structures that meets the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as HUD (U.S. Department of Housing and Urban Development) code but is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and is composed of one or more components, each of which was assembled in a manufacturing plant and designed to be transported to the home site on its own chassis. This term does not include a recreational vehicle but includes mobile homes.

### ***Manufactured Home Park***

## APPENDIX A: DEFINITIONS

Any site or parcel of land under single ownership where land is rented, and utilities are provided for the installation or placement of two or more manufactured homes.

### ***Manufactured Home Space***

Any premises within a manufactured home park used or intended to be used or occupied by one manufactured home, together with automobile parking space, utility structures, and other required facilities incidental thereto.

### ***Manufacturing, Heavy***

The assembly, fabrication, production or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, health or safety hazards, or uses that otherwise do not constitute “light manufacturing,” or any use where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, production or processing exceeds 25 percent of the floor area of all buildings on the lot. “Heavy manufacturing” shall include, but not be limited to, the following: enameling, lacquering, or the plating or galvanizing of metals; foundries or mills producing iron and steel products; industrial chemical manufacture; meat packing plants; mixing plants for concrete or paving materials, and manufacture of concrete products; oxygen manufacture and/or storage; pottery, porcelain, and vitreous china manufacture; poultry dressing for wholesale; pressure treating of wood; stonecutting; tire recapping and retreading; tobacco products manufacture; tobacco stemming and redrying plants. This shall not include resource extraction and recycling and salvage operations.

### ***Manufacturing, Light***

The assembly, fabrication, production or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, production or processing takes place, where such processes are housed entirely within a building, or where the area occupied by outdoor storage of goods and materials used in the assembly, fabrication, production or processing does not exceed 25 percent of the floor area of all buildings on the lot. This shall not include uses that constitute “heavy manufacturing”, resource extraction, or recycling and salvage operations.

### ***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 ordinance, 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.

### ***Mini Warehouse***

~~A structure containing separate storage spaces of varying sizes leased or rented on an individual basis that does not include outdoor storage.~~

### ***Mixed Use Building***

A minimum of a two story building in which the ground floor contains a commercial enterprise and at least one of the floors above contains residential units.

## APPENDIX A: DEFINITIONS

### ***Mobile Home***

See *Manufactured Home*.

### ***Modular Home***

A dwelling unit which is constructed in compliance with the North Carolina Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation.

### ***Modular Home, Off-frame***

A dwelling unit which is constructed in compliance with the North Carolina Building Code and is brought to the site and set in place on a permanent foundation by a crane. A steel frame is not used for the support of the structure.

### ***Modular Home, On-frame***

A dwelling unit which is constructed in compliance with North Carolina Building Code on a steel frame and is brought to the site on steel frames and the axles are removed. The steel frame is used to support the structure on top of a permanent foundation.

### ***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.

### ***Nightclub***

~~An establishment that is either public or private in which people gather for dancing and/or listening to taped or live music and there is the sale and consumption of alcoholic beverages on premises.~~

### ***Noncommercial Copy***

A sign message through pictures, illustrations, symbols and/or words, or any combination thereof, which does not contain any reference to a business or product but displays a substantive message, statement or expression that is protected by the First Amendment to the Constitution of the United States.

### ***Nonconforming Lot***

Any lot of record which does not meet the minimum yard or area requirements established in these regulations at the time of this Ordinance's adoption or any amendment thereto.

### ***Nonconforming Sign***

A sign that, on the effective date of this Ordinance or the date of any subsequent amendment thereto, does not conform to one or more of the regulations set forth in this Ordinance.

### ***Nonconforming Structure***

Any structure lawfully existing on the effective date of these regulations, or any amendment to it rendering such structure nonconforming, which does not comply with all of the standards and regulations of these regulations or any amendment thereto.

### ***Nonconforming Use***

Any use lawfully being made of any land, building or structure on the effective date of these regulations or on the effective date of any amendment thereto rendering such use non-conforming, which does not comply with all the regulations of these regulations or any amendment thereto, whichever might be applicable.

### ***Non-Encroachment Area***

## APPENDIX A: DEFINITIONS

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 (1) foot as designated in the Flood Insurance Study report.

### ***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.~~

### ***Office Use***

Professional occupations within a building or buildings which do not generally involve the on-site sale of goods to customers.

### ***Open Space***

Any area which does not consist of streets, right of ways, parking, or easements, and serves as a passive or active recreational area, as conservation land for important vistas and topographic features, or as pervious area for watershed requirements. This area provides, or has the potential to provide, environmental, social and/or economic benefits to the community whether direct or indirect. Open space is categorized by type and includes playgrounds, plazas, squares, parks, greens, greenways, greenbelts, and nature preserves.

### ***Open Storage***

An unroofed storage area, whether fenced or not.

### ***Outdoor Kennel***

~~A commercial enterprise that involves the containment of animals outside a permanently constructed building for an extended period of time. This does not include fenced areas for brief animal exercise.~~

### ***Outdoor Storage***

The storage of goods, products, or vehicles as an ancillary use by their owner or on a commercial basis outside of a permanently constructed building.

### ***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.

### ***Package Treatment Plant***

A small self-contained sewage treatment facility built to serve developed areas which lie beyond the service area of sanitary sewers.

### ***Parapet***

That portion of a building wall 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 Space, 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 Chapter 7 of this Ordinance.



## APPENDIX A: DEFINITIONS

### ***Permit, Building***

Written permission by the County Building Department issued for the construction, repair, alteration or addition to a structure.

### ***Photometric***

Data regarding the luminous intensity of light sources on a particular site.

### ***Pitch, Roof***

The slope of a roof expressed as rise over run. (i.e. for a roof that rises four inches vertically for every 12 inches it runs horizontally the pitch is 4:12)

### **~~*Plan, Conditional Use District*~~**

~~A site specific plan for Conditional Use District zoning map amendments (rezonings).~~

### ***Plan, Improvement***

A plan that shows how a developer will install, bond, or guarantee improvements for a development (i.e. roads, turn lanes, water, sewer, etc.).

### ***Plan, Major Site***

A site specific plan for a building or addition of greater than 2,500 square feet or more than one (1) acre of disturbed land area. This does not include single-family detached residential uses.

### ***Plan, Minor Site***

A site specific plan for a building or addition of less than 2,500 square feet or less than one (1) acre of disturbed land area. This does not include single-family detached residential uses.

### ***Plan, Site Specific***

A scaled drawing depicting the location and size of proposed buildings, parking areas, landscaping, and other information necessary to meet the requirements of this Ordinance. [The following development approvals qualify as site-specific vesting plans: special use permits, conditional zoning districts, major subdivision plans, major site plans, mixed residential developments, and plan unit developments.](#)

### ***Plan, Sketch***

A working drawing depicting proposed development that follows the development review process.

### ***Plat, Final***

A map of all or a portion of a subdivision that is the legal instrument for recordation. Final plats shall be consistent with the approved Preliminary Plat and be reviewed and recorded following Engineering Document and/or Improvement Plan approval.

### ***Plat, Preliminary***

A map indicating the layout of a subdivision submitted after Sketch Plan approval and prior to or simultaneously with Engineering Documents.

### ***Planned Unit Development***

An area planned as a single entity containing one or more residential, commercial, and mixed-use clusters located on tracts or lots.

### ***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.

## APPENDIX A: DEFINITIONS

### ***Pre-FIRM***

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

### ***Premises***

A parcel of real property with a separate and distinct number or designation shown on a recorded plat, record of 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.

### ***Principal Use***

The primary or predominant use of any lot.

### ***Principally Above Ground***

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

### ***Produce Stand***

The sale of any form of agricultural or horticultural products at a retail stand located on the same site where the products are grown. Off-site produce stands shall be considered temporary uses and shall meet the requirements of such.

