Title XV

Chapter 156

Unified Development Code

[*Re-codified with amendments through February 10, 2015]*

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HOW TO USE THIS CODE

IF YOU OWN PROPERTY AND WANT TO KNOW WHAT RULES APPLY:

STEP 1: Find your zoning district and any overlay districts by looking at the Zoning Map (found in the Planning Department).

STEP 2: Go to §156.200, Districts Established, to review the intent of the district(s) applied to your property.

STEP 3: Go to §156.202, Permitted Land Uses, for details on uses permitted on your property. Find the row that lists the group of uses or specific use you've identified. Match this row to your district (across the top of the table) to determine if the use you want to establish is permitted. To determine if the use you've identified is part of group of uses go to §156.300, Use Interpretation.

STEP 4: If your use is permitted, before building the structure or establishing the use, you must get the appropriate permits approved (see Article 7). For details on minimum lot size and required yards see §156.203. For specific use standards see Article 3. The use may also be subject to the general standards in Article 4.

STEP 5: Don't forget that the overlay districts established in §156.200C may apply to your property.

These requirements are intended to help you and the Town ensure that your project is legally established and that it matches the development vision that Town of Benson, as a community, desires. You should also review the Benson General Design Guidelines for other applicable development information.

IF YOU WANT TO BUILD OR ESTABLISH A PARTICULAR USE:

Follow Steps 1 through 5 above, to identify your zoning district and the permitted uses. You can find the specific details for the permitted uses in your zoning district in either §156.300 and §156.802. You can also find the various development standards that apply to your property in Article 4.

IF YOU WANT TO CHANGE YOUR ZONING DISTRICT:

Only the Town Board of Commissioners, may rezone property – following public notice and hearings. See §156.704, Rezonings, for details on the procedure.

IF YOU WANT TO SUBDIVIDE YOUR PROPERTY:

Property can only be subdivided in accordance with §156.706, Subdivision Review.

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156.100 TITLE

This chapter shall be known and may be cited as the Unified Development Code of the Town of Benson, North Carolina, and may be referred to as this chapter.

156.101 AUTHORITY AND ENACTMENT

The Town Board of Commissioners, pursuant to the authority conferred by the General Assembly of the State of North Carolina in G.S. § 160A, Article 19, does hereby ordain and enact into laws these articles and sections.

156.102 PURPOSE

A. General

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

B. Zoning

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

C. Subdivision

The purpose of this chapter is also to provide for the orderly development of the Town and its environs through the regulation of the subdivision of land. The regulations contained herein are intended to coordinate proposed development with existing development and with officially adopted plans for the future development of the Town; to ensure the provision of adequate facilities for transportation, water, sewerage, and other public facilities in subdivisions; to ensure the proper legal description, documentation, and recording of subdivided land; and to promote the public health, safety, and general welfare of the Town.

156.103 EFFECTIVE DATE

This chapter was adopted on May 8th, 2007 becoming effective May 8th, 2007

156.104 JURISDICTION

The boundaries of the zoning districts are shown upon the map accompanying this chapter, and made a part hereof, entitled "Town of Benson, North Carolina Official Zoning Map" and dated May 8th, 2007. The Zoning Map and all the notations, references and all amendments thereto, and other information shown there on is hereby made a part of this chapter the same as if such information set forth on the map were all fully described and set out herein. The Zoning Map properly attested is on file in the office of the Town Clerk and is available for inspection by the public. When duly adopted by the Town Board of Commissioners, these regulations shall also govern each and every subdivision of land within the corporate limits of Benson, as now or hereafter established, and within the extraterritorial jurisdiction adopted by the Town.

156.105 LEGAL STATUS PROVISIONS

A. Legal Status Provisions

1. In its interpretation and application, the provisions of this chapter shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and general welfare. Whenever the requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants are at variance with the requirements of this chapter, the most restrictive, or that imposing the highest standards, shall govern.

2. This chapter and various parts, sections, subsections, and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section, or clause is adjudged unconstitutional or invalid, it is hereby provided that the remainder of the chapter shall not be effected thereby. Whenever any condition or limitation is included in an order authorizing a special use permit, conditional use permit, variance, certificate of occupancy, or site plan approval or is offered by an applicant in an application or public hearing for such permit or approval, it shall be conclusively presumed that the authorizing officer or body considered such condition or limitation necessary to carry out the spirit and purpose of this chapter or the requirements of some provisions hereof, and to protect the public health, safety, and welfare, and that the officer or body would not have granted the authorization to which the condition or limitation pertains except in the belief that the condition or limitation was lawful. Any and all representations made by the applicant to the Town on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the Town.

B. Statute of Limitations

In accordance with G.S. § 160A-364.1, a cause of action as to the validity of this chapter, or amendment thereto, shall accrue upon the adoption of this chapter or amendment thereto, and shall be brought within two months as provided in G.S. § 1-54.1.

C. Repeal of Conflicting Ordinance

All ordinances or parts of ordinances of the Town which are in conflict or inconsistent with this chapter are repealed and superseded to the extent necessary to give this chapter full force and effect.

D. Administrator

The Town Planner is appointed to serve as administrator of this chapter. If this position should at any time be vacant, then the Town Manager shall designate another Town official to act as administrator until the office is filled.

E. Examples and Illustrations

The examples, illustrations, and any other commentaries used in this chapter are for informational purposes only and are not intended for the purpose of construing the substantive or procedural provisions of this chapter or the Town's intent in adopting specific provisions in this chapter.

156.106 APPLICATION OF REGULATIONS

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

A. Compliance Required

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

B. Zoning/Building Permit Required

No building, sign, or structure or any part thereof shall be erected, structurally altered or moved or changed in use until a zoning/building permit has been issued by the Planning Director as set forth in §156.709.

156.107 INTERPRETATION OF REGULATIONS

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

A. Minimum Requirements

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

B. Restrictive Covenants

Unless restrictions established by covenants with the land are prohibited by or contrary to the provisions of this chapter, nothing contained within this chapter shall be construed to render such covenants inoperative.

156.108 COMPLIANCE WITH PLANS

A. Approved Plans

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

B. Adopted Plans and Policies

All proposed subdivisions shall be placed and designed in a manner consistent with the adopted plans and policies of the Town.

156.109 TRANSITIONAL PROVISIONS

A. Conforming Uses and Structures

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

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

B. Effect of Amendment

If subsequent amendments to this chapter or the Zoning Map result in the creation of additional nonconformities or conformities, such nonconformities or conformities shall be governed by the provisions of this chapter, unless otherwise stated in the amendment.

C. Applications and Prior Approvals

1. **Projects Under Construction Prior to Effective Date**

   a. Any building or development for which a permit was issued before the effective date of this chapter may be completed in conformance with the issued permit and other applicable permits and conditions, even if such building or development does not fully comply with provisions of this chapter.

   b. Nothing in this chapter shall require a change to a phasing plan approved prior to the adoption of this chapter, provided construction is consistent with the terms and conditions

of the phasing plan and proceeds to completion in a timely manner. The applicant shall ensure that a period of no more than two years without an active building permit occurs in order to continue a project under a previous phasing plan.

c. If construction is not completed according to the applicable permit terms, the Town Board of Commissioners may, for good cause shown, grant an extension of up to one year for such construction. If the building is not completed within the time allowed under the original permit or any extension granted, then the building may be constructed, completed or occupied only in compliance with this chapter.

2. **Applications Submitted Prior to Effective Date**

a. Any complete application submitted before the effective date of this chapter may be completed in conformance with applicable permits and conditions of the regulations in effect at the time of submission of the application, even if such application does not fully comply with provisions of this chapter.

b. If construction is not commenced or completed according to the applicable terms of the application, the Town Board of Commissioners may, for good cause shown, grant an extension of up to one year for such construction. If the building is not completed within the time allowed under the original application or any extension granted, then the building may be constructed, completed or occupied only in compliance with this chapter.

3. **Prior Approvals**

Where a planned development, special use district, special use or conditional use was approved prior to the effective date of this chapter, the provisions of this chapter shall apply to the extent that they do not conflict with the original conditions of approval.

D. **District Conversion**

Commentary: *The table below translates existing zoning districts to the new zoning districts in this chapter.*

The zoning district names in effect prior to the effective date of this chapter are converted as shown below.

Previous District		New District	
R-20	Residential District	R-20	Residential-District
R-11	Residential District	R-11	Single-Family Residential
R-6	Residential District	R-6	Single-Family Residential
R-MH	Mobile Home Residential	R-MH	Mobile Home Residential
--	*NEW*	O-I	Office-Residential
O-R	Office and Institutional District	O-R	Office-Institutiona
B-1	Central Business District	B-1	Central-Business
B-2	General Business District	B-2	General-Business
B-3	Highway Business District	B-3	Highway-Business
I-1	Industrial District	I-1	Industrial-Light
I-2	Industrial District	I-2	Industrial-Heavy
--	*NEW*	PD-R	Planned Development-Residential
--	*NEW*	PD-C	Planned Development-Commercial
--	*NEW*	PD-I	Planned Development-Industrial
--	*NEW*	PD-MU	Planned Development-Mixed Use
--	*NEW*	HPO	Historic Preservation Overlay

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156.200 DISTRICTS ESTABLISHED

To carry out the provisions of this chapter, within the jurisdiction of the Town of Benson, the following zoning districts are established.

A. General Use Districts

1. Residential

a. R-20/AR | Single-Family Residential-20/Agriculture

This district is comprised of low density, single family dwellings, and other selected uses which are compatible with the open and rural character of the area. The established regulations for this district are designed to promote and encourage an environment for family life and agriculture. To encourage higher quality development and to ensure greater environmental protection, open space subdivisions are permitted.

b. R-11 | Single-Family Residential–11

Established to provide for orderly suburban residential development and redevelopment. Intended to maintain residential areas at relatively low densities characterized predominantly by owner-occupied, single-family detached units. The district requirements protect existing neighborhoods from undesirable uses and residential conversions. To encourage higher quality development and to ensure greater environmental protection, open space subdivisions are permitted. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

c. R-6 | Single-Family Residential–6

Established to provide for orderly suburban residential development and redevelopment. Intended to protect, preserve and enhance existing residential areas of higher density which include multifamily dwellings mixed with other housing types. A special permit process for higher intensity development is also allowed, using discretion to balance issues of higher density with improved amenities.

2. Nonresidential

a. O-R | Office–Residential

Intended to accommodate modest-scale professional occupations, along with single-family and multifamily residential units, to serve as a neighborhood activity center and as a transition between residential and more intense commercial uses.

b. O-I | Office–Institutional

Intended to permit offices, institutions and associated administrative, executive, professional and research uses in new and existing structures and limited retail uses. Such offices and instructional user should be located along major roadways, adjacent to commercial uses to act as a buffer between such roadways and residential uses.

c. B-1 | Central–Business

Intended to foster a vibrant, safe, Town center by encouraging residential development while retaining and further developing a broad range of commercial, office, institutional, public, cultural and entertainment uses and activities. The district is intended to define and promote the Town center as a desirable place to live, work and recreate.

d. B-2 | Neighborhood–Business

Provides for small-scale commercial uses offering primarily convenience shopping and services for adjacent residential areas. Proximity to residences requires that commercial operations are low intensity, unobtrusive and conducted at a scale and density compatible

with the surrounding neighborhood. There is a relatively low demand on public services, transportation and utilities.

e. **B-3 | Highway–Business**

Provides locations of offices, service uses, and businesses retailing durable and convenience goods for the community as a whole. Located on major and minor thoroughfares and, therefore, are accessible to and serve the entire community. Site design and buffering mitigate impacts of traffic, operations and scale on adjacent businesses and residential neighborhoods.

f. **I-1 | Industrial–Light**

Promotes the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Industries should be operated in a relatively clean and quiet manner, and should not be obnoxious to nearby residential or business districts, warehousing and wholesaling activities, and research facilities. The regulations of this district are intended to prohibit the use of land for industries, that by their nature, may create some nuisance to surrounding properties.

g. **I-2 | Industrial–Heavy**

Promotes the retention and growth of employment opportunities by providing areas where a broad range of industrial uses may locate and where options for complementary uses exist. Indented for heavy industries that, by their nature, may create some nuisance, and which are not properly associated with or are compatible with nearby residential or business districts, warehousing and wholesaling activities, and research facilities.

3. **Planned**

a. **PD-R | Planned Development-Residential**

Intended to provide for master-planned residential communities containing a mix of housing types, including associated amenities with appropriate perimeter buffering and open space. This district is primarily intended for large-scale residential projects that require either additional flexibility not available in the residential districts, or greater scrutiny by the Town due to their scale.

b. **PD-C | Planned Development-Commercial**

Intended to enhance the design of a commercial development by allowing for additional flexibility not available in the nonresidential districts. The district allows for innovations and special features in site development, including the location and type of structures, the conservation of natural features, the conservation of energy, and the efficient use of open space.

c. **PD-I | Planned Development-Industrial**

Intended to provide a means of achieving unified industrial complexes of high quality to promote amenities beyond those expected under conventional techniques, to achieve greater flexibility in design, to encourage well-planned industrial developments that provide for community needs, to provide for appropriate use of land which is significantly unique in its physical characteristics, location or other circumstances to warrant special methods of development, and to allow the expansion of existing industrial areas while safeguarding and maintaining the integrity of surrounding uses, especially those of a residential nature.

d. **PD-MU | Planned Development-Mixed Use**

Indented to provide for coordinated mixed use developments which include light industrial, commercial, office, educational, civic, institutional, residential and service uses within a

planned development with appropriate perimeter buffering and open space. The variety of land uses available in this district allows flexibility to respond to market demands and the needs of tenants, which provides for a variety of physically and functionally integrated land uses.

B. Special Use Districts

1. Pursuant to G.S. § 160A-382, the Town Board of Commissioners may establish by ordinance various special use districts upon request by or on behalf of all owners. Parallel special use districts shall be designated by adding "-S" to the corresponding general use district.
2. All zoning regulations that apply to the general use district are minimum within the corresponding special use district.
3. A special use district may provide for greater but not lesser setbacks than those applicable to the corresponding general use district, and may specify that only one or some of the uses permissible in the general use district are permissible in the special use district.
4. Under each special use district, all uses allowed as permissible in the corresponding general use district are permitted only upon issuance of a special use permit by the Town Board of Commissioners in accordance with §156.711. However, a special use permit is not required as a prerequisite to establish a special use district, since the district itself may be conditioned and established first and then developed much later. However, a special use permit may be submitted in tandem petition for the special use district, either by preference of the applicant or upon request by the Town Board of Commissioners or Planning Director, if either finds that such permit is necessary in order to consider an application for a special use district.
5. If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid, or if the applicant should fail to accept any condition, it is the intent of this chapter that the authorization of such special use permit shall be null and void and of no effect and that proceedings be instituted to rezone the property to its previous zoning classification.

C. **Overlay Districts**

1. Historic Preservation (HP)

Reserved

D. **Interpretation of District Boundaries**

1. **Defined**

District boundaries as are shown upon the Zoning Map of the Town adopted by this chapter as set forth in §156.103,Juristiction, are hereby adopted, and the provisions of this chapter are hereby established and declared to be in effect upon all land included within the boundaries of each and every district shown on the map.

2. **Rules for Interpretation**

a. The Board of Adjustment is authorized to interpret the Zoning Map and to pass upon disputed questions of lot lines or district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Planning Director, they shall be handled as provided in §156.717, Administrative Appeals.

b. An application for a Zoning Map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the Planning Director. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

c. Where uncertainty exists as to the boundaries of any district shown on the Zoning Map, the following rules shall apply:

i. Boundaries indicated as approximately following the centerlines of streets, alleys, highways, streams or railroads shall be construed to follow such centerlines.

ii. Boundaries indicated as approximately following lot lines, Town limits or extraterritorial jurisdiction boundary lines, shall be construed as following such lines, limits or boundaries; and

iii. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such changed shorelines.

iv. Where a district boundary divides a lot or where distances are not specifically indicated on the Zoning Map, the boundary shall be determined by measurement, using the scale of the Zoning Map.

v. Where any street or alley is hereafter officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added thereto by virtue of such vacation or abandonment.

156.201 MEASUREMENTS AND EXCEPTIONS

A. General

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

B. Building Coverage

The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings. Building coverage does not include paved areas such as driveways, uncovered porches or patios, decks, swimming pools or pool cages, or roof overhangs of less than three feet.

C. Impervious Surface

The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings, paved areas such as driveways, uncovered porches or patios, or solid decks.

D. Building Separation

The required separation between any two buildings located on the same lot or parcel of land.

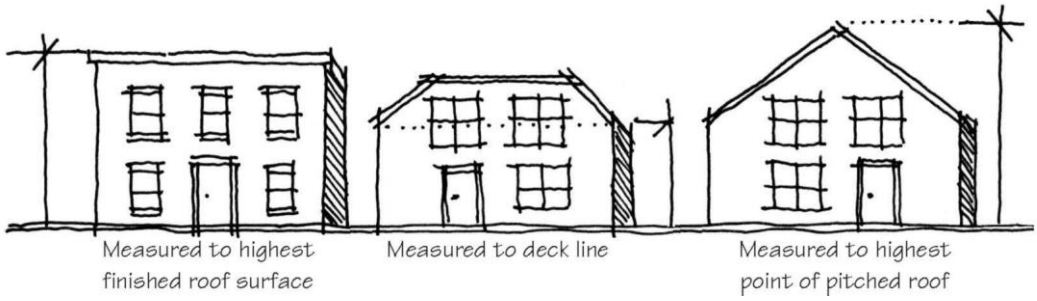
E. Gross Floor Area

The gross floor area of a building shall be measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include the following areas:

1. The area of each floor of the structure;
2. All attic space used for active commercial space; and
3. All outside storage areas as permitted §156.405.