### ***Protected Area***

The area adjoining and upstream of the critical area in a WS-IV water supply in which protection measures are required. The boundaries of the protected areas are defined as extending five (5) miles upstream and draining to water supply reservoirs (measured from the normal pool elevation) or to the ridge line of the watershed (whichever comes first); or ten (10) miles upstream and draining to the intake located directly in the stream or river (run-of-the-river), or to the ridge line of the watershed (whichever comes first). Major landmarks such as highways or property lines may be used to delineate the outer boundary of the protected area if these landmarks are immediately adjacent to the appropriate outer boundary of five (5) or ten (10) miles. In some cases the protected area will encompass the entire watershed.

### ***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.

### ***Quasi-judicial decision.***

*A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.*

### ***Quasi-judicial***

*The process by which the Board of Adjustment reviews requests for Variances and Appeals and the Town*

## APPENDIX A: DEFINITIONS

~~Council review requests for Conditional Use Districts, Conditional Use Permits, and Vested Rights. Sworn testimony is given during the public hearing and an evidentiary record is kept and voted upon based on specified findings of fact.~~

### ~~**Recreation Facility, Private**~~

~~A privately owned area of land that is developed for active and/or passive recreational pursuits with various manmade features and is designed to serve the immediate neighborhood in which it is located, or can be regional in scope, serving several neighborhoods. This includes private golf courses, country clubs, and community swimming pools.~~

### ~~**Recreation Facility, Public**~~

~~A publicly owned area of land that is developed for active and/or passive recreational pursuits with various manmade features and is designed to serve the immediate neighborhood in which it is located, or can be regional in scope, serving several neighborhoods.~~

### **Recreation Vehicle**

A vehicular-type unit without a permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. A recreation vehicle shall not be considered as being a single-family dwelling.

### **Reference Level**

The bottom of the lowest horizontal structure member of the lowest floor for structures within all Special Flood Hazard Areas. For the purposes of this definition, the reference level for slab construction is measured from the top of the lowest floor.

### **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 (2) feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

### **Remedy a Violation**

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

### ~~**Residential Care Facility**~~

~~An institutional facility in which supervision, care, therapeutic, or medical services are provided for more than six persons in a residential capacity.~~

### **Residential Development**

Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

### **Residential, Multi-family**

## APPENDIX A: DEFINITIONS

The development of three (3) or more attached dwelling units. This includes condominiums, townhomes, apartments, quadraplexes, triplexes, and more than one duplex (two-family dwelling).

### ***Residential, Single-Family***

Any development where every dwelling unit is on a separate lot and no lot contains more than one dwelling unit.

### ***Residential, Single-Family Attached***

A development where every dwelling unit is on a separate lot of record, no lot contains more than one dwelling unit, and two or more dwelling units share one or more walls. (i.e. townhomes)

### ***Residential, Single-Family Detached***

A development where every dwelling unit is on a separate lot of record, no lot contains more than one dwelling unit, no dwelling unit shares a wall with another dwelling unit, and each dwelling unit is surrounded on all sides by yard.

### ***Residential, Two-Family Attached***

A development where two dwelling units share a wall and are located on the same lot of record. (i.e. duplexes)

### ***Restaurant***

~~A commercial establishment where food and drink are prepared, served, and consumed primarily within the principal building.~~

### ***Retail Uses***

~~Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.~~

### ***Rezoning***

See *Amendment, Zoning Map*.

### ***Riverine***

Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

### ***Road, Private***

Any right-of-way 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 set aside for public travel and either which has been accepted for maintenance by NCDOT or the Town, has been established as a public road prior to the date of adoption of this Ordinance, or which has been dedicated to the NCDOT or the Town for public travel by the recording of a plat of a subdivision with the County Register of Deeds Office.

### ***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.

### ***Roof Line***

The highest point of a flat roof and mansard roof and the lowest point of a pitched roof, excluding any cupolas, chimneys or other minor projections.

## APPENDIX A: DEFINITIONS

### ***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.~~

### ***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.

### ***Service Uses***

~~Uses that include the provision of work that does not typically result in ownership of physical goods and that create benefits by facilitating a change in customers, a change in their physical possessions, or a change in their intangible assets. (i.e. beauty shops, dry cleaning, appliance repair, check cashing, etc.) This does not include automotive/boat/heavy equipment/manufactured home services.~~

### ***Setback***

A distance measured inward from a property line which shall remain unoccupied by structures and parking areas except as permitted by this Ordinance.

### ***Setback, Front***

The required distance from the fronting or primary street right-of-way to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

### ***Setback, Rear***

The required distance from the rear property line to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

### ***Setback, Side***

The required distance from the side property line to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

### ***Setback, Side Corner***

The required distance from the non-fronting or non-primary street right of way to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

### ***Setback, Sign***

The required distance from the property line or right-of-way to the nearest point of the sign or its supporting member.

### ***Sewer, Public***

Any package treatment plant or other sewage treatment facility serving two or more sources not connected to individual or public systems and having a design capacity or greater than 3,000 gallons daily and/or a discharge to surface water, as permitted by the State of North Carolina. In addition the definition shall include all connections to such a system.

### ***Shopping Center***

A group of three (3) or more retail establishments constructed and developed in one (1) 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 (1) or more lots and may include one (1) or more principal buildings.

## APPENDIX A: DEFINITIONS

### ***Shrub***

An ornamental plant that is at least two (2) feet tall above the highest root at the time of planting.

### ***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, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including 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, political subdivision thereof, or any fraternal, religious or civic organization; works of art which in no way identify a product or business; scoreboards located on athletic fields; or religious symbols.

### ***Sign, Advertising***

A sign, other than a directional sign which directs attention to or communicates information about a business, commodity, service, or event that exists or is conducted, sold, offered, maintained or provided at a location other than the premises where the sign is located. Any advertising sign allowed under this Ordinance may display either a commercial or noncommercial copy.

### ***Sign Area***

The entire face of a sign including the advertising surface and any framing, trim, or molding, but not including the supporting structure. In computing area, only one side of a double-faced sign shall be considered.

### ***Sign, Billboard***

A large off-premises advertising sign.

### ***Sign, Campaign or Election***

A sign that advertises a candidate or issue to be voted upon on a definite election day.

### ***Sign, Canopy and Awning***

A sign attached to or painted or printed onto a canopy or awning. For the purposes of the Ordinance, the permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

### ***Sign, Construction***

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.

### ***Sign, Directional***

A sign fronting on a road containing only the name of the principal use, directional arrow and mileage to the principal use. Such principal use shall not be visible to the motorist at the location at which the sign is placed.

### ***Sign, Directory***

A sign on which the names and locations of occupants or the use of a building or property is identified.

## APPENDIX A: DEFINITIONS

### ***Sign, Flashing***

A sign that uses an intermittent or flashing light source or windblown and/or mechanical moved reflective material to attract attention.

### ***Sign, Free-Standing***

Any sign that is not affixed to a building and is securely and permanently mounted in the ground.

### ***Sign, Illuminated***

A sign lit from either an internal or external light source.

### ***Sign, Incidental***

A sign used in conjunction with equipment or other functional elements for a use or operation. These shall include, but not be limited to drive through window menu boards, and signs on automatic teller machines, gas pumps, vending machines, or newspaper delivery boxes.

### ***Sign, Instructional***

An on-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "Entrance", "Exit", "Parking", "One-Way", or similar directional instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

### ***Sign, Monument***

A free-standing permanent sign in which the bottom of the sign is no than three (3) feet from the ground.

### ***Sign, Neighborhood Identification***

A sign which displays only the name of a recognizable community or subdivision.

### ***Sign, Off-Premises***

A sign that draws attention to or communicates information about a business, service, commodity, that exists or is conducted, sold, offered, maintained or provided at a location other than the premises where the sign is located. This includes billboards.

### ***Sign, On-Premises***

A sign that draws attention to or communicates information about a business, service, commodity, that exists or is conducted, sold, offered, maintained or provided on the premises where the sign is located.

### ***Sign, Placard***

A small sign attached to a wall face near the building entrance which displays only the name, address, and/or crest, or insignia, trademark, occupation or profession of the occupant or building.