F. Height

1. Height shall be determined by the vertical distance from the average of the finished ground level to the highest finished roof surface of any flat roof, to the deck line of a mansard roof, or to the highest point of the ridge of any pitched roof.



2. No structure shall be erected or altered so as to exceed the height limit or density regulations of this Article for the district in which it is located.
3. The Board of Adjustment may grant a conditional use permit in accordance with §156.710, Conditional Use Review, for structures such as spires, belfries, cupolas, domes not intended for human occupancy, monuments, water tanks/towers, transmission and telecommunication

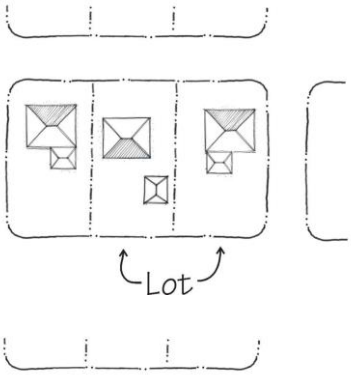
towers, chimneys, flagpoles, aerials or antennas, or other similar structures which, by design or function, must exceed established height limits of the district in which it is to be located.

4. The Town Board of Commissioners may grant a special use permit in accordance with §156.711, Special Use Review, for structures exceeding the maximum height limits of any district.

G. Area

Area shall be measured in gross square feet or acres.

1. **Lot**

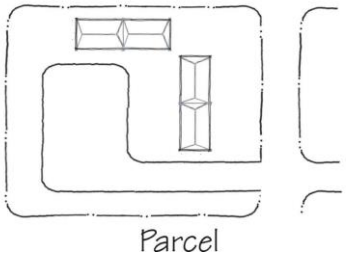


a. A single lot of record, or more than one contiguous lot of record in the same ownership, which lot or lots of record are not divided by any street or public alley.

b. Lot area shall be that area included in a single, undivided piece of land.

c. Minimum lot areas shall be exclusive of existing or proposed public or private right-of-way, resource conservation areas, and required recreation and open space (see §156.203H).

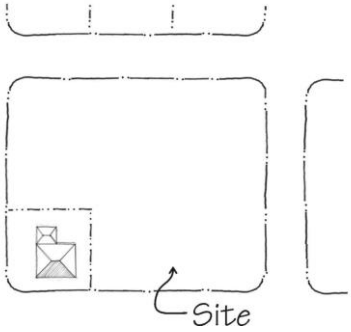
2. **Parcel**



a. A continuous quantity of land in the possession of or owned by, or recorded as property of the same person or persons. A parcel may contain multiple buildings or uses.

b. Parcel area shall be that area required for each individual building in a multi-building project. A parcel may include multiple lots.

3. **Site**



a. A continuous quantity of land to be developed as a single project. A site may contain multiple parcel or lots.

b. Site area shall be the total land area of the proposed development. A site may include multiple parcels or lots.

c. Net site area shall mean the total gross area of the parcel, minus any resource conservation areas located on the site.

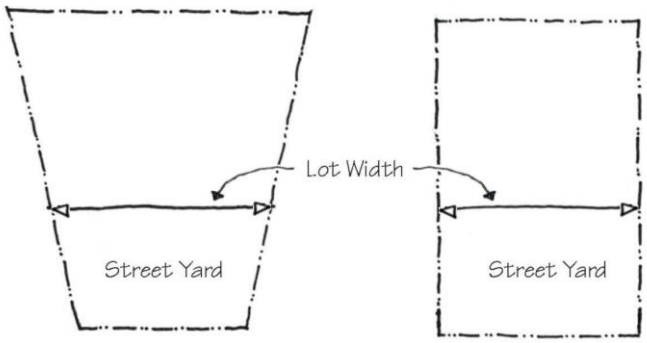
H. Width

1. **Building Width**

Building width shall be measured by the distance along the front plane of any building (as determined by the location of an entrance fronting on a street).

2. **Parcel or Lot Width**

Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the rear edge of the street yard along a straight line parallel to the front of the property line or along the chord of the front property line.

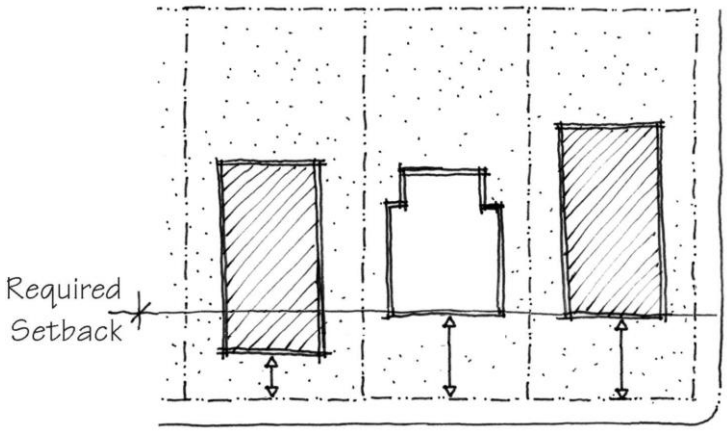


I. Density

1. Density shall be allocated to each development parcel as follows:
   a. One hundred percent of the district density for the area outside of resource protection areas; and
   b. Fifty percent of the district density for any resource conservation areas.
2. Density for single-family districts shall be calculated by dividing one acre of land (43,560 square feet) by the minimum single-family detached lot size for the district.

J. Yards and Setbacks

1. **General**
   a. All street yard and side yard (street) setbacks shall be measured from the edge of the right-of-way.
   b. The minimum street yard requirements of this Article for residential dwellings shall not apply on any lot where the average street yard of existing dwellings located on either side of the lot in question within the same block and zoning district and fronting on the same side of the street is less than the minimum required street yard. In such cases, the street yard on such lots may be less than the required street yard, but not less than the adjacent dwelling with the greatest street yard depth.



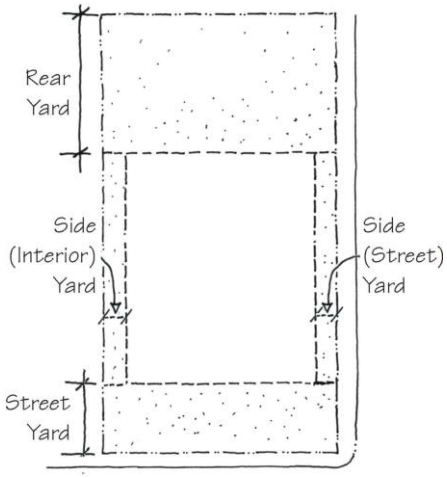
c. Every part of every required yard shall be open and unobstructed above the general ground level of the graded lot upward to the sky except as provided or as otherwise permitted in this chapter.

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

2. **Types of Yards**

a. There are four types of yards – street, side (street), side (interior), and rear yards.

b. Double frontage lots shall be considered to have two street yards.

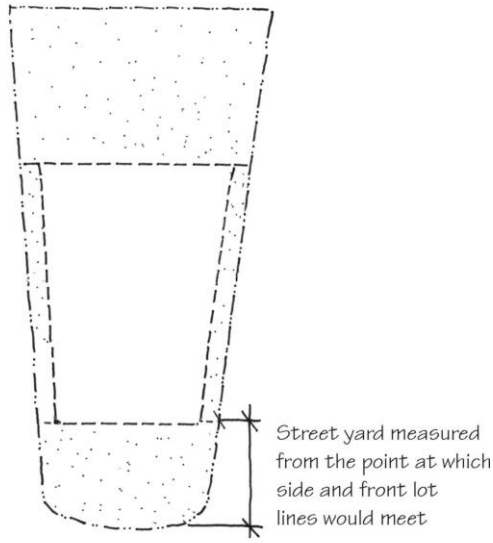


3. **Measurement of Yards**

a. Depth of a required street yard shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point of the side lot lines, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding.

b. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

c. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.



4. **Yard Encroachments**

The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

a. Parking structures may extend into the rear yard of a dwelling unit.

b. Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of four feet into a required yard.

c. Building eave or roof overhang may extend up to 24 inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least 7½ feet above the ground elevation, and it is located at least five feet from any other building or eave.

d. Sills and ornamental features may project up to 24 inches into any required yard.

e. Except in the B-1 District, fire escapes may project up to eight feet into any required yard.

f. Signs may extend into required yards in conformance with standards found in the §156.403.

g. Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.

h. Security gates and guard stations may be located within any required yard.

i. Unenclosed patios, decks or terraces, including lighting structures, may extend up to four feet into any required side yard, or up to eight feet into any required rear yard.

j. Covered porches may encroach a maximum of 20 percent of the required street yard setback depth.

k. Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four feet from the property line.

l. Bay windows, entrances, balconies, and similar features that are less than ten feet wide may extend up to 18 inches into any required yard, but shall remain at least six feet from the property line.

m. Structures below and covered by the ground may extend into any required yard.

n. Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than two feet from the property line.

o. Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard and may be no closer than one foot from the property line subject to visibility restrictions.

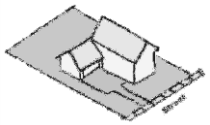
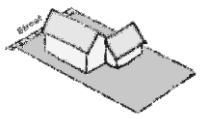
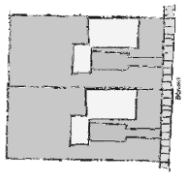
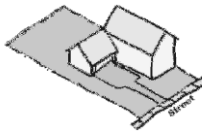
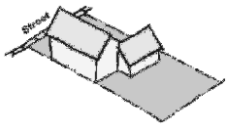
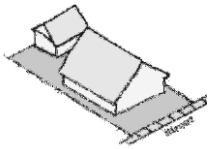
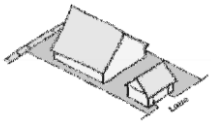
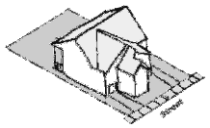
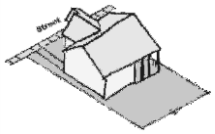
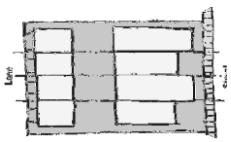
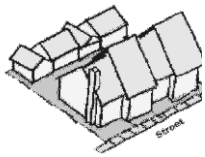
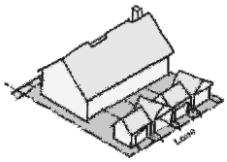
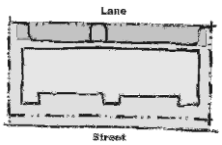
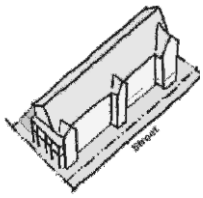
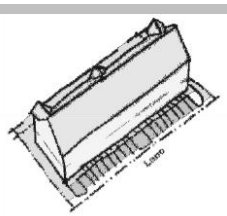
p. Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

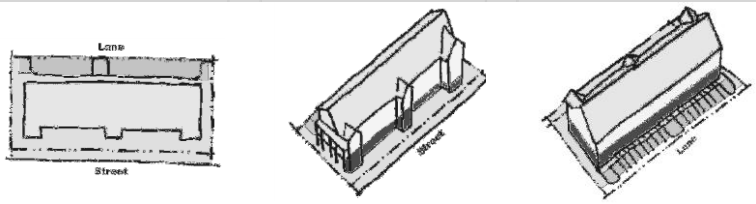
156.202 PERMITTED LAND USES

A. Housing Types

1. Definitions

The following housing types are established to provide a common terminology for housing in the Town of Benson. All drawings are for illustrative purposes only.

Single Family Detached A detached dwelling unit located on a single lot with private yards on all four sides			
Zero Lot Line House A detached dwelling unit located on a single lot with private yards on three sides. The unit has a single side yard on one side comprising the equivalent of two side yards of a single-family detached house.			
Alley-Loaded House A detached dwelling unit located on a single lot with private yards on all four sides: however, the house is set closer to the street than a single-family detached house.			
Two-Family House Two attached dwelling units in a single structure on a single lot (often called a duplex). The two units can be located on separate floors or side-by-side.			
Townhouse Two or more attached dwelling units located on separately owned lots or on a single lot where the units are lined up in a row and share side walls, individual units can be mixed vertically.			
Apartment Three or more attached dwelling units in a single structure on a single lot. An apartment can vary in height from two to five stories, individual units can be mixed vertically.			

Upper-Story Residential A dwelling unit located on a floor above a nonresidential use.	

B. **Permitted Land Use Table**

The permitted land use table is subject to the explanation as set forth below.

1. **Key to Types of Use**

a. **Permitted**

A ”P” indicates that a use is permitted in the respective district subject to the specific use standards in Article 3. Such uses are also subject to all other applicable requirements of this chapter.

b. **Special Use Review**

An “S” Indicates a use that may be permitted in the respective general use district only where approved by the Town Board of Commissioners in accordance with §156.711. Special uses are subject to all other applicable requirements of this chapter, including the specific use standards contained in Article 3, except where such use standards are expressly modified by the Town Board of Commissioners as part of the special use approval.

c. **Specific Use Standard**

The “Specific Use Standard” column on the table is a cross-reference to any specific use standard listed in Article 3. Where no cross-reference is shown, no additional use standard shall apply.

d. **Uses Not Permitted**

A blank cell in the use table indicates that a use is not permitted in the respective district.

2. **Permitted Uses**

The following table lists the principal uses permitted by this chapter for general use districts. For special use districts see §156.200B, for overlay districts see §156.204, for planned development districts see §156.203K, and for accessory structures and uses see §156.305.

P = Permitted | C = Conditional Use (§156.710) | S = Special Use (§156.711) | * = Group of Uses (§156.300)

	R-20 / AR	R-11	R-6	O-R	O-1	B-1	B-2	B-3	I-1	1-2	Specific Use Standard
RESIDENTIAL USES											
Single-family detached	P	P	P	P							
Zero lot line		P	P								§156.302A
Alley-loaded		P	P								§156.302B
Two-family		S	S	S							
Townhouse		S	S	S	S	S	S	S			§156.302C
Apartment		S	S	S	S	S	S	S			§156.302D
Upper-story residential		S		P	P	P	P	P			§156.302E
Manufactured home	S										§156.302F
Manufactured home park	S										§156.302G
CIVIC USES											
Adult care home (2 to 6)	P	P	P								§156.303A
Adult care home (7 to 12)	S	S	S		S	S	S	S			§156.303A
Adult care home (13+)					S	S	S	S			§156.303A
Boarding house					P		P				§156.303B
Child care home (3 to 8)	S	S	S	S							§156.303C
Child care center (9+)	S	S	S	S	P	P	P	P			§156.303D
College					P						
Civic club	S			P	P		P	P			
Hospital					P			P	S		
Museum, library				P	P	P	P	P			
Nursing home	S		S		P		S	P			
Park, open area*	S	P		P	P	P	P	P	P	P	
Place of worship	P	P						S			§156.303E
Public facility	S	S	S	S	P	S	P	P	S	S	§156.303F
School (public or private)	S	S	S		S			S			§156.303G
Technical, trade, business	S	S	S		P	P		P	P	P	
Utility, Minor*	P	P	P	P	P	P	P	P	P	P	
Utility, Major*									P	P	
Wireless facility	S	S	S	S	S	S	S	S	S	S	§156.303H

	R-20 / AR			R-11		R-6						Specific Use Standard
	O-R				O-1	B-1	B-2	B-3	I-1	1-2		
COMMERCIAL USES												
Adult-oriented business								S		S	§156.304A
Agriculture (livestock)*										P	
Agriculture (sales,	P									P	
Amusement center						S	S	S			
Artist studio, gallery				P	P	P	P	P			
Bed & Breakfast	P			P	P	P	P				§156.304B
Cemetery	P							P			
Club, private						S	S	S			
Contractor's office					S	P		P	P	P	§156.304C
Funeral home					P	P	P	P			
Gas station w/ convenience						P	P	P	P	P	§156.304E
Hotel, motel					S	S		P			§156.304D
Indoor recreation*						P	P	P	P		
Kennel	S							S			
Manufacturing, Limited*						S		S	P	P	§156.304F
Newspaper publisher								P	P	P	
Office, General*				P	P	P	P	P	P		
Office, Medical*				P	P	P	P	P	P		
Outdoor recreation*								P	P		
Radio or television studio								P	P	P	
Recreational club, private	S	S	S	S	S	S	S	S	S	S	§156.304G
Restaurant					P	P	P	P	P		
Retail, Neighborhood*						P	P	P			§156.304H
Retail, General*						P		P			§156.304H
Self-storage facility						S	P	P	P		§156.304I
Service, Neighborhood*						P	P	P			§156.304J
Service, General*						P		P			§156.304J
Tattoo parlor						S	S	S			
Vehicle repair*								S	P	P	§156.304K
Vehicle sales*								P	P	P	§156.304L
Vehicle service*						P		P	P	P	§156.304M
Veterinarian, animal hospital	S						P	P	P		§156.304N
Warehouse/freight								S	P	P	
INDUSTRIAL USES											
Crematorium									P	P	
Manufacturing, General*									P	P	
Manufacturing, Heavy*										P	
Research & development*					P			P	P	P	
Waste service*									p	P	

ADD TO THE PERMITTED LAND USE TABLE THE FOLLOWING:

Electronic Gaming Operations as a special use in the B-3, 1-1, and 1-2 zoning districts and §156.304(0) under Specific Use Standard. (Amended 7-26-2012).