### ***Sign, Pole***

A detached sign erected and maintained on a free-standing frame, mast, or pole and not attached to any building but not including ground-mounted or monument signs. The bottom of such sign is more than three (3) feet from the ground.

### ***Sign, Portable***

Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; or umbrellas used for advertising.

## APPENDIX A: DEFINITIONS

### ***Sign, Projecting***

Any sign other than a wall, awning, canopy, or marquee sign, which is affixed to a building and is supported only by the wall on which the sign is mounted and has two sign faces perpendicular or close to perpendicular to the wall face.

### ***Sign, Public Interest***

A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as "Warning" and "No Trespassing" signs.

### ***Sign, Real Estate***

A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

### ***Sign, Roof***

A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

### ***Sign, Vehicular***

Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property, and said vehicles are not used in the normal day to day operations of said business. For the purposes of this Ordinance vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other transportation purposes.

### ***Sign, Wall***

Any sign directly attached to an exterior wall of a building or dependent upon a building for its support and is parallel to the wall face. Signs directly painted on walls shall be considered wall signs.

### **Site plan.**

A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include sitespecific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

### ***Sleeping Room***

A room designated as sleeping or bedroom on the plans and permit application.

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### ***Sleeping Unit***

A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

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Commented [BH5]: Consider using these NC State Building Code definitions to comply with the requirement in 160D-706(b).

### ***Solid Waste Disposal Facility***

Any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).



## APPENDIX A: DEFINITIONS

### ***Solid Waste Disposal Site***

As defined in NCGS 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 one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

### ***Special Use***

[A use that is permitted in a zoning district subject to the issuance of a Special Use Permit by the Town Council.](#)

### ***Special Use Permit (SUP)***

[A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.](#)

### ***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.

### ***Street***

A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means or access to abutting properties.

### ***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 of North Carolina 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. This includes a gas, liquid, or liquefied gas storage tank that is principally above ground.

### ***Structure, Accessory***

A structure separate and subordinate to the principal structure on the same lot as the principal structure

## APPENDIX A: DEFINITIONS

used for purposes customarily incidental to the principal structure. An accessory structure may also be referred to as an "accessory building".

### ***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***

For the purposes of this Ordinance in accordance with North Carolina General Statute ~~160A-376~~ 160D-802, "Subdivision" shall mean all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when one or more of those divisions are 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 the regulations of this Ordinance; provided, however, that any document or plat to be recorded pursuant to any such exclusion shall bear the notation "no approval required" and the signature of the Subdivision Administrator for his designated agent before being presented for certification by the County Review Officer:~~

- ~~1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this Ordinance.~~
- ~~2. The division of land into parcels greater than 10 acres where no street right of way dedication is involved.~~
- ~~3. The public acquisition by purchase of strips of land for the widening or opening of the streets or for public transportation system corridors.~~
- ~~4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots or tracts, where no street right of way dedication is involved or proposed, and where the resultant lots are equal to or exceed the standards of this Ordinance.~~

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### ***Subdivision Administrator***

See *Zoning Administrator*.

### ***Subdivision, Major***

A major subdivision is defined as a subdivision where any one or more of the following conditions exist:

1. Dedication of public right-of-way or other public tracts; or,
2. The entire tract to be subdivided is greater than ten (10) acres; or,
3. The resultant subdivision will produce more than five (5) lots.

### ***Subdivision, Minor***

A minor subdivision is defined as a subdivision where all of the following conditions exist:

1. No public right-of-way dedication; and,
2. The entire tract to be subdivided is ten (10) acres or less in size; and,
3. The resultant subdivision will produce five (5) or fewer lots.

### ***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 percent of the market value of the structure before the damage occurred. See definition of ***Substantial improvement***.

### ***Technical Review Committee (TRC)***

A group of appointed Town staff members, Planning Board members, Town Council members, and/or

## APPENDIX A: DEFINITIONS

citizens that review Sketch Plans, Preliminary Plats, and Site Plans for proposed developments and make recommendations on design and approval criteria during the development review process.

### ***Tree, Large Maturing***

A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least eight (8) 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 a half (2-1/2) inches at the time of planting measured six (6) inches up from the highest root of the tree. Also known as a canopy tree.

### ***Tree, Small Maturing***

A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least eight (8) 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 (2-1/2) inches measured six (6) inches up from the highest root of the tree. Also known as an ornamental or understory tree.

### ***Variance***

Permission granted on the basis of proof of physical hardship by the Board of Adjustment following quasi-judicial proceedings to depart from or relax the literal requirements of this Ordinance relating to dimensional requirements such as setbacks, side yards, street frontage, and lot size that, if applied to a specific lot, would significantly interfere with the use of the property.

### ***Variance, Floodplain***

A grant of relief from the requirements of Section 3.16 of this Ordinance.

### ***Variance, Major Watershed***

A variance that results in any one or more of the following:

1. The complete waiver of a management requirement;
2. Any request to increase the amount of built-upon area or density above that which is allowed in that particular WS district;
3. The relaxation, by a factor of more than 10 percent of any other management requirement contained in this Ordinance that takes the form of a numerical standard.

### ***Variance, Minor Watershed***

A variance that does not qualify as a major watershed variance.

### ***Vested Right***

The right to undertake and complete a development ~~or~~ and use of property under the terms and conditions of an approved ~~Site Specific Plan currently in effect or as otherwise allowed by law~~ secured as specified in G.S. 160D-108 or under common law.

### ***Violation, Floodplain***

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 Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

### ***Wall Sign***

Any sign directly attached to an exterior wall of a building or dependent upon a building for its support with its exposed face parallel or approximately parallel to the plane of the building or structure on which

## APPENDIX A: DEFINITIONS

the sign is affixed. Signs directly painted on walls shall be considered wall signs.

### ***Warehouse Use***

~~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. This does not include mini-warehousing or mini-storage.~~

### ***Water, Public***

Any water system defined as such by the North Carolina Division of Health Services which complies with the regulations of the North Carolina Division of Health Services.

### ***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.

### ***Water-Borne Structure***

Any structure for which the use requires access to or proximity to or citing within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

### ***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.

### ***Watershed***

The entire land area contributing surface drainage to a specific point where there is water supply intake.

### ***Wholesale***

~~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. 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".~~

### ***Yard***

An open space on the same lot with a principal building, unoccupied and unobstructed from the ground upward.

### ***Yard, Front***

An area measured between the edge of the public street right-of-way line, and the front of a building, projected to the side lot lines. On corner lots, the front yard shall be measured perpendicular from the street lot line having the shortest linear footage. If both street lot lines have equal linear footage, the property owner shall determine the location of the front yard where no principal structure is located. If a principal structure is located on such a lot, the front yard shall be based on the architectural orientation of the house. In instances where the street right-of-way line goes to the centerline of the street, the front setback shall be measured at a point 30 feet from the centerline.

### ***Yard, Rear***

An open, unoccupied space extending the full width of the lot and situated between the rear line of the lot

## APPENDIX A: DEFINITIONS

and the rear line of the building projected to the side lines of the lot.

### ***Yard, Side***

A space extending from the front yard to the rear yard between the principal building and the side lot line as measured perpendicular from the side lot line to the closest point of the principal building.

### ***Yard Sale***

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. Yard sales shall also be in compliance with Section 5.20 of this Ordinance.

### ***Zoning Administrator***

The appointed Town staff member that administers this Ordinance.

### ***Zoning map amendment or rezoning.***

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

### ***Zoning Permit***

Written permission issued by the Town Zoning Administrator or his designee for the construction, or enlargement of a structure, including signs, or the grading or excavation of a site in preparation of construction or for the installation of underground utilities.

# APPENDIX B: INFRASTRUCTURE DESIGN DETAILS

## Section

<b>B.1</b>	General Provisions .....	B-2
<b>B.2</b>	Public Streets .....	B-2
<b>B.3</b>	Water and Sewer .....	B-13
<b>B.4</b>	Stormwater Management .....	B-14
<b>B.5</b>	Fire Protection.....	B-14

# APPENDIX B: INFRASTRUCTURE DESIGN DETAILS

## Section B.1 General Provisions

### B.1.1 Conformance with Thoroughfare Plan

The location and design of streets shall be in conformance with the adopted Metropolitan Planning Organization and China Grove Thoroughfare Plans. Right-of-way width and utility easements shall be dedicated where the Thoroughfare Plan indicates a wider cross section than currently exists.

### B.1.2 General Engineering Standards

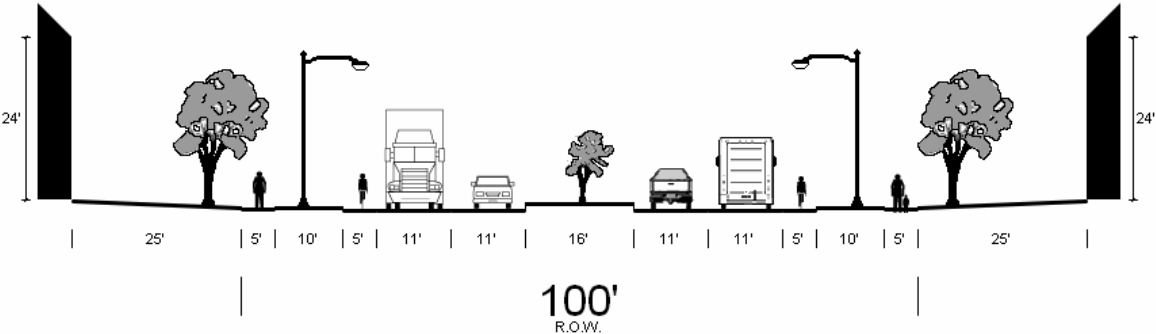
Unless otherwise specified in this Ordinance, design criteria shall meet current NCDOT standards.

## Section B.2 Public Streets

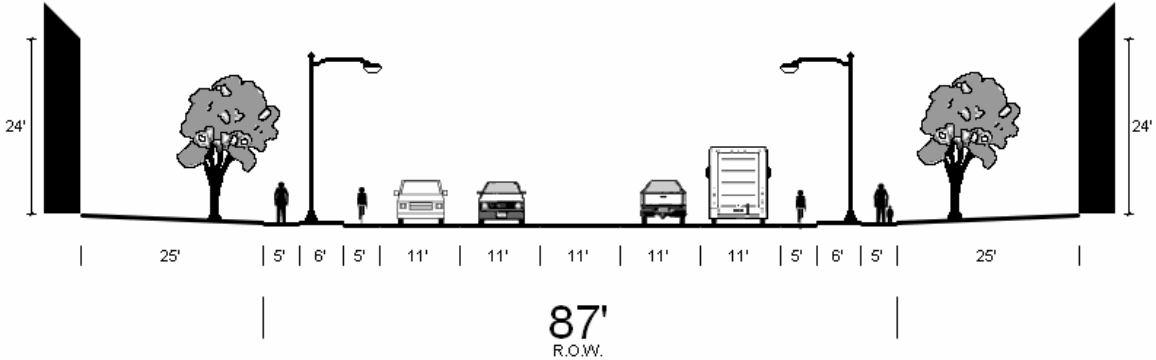
### B.2.1 Street Categories

The following diagrams depict possible street sections for Category 3, Category 2, and Category 1 streets and alleys as outlined in Section 8.8.2 of this Ordinance. Widths shown are approximate. For specific standards see Section B.2.2.