Livestock (recreational) permitted by right in RA/R-20 and by special use permit (SUP) in R-11, as follows:

1. Keeping of livestock in zoning districts as referenced in §156.202.B(2), Permitted Land Use Table, shall be applicable only to property within the corporate limits of the Town of Benson. The keeping of livestock within the extraterritorial jurisdiction of the Town of Benson shall not be governed by the requirements of this section.
2. For purposes of this section **"Livestock"** shall include: any species of cattle or bovines, horses, or other equines, ponies, donkeys, mu les, or any other animal weighing more than 200 pounds. Livestock shall not include any species of hog, pig, swine or other similar animal, nor shall Livestock include any species of domesticated canine or feline.
3. Any existing situations of Livestock being kept within the corporate limits of the Town of Benson prior to the effective date (June 8, 2010) of this section shall be allowed to continue as non- conforming use as provided in §156.719 of this code. Should any pre-exiting livestock situation cease by removal of structure or fence for more than 6 months (180 days), such use shall no longer be allowed.
4. Livestock shall be kept only on property consisting of a minim um of one (1) contiguous acre with a primary residence located thereon. Livestock shall be maintained or housed in the rear yard only.
5. A maxim um of two (2) livestock per contiguous acre may be kept. The keeping of greater than six (6) livestock on any single parcel shall be presumed to be a commercial animal boarding and/or breeding operation, which shall be governed by the applicable sections of this code.
6. No animal shall be maintained, housed, kept, boarded, or otherwise allowed to remain within one hundred (100) feet of any dwelling or structure used for human habitation by any entity other than the owner and immediate family of the owner of the animal deemed livestock for the purposes of this section.
7. A structure and enclosure approved by the Building Inspector and Zoning Administrator shall be provided to adequately accommodate all livestock kept, maintained or housed on the property. Any structure or enclosure shall meet the requirements prescribed in within this code and the N .C. Building Codes. This approval must be granted prior to the keeping of any animal deemed livestock as per this section within said structure.
8. All waste should be collected and properly disposed so as not to constitute a nuisance for adjoining property owners and to protect public health. Fly control measures shall be used to prevent any nuisance to adjoining property owners.
9. Additional considerations or conditions may apply as deemed necessary by the Planning Board and/or Board of Commissioners in the case of a required special use review. (Amended 6-8-2010)

156.203 GENERAL USE DISTRICT STANDARDS

A. Intent

The general use district development standards establish lot sizes and certain restrictions for residential and nonresidential development. These standards allow for variety in housing types while maintaining the overall character of neighborhoods and commercial areas of the Town. Separate standards are established to regulate development in each general use district. This approach to district development standards has several public benefits:

1. It allows for development that is more sensitive to the environment and allows for the preservation of open and natural areas.
2. It promotes quality site layout and energy-efficient development.
3. It promotes affordable and life-cycle housing.
4. It promotes development intensities that match existing and proposed infrastructure investments.

B. Resource Conservation Areas

1. No resource conservation area shall be counted towards lot area required by this Article. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided to meet the minimum lot area requirements of this Article.

2. No resource conservation area shall be counted towards the recreation and open space requirements (see §156.203H).

C. Benson General Design Guidelines

The Town of Benson has established a manual to guide the future growth of development. The design guidelines provide a basis for making decisions about the appropriate treatment of new construction and land development. Property owners, real estate agents, developers, tenants, architects and decision makers should use the guidelines contained in the document when considering a project. This will help establish an appropriate direction for its design. For any project subject to review, the applicant should refer to the guidelines at the outset, to avoid planning efforts that later may prove to be inappropriate.

D. How to Use this Section

This section is divided into the following:

Part 1. Residential Districts. This Part sets forth specific standards for development in residential districts.	§156.203E through §156.203I
Part 2. Nonresidential Districts. This Part sets forth specific standards for development in nonresidential districts.	§156.203J
Part 3. Planned Development Districts. This Part sets forth specific standards for development in planned development districts.	§156.203K

PART 1. RESIDENTIAL DISTRICTS

E. Residential Subdivision Types

Development within the residential districts allows a variety of subdivision types. Two types of residential subdivisions are permitted, as follows.

1. **Conventional Residential Subdivision**

   Conventional residential subdivision is a pattern of residential development that provides a majority of property owners with substantial yards on their own property. Recreation and open space dedication or payment of a fee-in-lieu is required for conventional residential subdivisions.

2. **Open Space Residential Subdivision**

   Open space residential subdivisions trade conventional minimum lot size and dimensions for additional common recreation and open space. An open space residential subdivision shall be a sufficient size to ensure adequate common recreation and open space can be incorporated into the subdivision design. An open space residential subdivision may allow additional density provided certain enhancements are incorporated into the design of the subdivision.

F. Conventional Subdivision Standards

1. **Applicability**

   A conventional residential subdivision is permitted in all residential districts subject to the following standards.

2. **Density**

   In the R-11 districts, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of ten units per acre. In the R-6 District, townhouse parcels, apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre.

3. **Development Standards**

   Applicants utilizing the conventional residential subdivision option shall meet all applicable development standards as set forth in Article 4, General Development Standards and Natural Resource Protection. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

4. **Lots Not Served by Public Water and Sewer**

   No permit to install a septic tank system shall be issued until the County Health Director has determined by a field investigation of the area that the site is acceptable for a septic tank system and that such a system can be installed at the site in compliance with these rules and regulations. The field investigations shall include evaluation of such factors as size and shape of lot or lots, character and porosity of soil, percolation rate, topography, depth of water table, rock or other impervious formations, location or proposed location of any water supply wells, and the success or failure history of any other septic tank systems in the area. The County Health Director shall not issue a permit if he determines that the site is not acceptable for septic tank systems.

5. **Dimensional Standards**

   Applicants utilizing the conventional residential subdivision option shall meet the following standards. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

Conventional Residential Subdivision

R-11	Single-Family Detached	Zero Lot Line	Alley-Loaded	Two-Family	Townhouse[1] (2 units)	Townhouse[1] (3+ units)	Apartment[1]
Use	Permitted	Permitted	Permitted	Special Use	Special Use	Special Use	Special Use
Site (min) Area (acres) Recreation/Open Space	None 1,245 sq.	None 1,245 sq. ft./unit	None 1,245 sq. ft./unit	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process
Parcel (min sq. ft.) Area per building	--	--	--	12,000	12,000	20,000	20,000
Lot (min) Lot area (sq. ft.) Lot width (ft.) Water/sewer	11,000 70 Required	11,000 70 Required	11,000 70 Required	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process
Yards (min. ft.) Street yard Side yard (interior) Side yard (total) Side yard (street) Rear yard	30 10 20 20 25	30 0 20 20 25	20 10 20 10 25	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process
Bulk (max) Height (ft.) Building coverage Impervious surface	35 35% 50%	35 35% 50%	35 35% 50%	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process

[1] More than one building may be established on a single lot (see §156.301, Complexes)

[2] In no instance shall the area of a residential lot be less than the size determined to be adequate by the County Health Department after investigations have been made of the soil and the ground water table.

R-6	Single-Family Detached	Zero Lot Line	Alley-Loaded	Two-Family	Townhouse[1] (2 units)	Townhouse[1] (3+ units)	Apartment[1]
Use	Permitted	Permitted	Permitted	Special Use	Special Use	Special Use	Special Use
Site (min) Area (acres) Recreation/Open Space	None 1,245 sq. ft./unit	None 1,245 sq. ft./unit	None 1,245 sq. ft./unit	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process
Parcel (min sq. ft.) Area per building	--	--	--	8,000	8,000	20,000	20,000
Lot (min) Lot area (sq. ft.) Lot width (ft.) Water/sewer	6,000 50 Required	6,000 50 Required	6,000 50 Required	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process
Yards (min. ft.) Street yard Side yard (interior) Side yard (total) Side yard (street) Rear yard	20 6 12 10 20	20 0 12 10 25	10 6 12 10 25	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process
Bulk (max) Height (ft.) Building coverage Impervious surface	35 35% 60%	35 35% 60%	35 35% 60%	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process	Set by Special Use Process

[1] More than one building may be established on a single lot (see §156.301, Complexes)

G. Open Space Subdivision Standards

1. Intent

The intent of an open space residential subdivision is to provide a development alternative to a conventional subdivision. An open space residential subdivision involves placing a cluster of home sites within a portion of the development site, allowing housing units on smaller lots than those permitted in a conventional residential subdivision to promote environmentally sensitive, make more efficient use of the land and provide additional common open space. Open space subdivision development is encouraged by the Town of Benson in the form of these flexible design and maximum density provisions. Other purposes of an open space residential subdivision include the following:

a. To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.

b. To preserve important historic and archaeological sites.

c. To permit clustering of houses and structures in a manner that will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development.

d. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.

e. To promote interconnected greenways and corridors throughout the community.

f. To create contiguous greenspace within and adjacent to the development site.

g. To protect scenic views.

h. To protect prime agricultural land and preserve farming as an economic activity.

2. Applicability

An open space residential subdivision is permitted in the R-20/AR, R-11, and R-6 districts subject to the following standards.

3. Mix of Housing Types

Two-family, townhouse, apartment, and upper-story residential units may comprise no more than 50 percent of the total dwelling units of a proposed open space residential subdivision. In no case shall the district density be exceeded for the overall site. In the R-11 and R-6 districts, townhouse parcels, apartment parcels, and upper-story residential units shall not exceed a density of ten units per acre.

4. Development Standards

Applicants utilizing the open space residential subdivision option shall meet all applicable development standards as set forth in Article 4, General Development Standards. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

5. Dimensional Standards

Applicants utilizing the open space residential subdivision option shall meet the following standards. Applicants shall comply with all other provisions this chapter and all other applicable laws.