#### Category 3 Streets

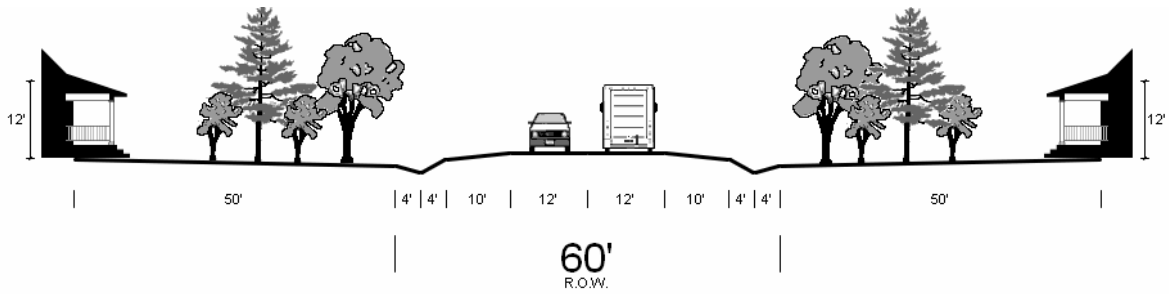


*Thoroughfare Boulevard/Avenue*



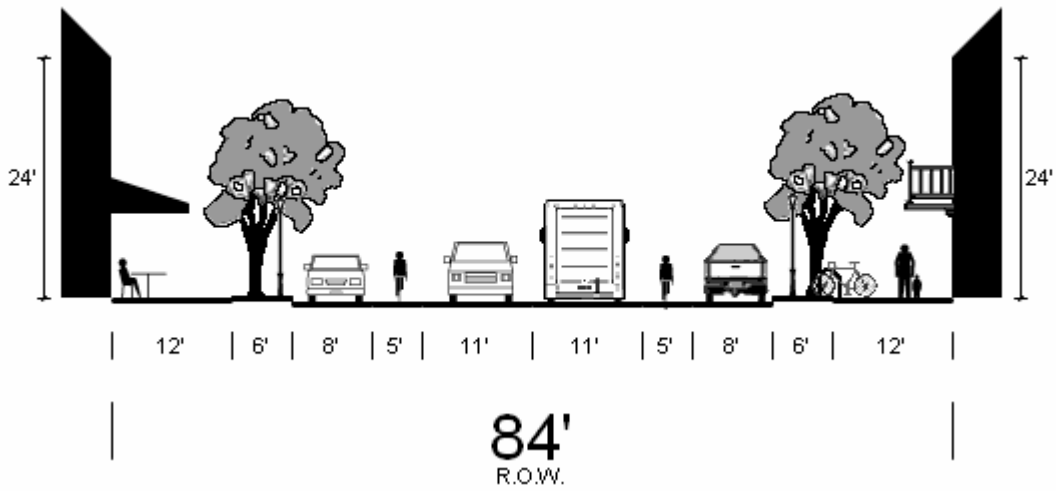
*Thoroughfare Road*

**APPENDIX B: INFRASTRUCTURE DESIGN DETAILS**

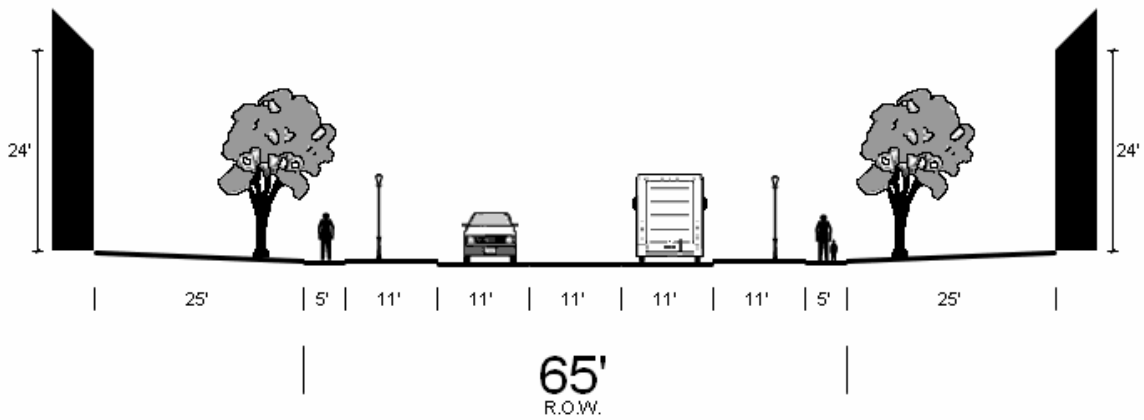


***Rural Thoroughfare Road***

**Category 2 Streets**



***Main Street***

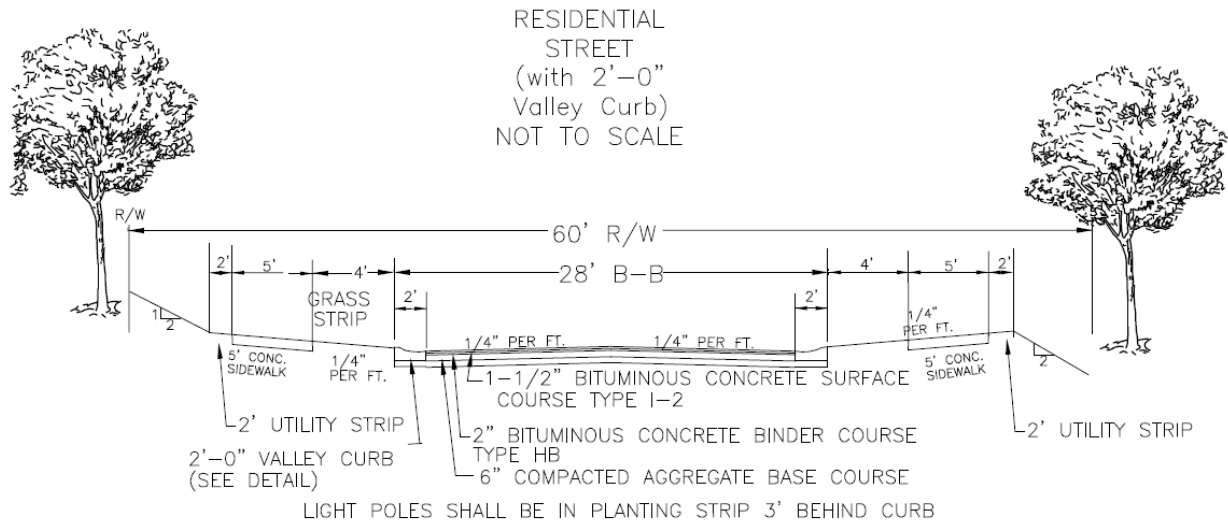


***Collector Road***

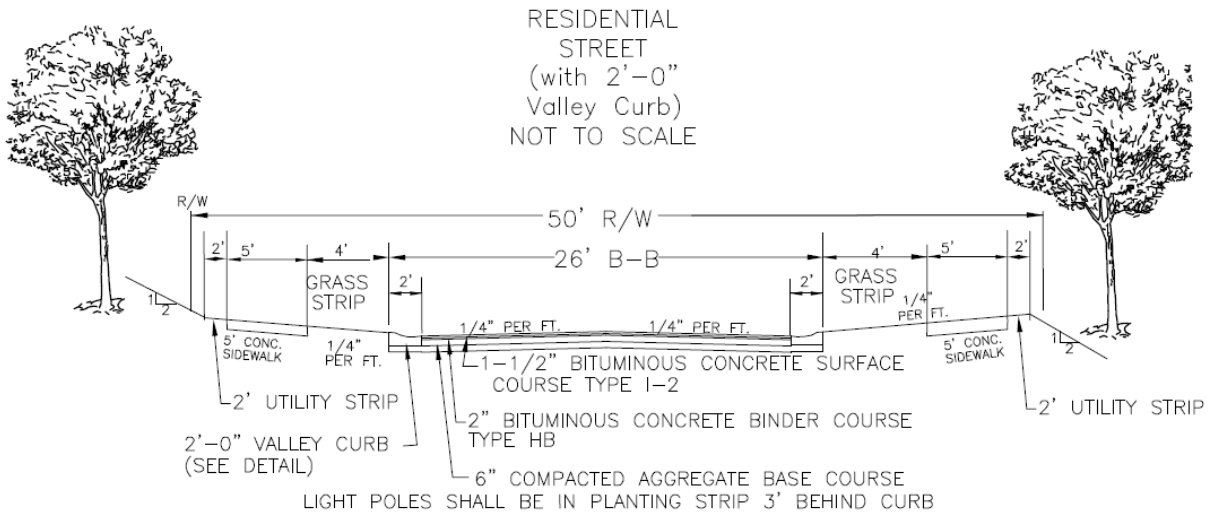


# APPENDIX B: INFRASTRUCTURE DESIGN DETAILS

## Category 1 Streets



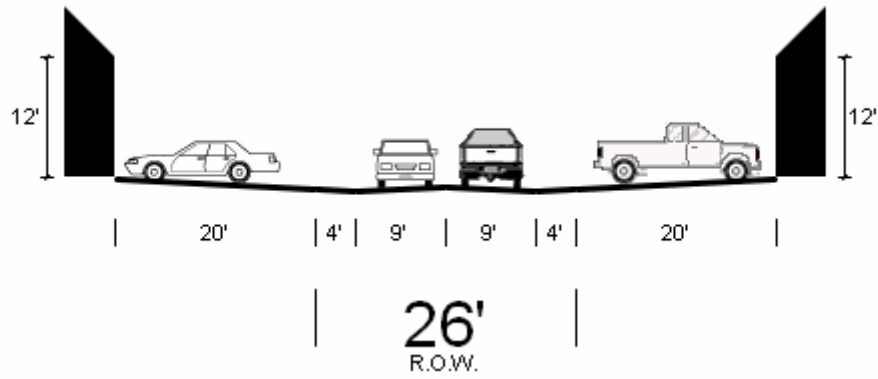
### ***Residential Street (on-street parking both sides)***



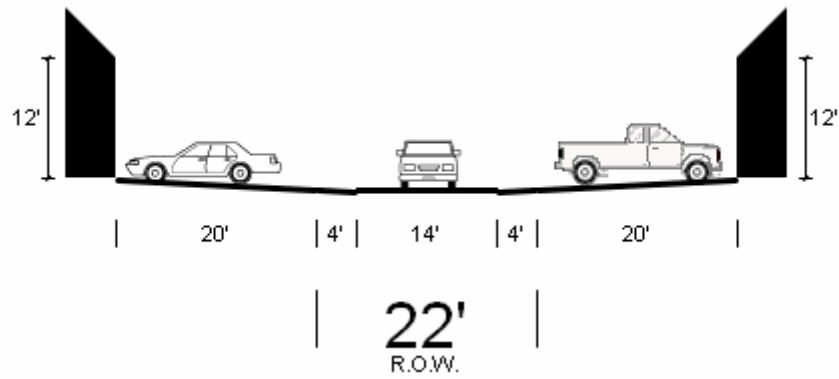
### ***Residential Street (on-street Parking one side)***

**APPENDIX B: INFRASTRUCTURE DESIGN DETAILS**

**Other**



*Alley (2 way)*



*Alley (1 way)*

## APPENDIX B: INFRASTRUCTURE DESIGN DETAILS

### B.2.2 Street Design Criteria by Street Type

#### Category 3

NCDOT Requirements shall be met.