Open Space Residential Subdivision

R-20/AR	Single-Family Detached	Zero Lot Line	Alley-Loaded	Two-Family	Townhouse[1] (2 units)	Townhouse[1] (3+ units)	Apartment[1]
Use	Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted	Not Permitted
Site (min)							
Area (acres)	10						
Recreation/Open Space							
Total Public or Private	12.5%						
Min Public	1,245 sq. ft./unit						
Lot (min)							
Lot area (sq. ft.)	12,000						
Lot width (ft.)	48						
Water/sewer	Required						
Yards (min ft.)							
Street yard	21						
Side yard (interior)	9						
Side yard (total)	15						
Side yard (street)	15						
Rear yard	18						
Bulk (max)							
Height (ft.)	35						
Building coverage	35%						
Impervious surface	50%						

R-11	Single-Family Detached	Zero Lot Line	Alley-Loaded	Two-Family	Townhouse[1] (2 units)	Townhouse[1] (3+ units)	Apartment[1]
Use	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted	Permitted
Site (min)							
Area (acres)	10	10	10	10	10	10	10
Recreation/Open Space	12.5%	12.5%	12.5%	12.5%	12.5%	12.5%	12.5%
Parcel (min sq. ft.)							
Area per building	--	--	--	12,000	12,000	20,000	20,000
Lot (min)							
Lot area (sq. ft.)	11,000	11,000	11,000	13,000	11,000	7,000	--
Lot width (ft.)	50	50	42	75	42	25	--
Water/sewer	Required	Required	Required	Required	Required	Required	Required
Yards (min ft.)							
Street yard	25	25	15	25	25	25	25
Side yard (interior)	6	0	5	6	6	--	15
Side yard (total)	12	12	10	12	--	15	30
Side yard (street)	15	15	10	15	15	15	15
Rear yard	15	15	15	15	15	15	15
Building separation	--	--	--	--	20	20	20
Bulk (max)							
Height (ft.)	35	35	35	35	35	35	35
Building coverage	35%	35%	35%	35%	35%	35%	35%
Impervious surface	50%	50%	50%	50%	50%	50%	50%

[1] More than one building may be established on a single lot (see §156.301 Complexes)

6. **Utilities**

To the maximum extent determined feasible, utilities in open space residential subdivisions shall be placed underground.

7. **Project Boundary Buffer**

a. No buffer is required where the width of the project's perimeter lots is equal to or greater than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel.

b. Where narrower lot widths are provided, a Class C buffer shall be provided (see §156.402, Landscaping, Screening and Buffering) along all project boundaries of an open space subdivision.

H. **Recreation and Open Space Requirements**

1. **Applicability**

Recreation and open space is an integral part of both conventional and open space residential subdivisions. The minimum recreation and open space requirement for each subdivision type is set forth below. No additional recreation or open space shall be required on the site, except where otherwise required by state or federal law. In the case that a subdivision is being developed in phases, the amount of recreation and open space shall be computed separately for each phase, but may be combined with existing recreation and open space in earlier phases to create a larger uniform area.

2. **All Residential Subdivisions**

a. All residential development, except minor subdivisions (see §156.706, Subdivision Review), shall be required to either dedicate a portion of the land in the subdivision, or land in another location if approved by Town Board of Commissioners, for recreation or open space use or make a payment-in-lieu of dedication at a rate as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. If the development is approved which provides private recreation and open space, to be maintained by a homeowners or property management organization, and meeting the minimum standards of this section, the required fee-in-lieu payment shall be as set forth in the Town's Comprehensive List of Fees and Charges per lot or dwelling unit. A combination of dedication and payment-in-lieu may be used to meet these requirements.

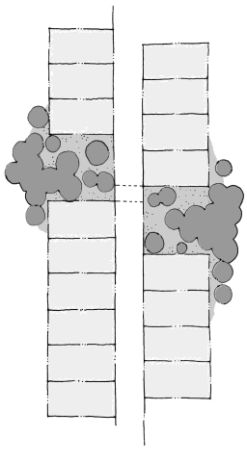
b. At least 1,245 square feet of land shall be required for each proposed dwelling unit. Such land shall not include resource conservation areas. The Town Board of Commissioners reserves the right to refuse to accept dedication of parcels for subdivisions, in which case the applicant shall pay the fee-in-lieu of dedication, in order that the Town shall use such payment for the acquisition or development of recreation and open space sites.

c. Location of the proposed recreation and open space areas, its suitability for recreational use, and any recreational plans adopted by the Town shall be considered in determining whether to accept dedication or payment-in-lieu. The decision shall be made by the Town Board of Commissioners in approval of preliminary subdivision plans or special use permits, or by the Planning Director in approval of site plans. Any decision of the Planning Director relative to this section may be appealed to the Town Board of Commissioners.

3. **Open Space Residential Subdivision**

a. All development utilizing the open space residential subdivision option shall provide recreation and open space equal to 12.5 percent of the net site area as public or private recreation and open space.

b. Where the Town Board of Commissioners accepts dedication of a portion or all of this recreation and open



space, the dedicated portion shall receive 100 percent credit toward the requirement for recreation and open space in paragraph 2 above. The Town Board of Commissioners reserves the right to refuse to accept dedication.

c. Where the recreation and open space is retained privately, or deemed unacceptable as public recreation and open space by the Town Board of Commissioners, it shall receive only 50 percent credit against the recreation and open space requirement, in recognition of a reduced burden on the Town's public recreation and open space system.

4. **Configuration of Recreation and Open Space**

a. The minimum width for any required recreation and open space shall be 50 feet. Exceptions may be granted by the Town Board of Commissioners for items such as trail easements, mid-block crossings, linear parks/medians, when their purpose meets the intent of this section.

b. At least 60 percent of the required recreation and open space shall be in a contiguous parcel. For the purposes of this section, contiguous shall include any recreation and open space bisected by a residential street (including a residential collector), provided that:

i. A pedestrian crosswalk is constructed to provide access to the recreation and open space on both sides of the street; and

ii. The right-of-way area is not included in the calculation of minimum recreation and open space required.

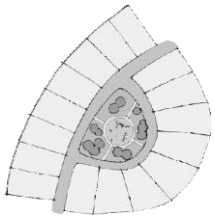
c. The recreation and open space shall adjoin any neighboring areas of recreation and open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected recreation and open space.

d. The required recreation and open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space (i.e. mid-block connections in logical locations). No lot within the subdivision should be further than a ¼-mile radius from the required recreation and open space. This radius shall be measured in a straight line, without regard for street, sidewalk or trail connections to the open space.

e. Access to the recreation and open space shall be provided either by an abutting street or easement. Such easement shall be not less than 30 feet wide.

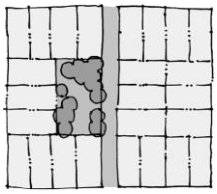
f. At least 25 percent of the recreation and open space shall be improved. Trails may be developed in accordance with the Benson General Design Guidelines. Other improved recreation and open space areas shall be developed as forth below. The shape, topography, and subsoils shall be appropriate to the improvements proposed. Where recreation or open space consists of prime agricultural land, this improvement requirement shall not apply.

Tot Lot & Playgrounds (Private Only). *Playgrounds provide play areas for children as well as open shelter and benches. Playgrounds may be built within Squares, Greens, Mini-Parks and Neighborhood Parks or may stand alone within a residential block.*



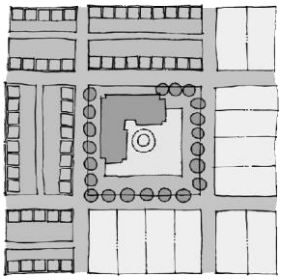
Playgrounds shall be designed with commercial grade play equipment for two age groups: tot lot for children ages one to five; and separate play equipment for children ages six to ten. May include picnic units and shelters. Minimum requirements include two park benches and one trash receptacle. Must have shock absorbing surface with a maximum two percent slope. Playgrounds must meet all federal, state and local regulations and be compliant with the Americans with Disabilities Act. Due to the continuing maintenance obligations, the Town does not accept dedication of tot lots and playgrounds.

Mini-Park (Private Only). *The Mini-Park provides active recreational facilities for the use by the residents of the immediate surrounding neighborhood within the development.*



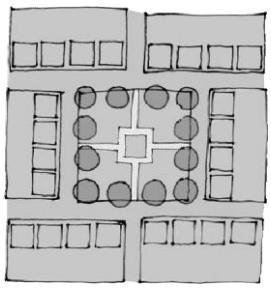
Size is from 2,500 sq. ft to one acre. May include: tennis courts, basketball courts, playgrounds and seating accommodations. Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. Rear facing lots are allowed. Mini-parks shall be attractively landscaped and be provided with sufficient natural or man-made screening or buffer areas to minimize any negative impacts upon adjacent residences. Due to the continuing maintenance obligations, the Town does not accept dedication of mini-parks.

Plaza . *Plazas are for passive recreation use adjacent to a civic or commercial building. Plazas are paved in brick or another type of imperious surface.*



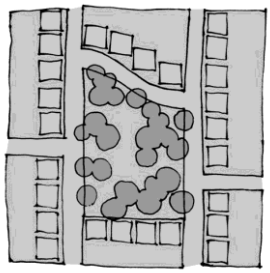
Plazas shall be level, stepped or gently sloping. At no time shall a plaza's horizontal length or width be greater than three times the height of surrounding buildings. Size is from 2,000 to 30,000 sq. ft.

Squares. *Squares are formal areas for passive recreation use bound by streets or front facing lots.*



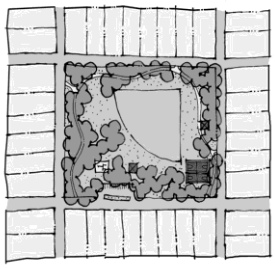
Squares shall be bound by streets on a minimum of three sides or 75 percent of their perimeter and may be bound by front facing lots on one side or 25 percent of their perimeter. No rear facing lots allowed adjacent to a square. Trees plantings are encouraged parallel to the street right of way. Geometrical tree planting layouts for internal plantings are encouraged. Minimum size is 500 sq. ft. to one acre.

Green. *The green is an informal area for passive use bound by streets or front facing lots.*



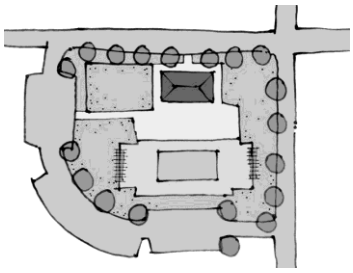
A green shall be bound by streets on a minimum of three sides or 75 percent of their perimeter and may be bound by front facing lots on one side or 25 percent of their perimeter. No rear facing lots allowed adjacent to a Green. Tree plantings can be informal and the topography irregular. Greens may be used to preserve specimen trees. Size is 500 sq. ft. to one acre.

Neighborhood Park. *Neighborhood Parks are designed for active or passive recreation use. Maximum park size can exceed five acres if the Neighborhood Park creates an open space that services an entire neighborhood or a group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, or significant stands of trees).*



Minimum size from one to five acres. Neighborhood parks shall be bound by streets on a minimum of 50 percent of their perimeter. Front facing lots are encouraged around the perimeter. Neighborhood Parks shall include benches and walking paths. Neighborhood Parks may include but are not limited to: tennis courts, racquet ball courts, basketball courts, volley ball courts, ball fields, swings, slides, playgrounds, dog parks, benches, restrooms, picnic units, shelters, walking paths and parking areas.

Clubhouse/Pool Amenity Area. *Clubhouse/pool areas can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include: swimming pools, group activity room, gazebos, outdoor eating areas, and exercise stations.*



Pools should be a minimum size of 1,000 sq. ft. Clubhouses and swimming pools must meet all applicable building and health codes for the Town and the State of North Carolina.

Greenway. *Greenways typically follow natural or constructed features such as streams or roads and are designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods, and are used for transportation, recreation, and environmental protection. Greenways differ from parks; plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.*

Design of the greenway should incorporate conservation of existing mature tree canopy and landscape, protection of existing natural drainage ways and creeks. Improvements shall include paved walks/trails and benches, and trash receptacles.

5. **Adopted Municipal and County Plans**

   Adopted municipal and county plans shall be taken into consideration when evaluating land proposals.

6. **Permitted Uses of Recreation and Open Space**

   Uses of recreation and open space may include the following:

   a. Conservation areas for natural, archeological or historical resources;

b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;

c. Pedestrian or multipurpose trails;

d. Passive recreation areas;

e. Active recreation areas, provided that impervious area is limited to no more than 50 percent of the total recreation and open space;

f. Golf courses (excluding clubhouse areas and maintenance facilities), provided the area does not exceed 50 percent of the required recreation and open space, and further provided that impervious area is limited to no more than ten percent of the total recreation and open space;

g. Above-ground utility rights-of-way, provided the area does not exceed 50 percent of the required recreation and open space;

h. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts;

i. Landscaped stormwater management facilities;

j. Easements for drainage, access, and underground utility lines; and

k. Other conservation-oriented uses compatible with the purposes of this chapter.

7. **Prohibited Uses of Recreation and Open Space**

Recreation and Open space shall not include the following:

a. Community or individual wastewater disposal systems;

b. Streets (except for street crossings as expressly provided above) and parking areas; and

c. Other activities as determined by the applicant and recorded on the legal instrument providing for permanent protection.

8. **Ownership and Management of Recreation and Open Space**

a. **Ownership**

Recreation and open space shall be accepted and owned by one of the following entities:

i. Town of Benson. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the Town.

ii. Land conservancy or land trust. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by a land conservancy or land trust.

iii. Homeowners association. A homeowners association representing residents of the subdivision shall own the recreation and open space. Membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. The Homeowners' Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the Homeowner's Association.

iv. Private landowner. A private landowner may retain ownership of recreation and open space. The responsibility for maintaining the recreation and open space, and any facilities shall be borne by the private landowner.

b. **Management**

Applicants shall submit a plan for the management of recreation and open space and other common facilities that:

i. Allocates responsibility and guidelines for the maintenance and operation of the recreation and open space, and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;

ii. Estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the recreation and open space and outlines the means by which such funding will be obtained or provided;

iii. Provides that any changes to the Plan be approved by the Town; and

iv. Provides for enforcement of the Plan.

c. **Maintenance**

i. Passive recreation and open space maintenance is limited to removal of litter, dead tree and plant materials (that is obstructing pedestrian movement), and brush; weeding and mowing. Natural water courses are to be maintained as free-flowing and devoid of debris. Stream channels shall be maintained so as not to alter floodplain levels.

ii. No specific maintenance is required for agricultural uses.

iii. Active recreation and open space areas shall be accessible to all residents of the development. Maintenance is limited to ensuring that there exist no hazards, nuisances or unhealthy conditions.

d. **Failure To Maintain**

In the event the party responsible for maintenance of the recreation and open space fails to maintain all or any portion in reasonable order and condition, the Town may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the Homeowner's Association, or to the individual property owners that make up the Homeowner's Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

9. **Legal Instrument for Permanent Protection**

a. The recreation and open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

i. A permanent conservation easement in favor of either:

a) A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions; or

b) A governmental entity with an interest in pursuing goals compatible with the purposes of this chapter. If the entity accepting the easement is not the Town, then a third right of enforcement favoring the Town shall be included in the easement.

ii. A permanent restrictive covenant for conservation purposes in favor of a governmental entity.

iii. An equivalent legal tool that provides permanent protection, if approved by the Town.

b. The instrument for permanent protection shall include clear restrictions on the use of the recreation and open space. These restrictions shall include all restrictions contained in this chapter, as well as any further restrictions the applicant chooses to place on the use of the recreation and open space. Where appropriate, the instrument shall allow for stream or habitat restoration within the easement area.

I. Nonresidential Development in Residential Districts

As set forth in the Permitted Land Use Table (see §156.202B) certain nonresidential uses are permitted in residential districts. Permitted nonresidential uses shall meet the following dimensional standards. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

	R-20/AR	R-11	R-6
Lot (min)			
Lot area (sq. ft.)	20,000	10,000	6,000
Lot width (ft.)	50	50	50
Water/sewer	Required	Required	Required
Yards (min ft.)			
Street yard	35	30	20
Side yard	15	10	6
(interior)	30	20	12
Side yard (total)	25	20	10
Side yard (street)	30	25	20
Rear yard			
Bulk (max)			
Height (ft.)			
Building coverage	35[1]	35[1]	35[1]
Impervious surface	35%	35%	35%
	50%	50%	60%

[1]The Town Board of Commissioners may grant a special use permit in accordance with §156.713, Special Use Review, allowing nonresidential buildings to exceed the maximum height limits of the district.

PART 2. NONRESIDENTIAL DISTRICTS

J. Nonresidential District Standards

1. **Development Standards**

Applicants shall meet all applicable development standards as set forth in Article 4, General Development Standards. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

2. **Nonresidential Dimensional Standards**

a. As set forth in the Permitted Land Use Table (see §156.202B) certain nonresidential uses are permitted in nonresidential districts. Permitted nonresidential uses shall meet the following dimensional standards. Applicants shall comply with all other provisions of this chapter and all other applicable laws.

	O-R	O-I	B-1	B-2	B-3	I-1	1-2
Parcel (min)							
Parcel area (sq. ft.)	6,000	6,000	None	6,000	8,000	20,000	20,000
Parcel width (ft.)	50	50	None	50	60	100	100
Water/sewer	Required	Required	Required	Required	Required	Required	Required
Yards (min ft.)	20	20	0	20	25	50	50
Street yard (min)	None	None	10	None	None	None	None
Street yard (max)	6	10	0	10	15	20	20
Side yard (interior)	6	30	30	30	30	30	30
abutting residential	10	20	0	10	25	30	30
district	20	20	0	20	30	40	40
Side yard (street)	20	30	30	30	30	40	40
Rear yard	20	20	20	20	20	20	20
abutting residential district							
Building Separation							
Bulk (max)							
Height (ft.)	35	60	50	35	60	50	50
Building coverage	50%	50%	70%	50%	50%	50%	50%
Impervious surface	75%	75%	--	75%	75%	75%	75%

b. More than one building may be permitted be on a single lot (see §156.301, Complexes).

c. In the B-1 District, no rear yard shall be less than that of the nearest building facing on the same side of the street with the least rear yard depth. In no case shall the required rear yard setback exceed ten feet from the rear property line.

d. The Town Board of Commissioners may grant a special use permit in accordance with §156.711, Special Use Review, allowing specified nonresidential buildings to exceed the maximum height limits of the district.