<i>Element</i>	<i>Street Subcategory</i>		
	<b>Thoroughfare Boulevard/Avenue</b>	<b>Thoroughfare Road</b>	<b>Thoroughfare Rural Road</b>
<b>Land Uses</b>	Non-Residential	Non-residential	Non-residential & residential
<b>Right-of-Way Width</b>	80-100 feet	70-90 feet	60-80 feet
<b>Number of Lanes</b>	4-7	3-5	2-5
<b>Lane Width</b>	11-12 feet	11-12 feet	11-12 feet
<b>Median Required</b>	Yes-14 ft. min.	No	No
<b>Bike Lane Required*</b>	Yes	Yes	No
<b>Design Speed</b>	35-45 mph	30-45 mph	45-55 mph
<b>On-street Parking Allowed</b>	No	No	No
<b>Sidewalks Required</b>	Yes	Yes	No
<b>Sidewalk Width (min.)</b>	5 feet	5 feet	n/a
<b>Planting Strip Width</b>	6-15 feet	6-15 feet	n/a
<b>Utility Area (min.)</b>	10 feet (within planting strip & sidewalk width)	10 feet (within planting strip & sidewalk width)	15 feet
<b>Street Suffixes</b>	BLVD, AVE	RD	RD

\*bike lane width to be dedicated

#### Category 2

<i>Element</i>	<i>Street Subcategory</i>	
	<b>Main Street</b>	<b>Collector Road</b>
<b>Land Uses</b>	Non-Residential & Residential	Non-Residential & Residential
<b>Right-of-Way Width</b>	60-85 feet	65-80 feet
<b>Number of Lanes</b>	2-5	3-4
<b>Lane Width</b>	11-12 feet	11-12 feet
<b>Median Required</b>	No	No
<b>Bike Lane Required</b>	No	No
<b>Design Speed</b>	20-35 mph	30-45 mph
<b>On-street Parking Allowed</b>	Yes-Required	Yes
<b>Sidewalks Required</b>	Yes	Yes
<b>Sidewalk Width (min.)</b>	10 feet	5 feet
<b>Planting Strip Width</b>	n/a	6-10 feet
<b>Utility Area (min.)</b>	10 feet (within sidewalk width)	10 feet (within planting strip & sidewalk width)
<b>Street Suffixes</b>	ST	ST, RD

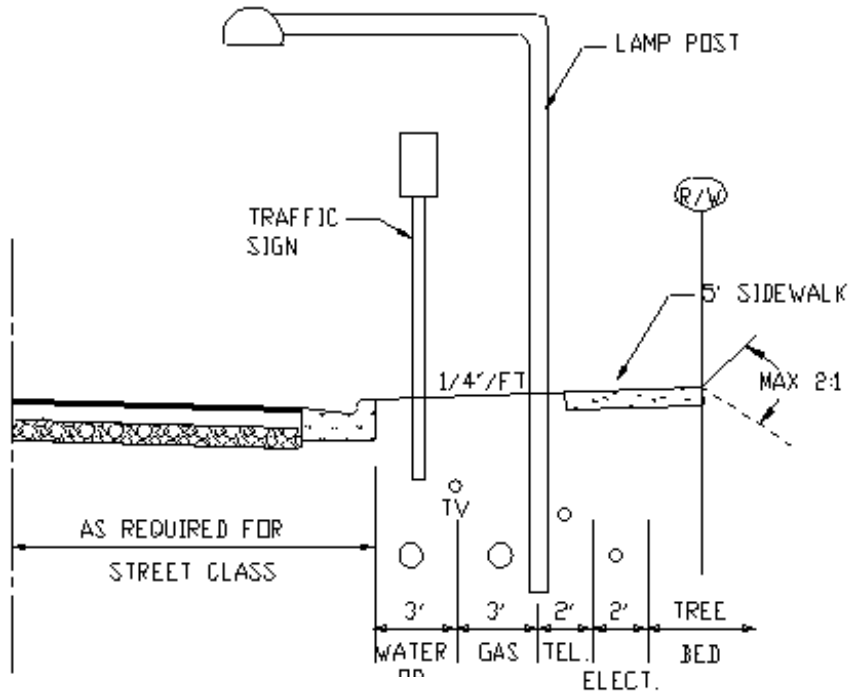
## APPENDIX B: INFRASTRUCTURE DESIGN DETAILS

### Category 1 & Alleys

<i>Element</i>	<i>Street Subcategory</i>		
	<b>Residential Street</b>	<b>Alley (two way)</b>	<b>Alley (one way)</b>
<b>Land Uses</b>	Residential	Residential	Residential
<b>Right-of-Way Width</b>	50-65 feet	25-35 feet	20-25 feet
<b>Number of Lanes</b>	2	2	1
<b>Lane Width</b>	11-12 feet	9-11 feet	14-16 feet
<b>Median Required</b>	No	No	No
<b>Bike Lane Required*</b>	No	No	No
<b>Design Speed</b>	15-25 mph	5-10 mph	5-10 mph
<b>On-street Parking Allowed</b>	Yes	No	No
<b>Sidewalks Required</b>	Yes	No	No
<b>Sidewalk Width (min.)</b>	5 feet	n/a	n/a
<b>Planting Strip Width</b>	6 feet	n/a	n/a
<b>Utility Area (min.)</b>	10 feet (within planting strip & sidewalk width)	n/a	n/a
<b>Street Suffixes</b>	ST, LN, CT, CIR	ALLEY	ALLEY

### B.2.3 Utility Location

- A. Utilities shall be located as depicted below within the planting strip and sidewalk areas. All electrical and telephone lines in new developments shall be buried. Sewer lines shall be located under the street pavement as approved by the Public Works Department. Lines shall be buried to the depth required by Public Works or the utility provider.



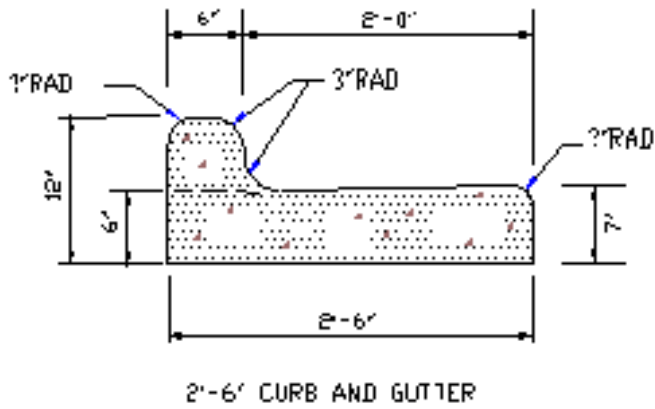
## APPENDIX B: INFRASTRUCTURE DESIGN DETAILS

- B. Utility pedestals shall be located minimum of two (2) feet behind the sidewalk and near property lines between buildings and shall be screened with a wall, fence, or evergreen landscaping.

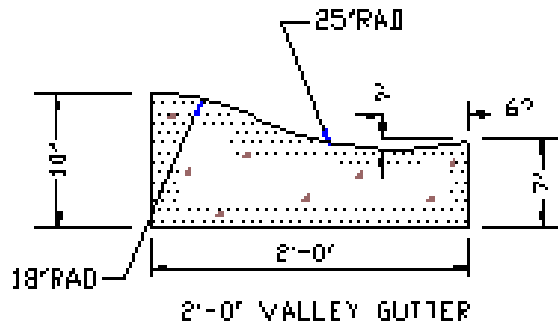
### B.2.4 Curb and Gutter

The minimum width for vertical curb and gutter is two feet six inches (2'-6") and for valley curb and gutter is two feet (2'-0"). Below are details for vertical curb and gutter and valley curb and gutter.

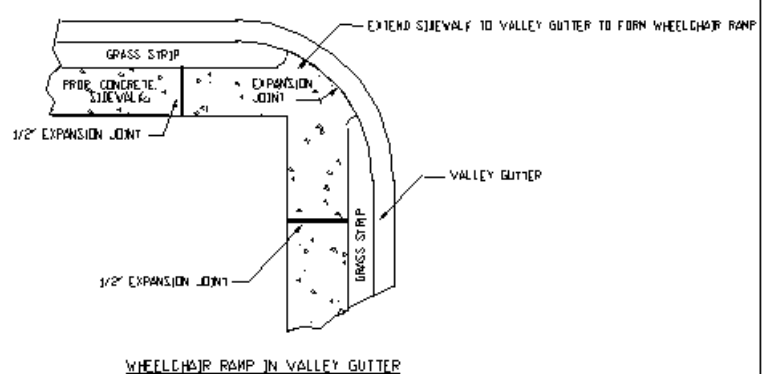
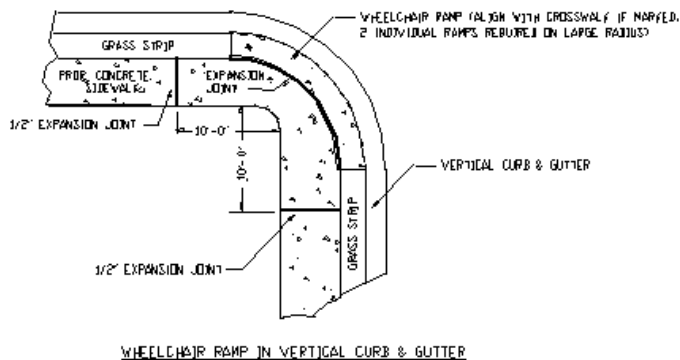
#### A. Vertical Curb and Gutter



#### B. Valley Curb and Gutter



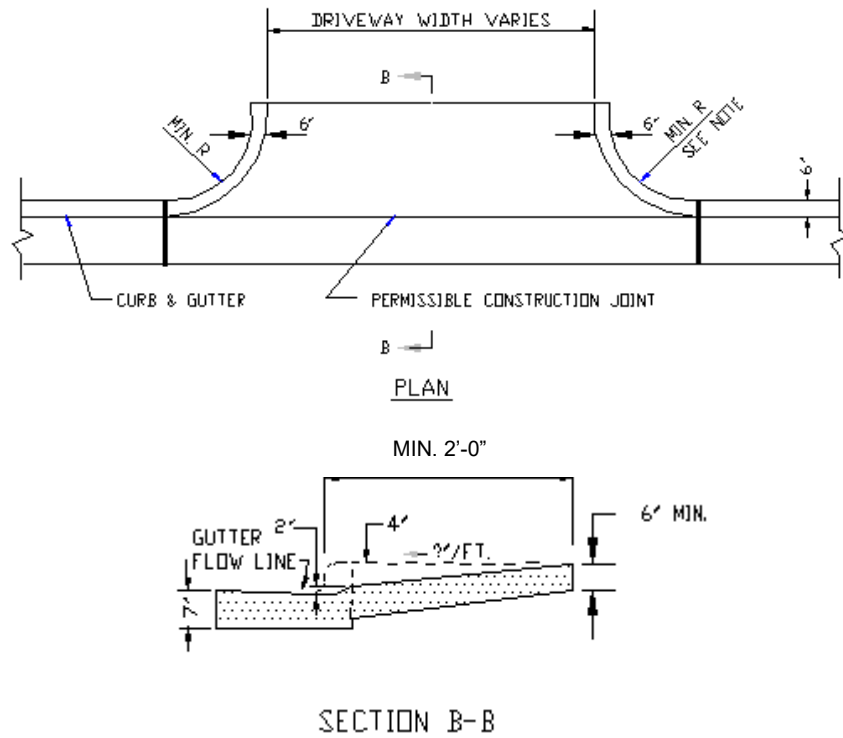
#### C. Wheelchair Ramp for Curb and Gutter



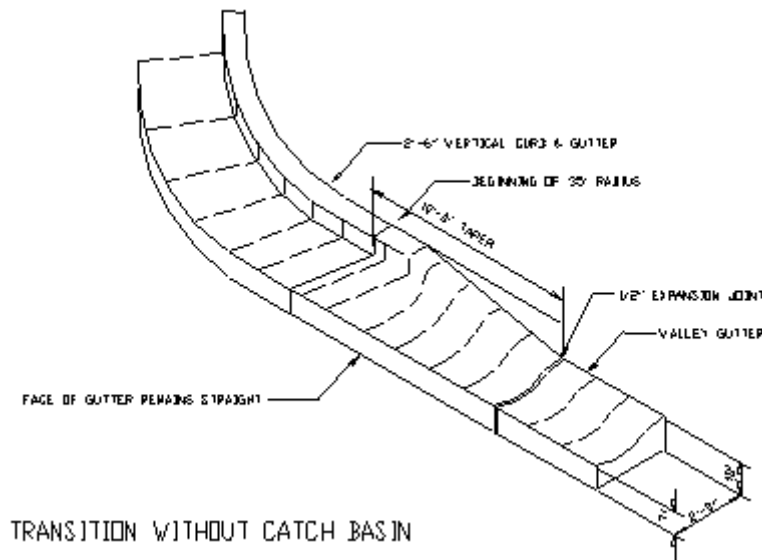
## APPENDIX B: INFRASTRUCTURE DESIGN DETAILS

### D. Driveway Cuts in Curb and Gutter

Minimum turning radius for residential curb cuts is two feet (2'-0") and for commercial curb cuts is five feet (5'-0").



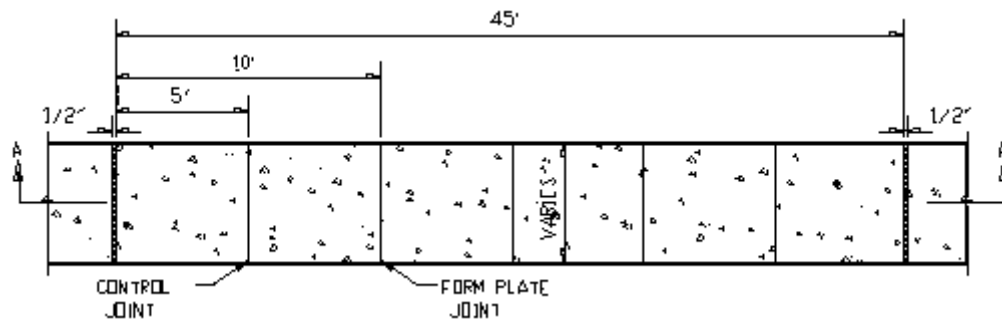
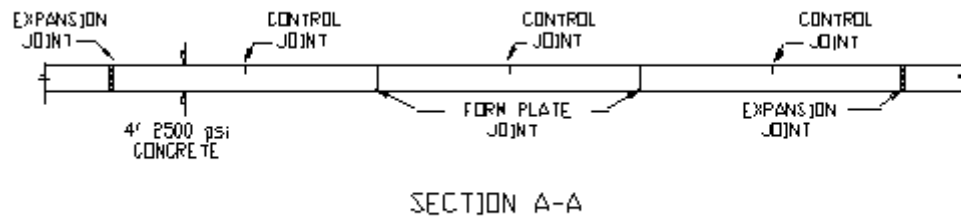
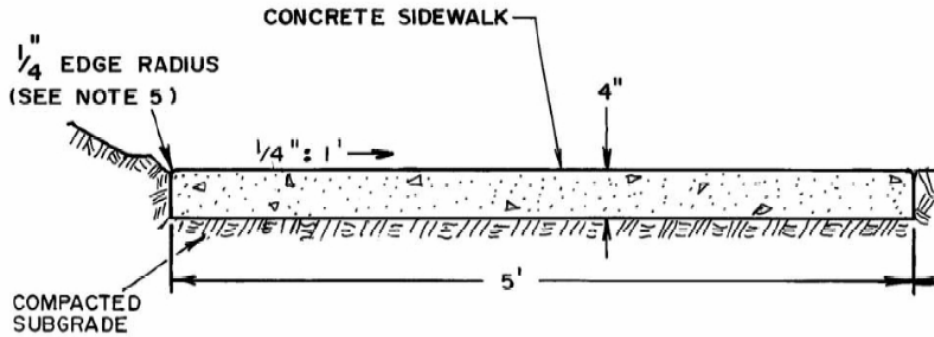
### E. Curb and Gutter Transition at Cul-de-sac



## APPENDIX B: INFRASTRUCTURE DESIGN DETAILS

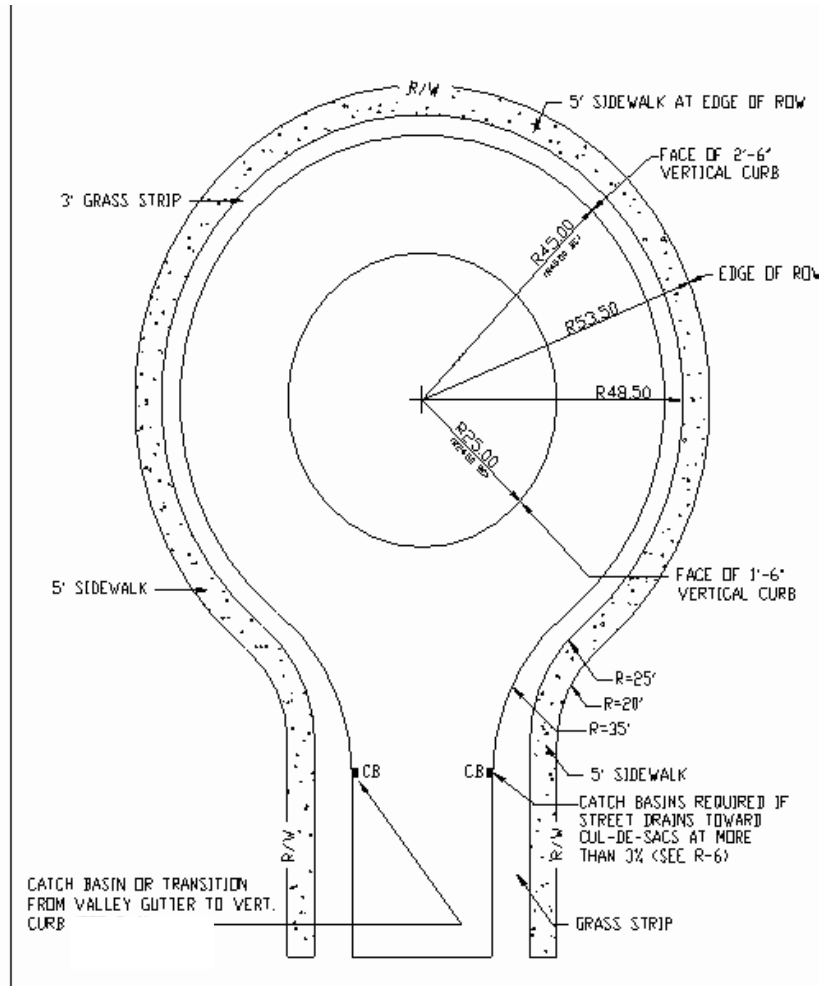
### B.2.5 Sidewalks

Sidewalks shall be at least five (5) feet wide. The minimum thickness of the concrete shall be four (4) inches. At vehicular traffic areas such as driveways the minimum thickness shall be six (6) inches. Also poured in place dummy joints shall be installed to match the width and expansion joints every 20 feet.



## APPENDIX B: INFRASTRUCTURE DESIGN DETAILS

### B.2.6 Cul-de-sacs



### B.2.7 On-Street Parking

On-street parking shall be at least 8 feet wide and 22 feet long and be marked on the pavement.

### B.2.8 Sight Distance

No planting, structure, sign, fence, wall, or obstruction greater than three (3) feet in height shall be placed or maintained within the sight triangle. The sight triangle shall be formed by the intersecting street centerlines and a straight line connecting points on the street centerlines, each of which is 75 feet for minor streets and 150 feet for major streets in distance from the point of the intersection.

### B.2.9 Access Management & Intersections

- A. **Driveways:** The number of street and driveway connections permitted serving a single property frontage or commercial development shall be the minimum deemed necessary by the Town Engineer or NCDOT for reasonable service to the property without undue impairment of safety, convenience, and utility of the roadway. Normally, not more than two driveways shall be permitted for any single property frontage. The arrangement of driveways should be related to adjacent driveways and nearby street intersections and meet the following criteria:



**APPENDIX B: INFRASTRUCTURE DESIGN DETAILS**

- Driveways accessing local or collector type streets shall be at least 100 feet from the point of tangency of the radius curvature of the next intersecting street.
- Driveways serving traffic volumes in excess of 300 ADT or accessing thoroughfares shall be located a minimum of 250 feet from the point of tangency of the radius of curvature of the intersecting street.
- Where two driveways are proposed along a single property frontage to facilitate operations, the minimum distance between the centerlines of the drives shall be 200 feet.
- The minimum distance between the centerlines of driveways into shopping centers or facilities generating in excess of 300 ADT shall be a minimum of 400 feet.
- Full access driveways open to signalization should be 1000 feet apart. Driveways which access thoroughfares and serve more than 1500 ADT shall provide deceleration lanes in approach to the driveway.
- Residential drives shall be located a minimum of 10 feet from the point of tangency of curb radii of street intersections.

**B. Street Alignment and Separation:**

- There shall be a minimum of 200 feet between centerlines of street jogs on collectors and arterials. Local streets shall not be offset less than 125 feet from their centerline.
- Median breaks shall be provided to allow safe and efficient movement of traffic. The desirable spacing of median breaks shall be at 1000 foot intervals, with the minimum allowable spacing to be at 500' intervals.
- Intersections of roadways controlled by a traffic signal should be spaced along roadways at the following intervals:

Street Category	Interval Spacing
Category 3	2,620-5,280 feet
Category 2	1,310 feet
Category 1	1,000 feet

- Four legged intersections not controlled by a traffic signal should be spaced along roadways at the following intervals:

Street Category	Interval Spacing
Category 3	1,000 feet
Category 2	750 feet
Category 1	300 feet

- Three legged intersections not controlled by a traffic signal should be spaced along roadways at the following intervals:

Street Category	Interval Spacing
Category 3	800 feet
Category 2	500 feet
Category 1	200 feet

Intersections with unique circumstances may be ideal for roundabouts. Roundabouts shall meet NCDOT standards.



## **Section B.3 Water and Sewer**

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### **B.3.1 Water Line Size and Design**

- A. Water main line size is based on current North Carolina Department of Environment and Natural Resources (NCDENR) requirements. Actual line sizes shall be determined by the Utilities Director based on flow requirements and line extendibility.
- B. Every effort shall be made not to create dead-end or non-looped lines.
- C. Water service lines for single-family residential units shall not be less than three-fourths (3/4) inch and shall be constructed of K-copper. Services for larger units shall be sized according to flow requirements.
- D. The angle of connection for water taps shall be between 45 degrees and 90 degrees from the top.

### **B.3.2 Sewer Line Size and Design**

- A. Sewer main line sizes are to be based on current engineering practices, in accordance with state requirements. Final size will be determined by the Utilities Director and further based on line extendibility.
- B. Sewer service lines shall not be less than four (4) inches and shall be constructed of Schedule 40 PVC.
- C. The angle of connection for sewer taps shall be at least 90 degrees from the top.

## **APPENDIX B: INFRASTRUCTURE DESIGN DETAILS**

### **Section B.4 Stormwater Management**

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The Section is reserved for future Phase II Stormwater Requirements as required by the North Carolina Department of Environment and Natural Resources.

### **Section B.5 Fire Protection**

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Fire hydrants shall be approved brand only. The Town maintains a uniform hydrant program with Muller Centurion, five and one-fourth (5 ¼") inch valve, left hand open hydrants with two hose nozzles and one pumper nozzle.

**TOWN MANAGER**  
Ken Deal

**TOWN CLERK**  
Pamela Mills

**TOWN ATTORNEY**  
Tom Brooke



**MAYOR**  
Charles Seaford

**TOWN COUNCIL**  
Don Bringle  
Arthur Heggins  
Brandon Linn  
Rodney Phillips  
Steve Stroud

## **TOWN OF CHINA GROVE**

### **Conflict of Interest Standards**

§ 160D-109. (Effective January 1, 2021) Conflicts of interest.

#### *Governing Board*

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

#### *Appointed Boards*

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

#### *Administrative Decisions*

No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

333 N Main Street, China Grove, NC 28023 | Phone (704) 857-2466 | Fax (704) 855-1855

*"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, age, disability, religion, sex, familial status, sexual orientation, and reprisal. (Not all prohibited bases apply to all programs)."*

*Quasi-Judicial Decisions*

A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

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

Familial Relationship. – For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

**Acknowledgement**

I hereby acknowledge that I have received a copy of the Town of China Grove Conflict of Interests Policy and agree to follow the policy set forth herein.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name