3. **Residential Dimensional Standards**

a. As set forth in the Permitted Land Use Table (see §156.202B) certain residential uses are permitted in nonresidential districts. Dimensional standards for townhouses and apartments are established through the special use process (see §156.711). However, except in the B-1 District, no townhouse or apartment shall be established on a parcel less than 20,000 square feet in area.

b. Upper-story residential is permitted on the upper floors of a nonresidential building and shall conform with all lot, yard and bulk requirements of the principal building.

c. Except in the B-1 District, townhouse and apartment parcels and upper-story residential units shall not exceed a density of 12 units per acre.

PART 3. PLANNED DEVELOPMENT DISTRICTS

K. Planned Development District Standards

1. General Provisions for all Planned Developments (PR-R, PD-C, PD-I, PD-MU)

a. Rezoning Criteria

In approving a rezoning for a planned development, the Town Board of Commissioners shall find the district designation and planned development master plan comply with the general standards for all planned development in this section and the specific standards for the proposed planned development listed in paragraphs 2 through 5 below, respectively.

b. Planned Development Master Plan

The development proposed in the master plan is compatible with the character of surrounding land uses and maintains and enhances the value of surrounding properties. The master plan shall be prepared by a professionally certified landscape architect, engineer or architect.

c. Design Guidelines and Dimensional Standards

Each planned development shall provide a comprehensive set of design guidelines that demonstrate the project will be appropriate within the context of the surrounding properties and the larger community. All bulk, area and dimensional standards shall be established by the Town Board of Commissioners at the time of approval.

d. Development Standards

Unless specifically waived by the Town Board of Commissioners, all standards specified in Article 4, General Development Standards shall apply.

e. Resource Conservation Areas

i. No resource conservation area shall be counted towards lot area. This shall not preclude the platting of lots in such areas, provided that adequate lot area outside the resource conservation area is provided.

ii. No resource conservation area shall be counted towards the recreation and open space requirements (see below).

f. Recreation and Open Space

The planned development master plan shall meet or exceed the recreation and open space requirements of an open space residential subdivision (see §156.203H).

g. Stormwater Management

When determined necessary by the Town Board of Commissioners, the planned development master plan shall contain a comprehensive stormwater management plan prepared by a professional engineer licensed in the State of North Carolina.

h. Phasing

If development is proposed to occur in phases, the planned development master plan shall include a phasing plan for the development, and if appropriate, with specific build-out dates. Guarantees shall be provided that project improvements and amenities that are necessary and desirable for residents and tenants of the project, or that are of benefit to the Town, are constructed with the first phase of the project, or, if this is not possible, then as early in the project as is technically feasible.

2. **Planned Development-Residential (PD-R) District**

   a. **Minimum Requirements**

      i. The Planned Development-Residential District is an option provided to encourage a mix of housing options within a comprehensively planned development, allowing a density bonus in return for the provision of a higher quality development.

      ii. Unless waived by the Town Board of Commissioners, the PD-R District is permissible on tracts of land of least ten contiguous acres.

   b. **Permitted Uses**

      All uses permitted by right, as conditional uses, and as special uses in the R-E, R-10, R-8, R-6 districts are permitted in a PD-R District (see §156.202), subject to approval by the Town Board of Commissioners.

   c. **Project Boundary Buffer**

      i. No buffer is required where the width of the project's perimeter lots is equal to or greater than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel.

      ii. Where narrower lot widths are provided, a Class C buffer shall be provided (see §156.402, Landscaping, Screening and Buffering) along all project boundaries.

3. **Planned Development-Commercial (PD-C) District**

   a. **Minimum Requirements**

      i. The Planned Development-Commercial District is an option provided to enhance the design of a commercial development within a comprehensively planned development by allowing for additional flexibility not available in nonresidential districts.

      ii. Unless waived by the Town Board of Commissioners, the minimum tract of land for rezoning is two contiguous acres.

   b. **Permitted Uses**

      All uses permitted by right, as conditional uses, and as special uses in the O-I, B-1, B-2, and B-3 districts are permitted in a PD-C District (see §156.202), subject to approval by the Town Board of Commissioners.

   c. **Project Boundary Buffer**

      i. Unless waived by the Town Board of Commissioners, a Class B buffer (see §156.402, Landscaping, Screening and Buffering) shall be provided along all project boundaries abutting a nonresidential district.

      ii. Unless waived by the Town Board of Commissioners, a Class C buffer (see §156.402, Landscaping, Screening and Buffering) shall be provided all project boundaries abutting a residential district.

4. **Planned Development-Industrial (PD-I) District**

   a. **Minimum Requirements**

      i. The Planned Development-Industrial District is an option provided to encourage unified industrial complexes of high quality by allowing for additional flexibility not available in nonresidential districts.

      ii. The PD-I District is permissible on tracts of land of least ten contiguous acres.

b. **Permitted Uses**

i. All uses permitted by right, as conditional uses, and as special uses in the B-1, B-2, B-3, I-1, and I-2districts are permitted in a PD-I District (see §156.202), subject to approval by the Town Board of Commissioners.

ii. Non-industrial or non-manufacturing uses located in a PD-I District are intended to serve the needs of the development and not the needs of a surrounding area. Areas designated for non-industrial and non-manufacturing activities shall be oriented towards the interior of the project and shall not be located on exterior or perimeter streets or property boundaries, but shall be centrally located within the project to serve the employees of the district.

c. **Project Boundary Buffer**

A Class C buffer shall be provided (see §156.402, Landscaping, Screening and Buffering) along all project boundaries.

5. **Planned Development-Mixed Use (PD-MU) District**

a. **Minimum Requirements**

i. The Planned Development-Mixed Use District is an option provided to encourage coordinated mixed use developments.

ii. Unless waived by the Town Board of Commissioners, the minimum tract of land for rezoning is two contiguous acres.

b. **Permitted Uses**

i. All uses permitted by right, as conditional uses, and as special uses in the in the Permitted Use Table is permitted in a PD-MU District (see §156.202), subject to approval by the Town Board of Commissioners.

ii. The mix of uses shall be established by the Town Board of Commissioners at the time of approval.

c. **Project Boundary Buffer**

Unless waived by the Town Board of Commissioners, a Class C buffer shall be provided (see §156.402, Landscaping, Screening and Buffering) along all project boundaries.

156.204 OVERLAY DISTRICT STANDARDS

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156.300 USE INTERPRETATION

A. Grouping of Uses

As set forth in the Permitted Land Use Table (see §156.202B) certain uses are grouped together based on common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers, how goods or services are sold or delivered, likely impact on surrounding properties, and site conditions. Grouping uses provides a systematic basis for assigning uses to appropriate general use districts. Any use not specifically set forth in this chapter is expressly prohibited, unless determined otherwise as set forth in paragraph F below.

B. Uses Not Grouped

As set forth in the Permitted Land Use Table (see §156.202B), due to their specific nature and characteristics, certain uses have not been grouped. Individual uses may be defined in Article 8, Definitions.

C. Civic Use Groups

Parks and Open Areas: Uses focusing on natural areas consisting mostly of open vegetation, passive or active outdoor recreation areas, or community gardens, and having few structures. Parks and open areas shall include the following: tot lot and playgrounds; mini-parks; plazas; squares; greens; neighborhood parks; botanical gardens; nature preserves and recreation trails; or any similar use.

Utility, Major: A large-scale utility such as a water or wastewater treatment plant, water tower, electrical generation plant, or transmission facility or any similar use.

Utility, Minor: All utility facilities not considered major, including, but not limited to neighborhood-serving facilities such as pump stations, telephone exchanges, lift stations, and stormwater detention facilities, or any similar use.

D. Commercial Use Groups

Agriculture: Characterized by uses that create or preserve areas intended primarily for the raising of animals and crops, conservation, and the secondary industries associated with agricultural production. Agriculture shall include the following: animal raising including horses, hogs, cows, sheep, goats, and swine, poultry, rabbits, and other small animals, apiculture, aquaculture, dairying, personal or commercial animal breeding and development; floriculture, horticulture, pasturage, row and field crops, viticulture, tree or sod farm, silviculture; animal boarding, outdoor; livestock auction; milk processing plant; packing house for fruits or vegetables; plant nursery; plant nursery with landscape supply; retail or wholesale sales of agriculturally-related supplies and equipment; stable; or any similar use.

Indoor Recreation: Amusement or recreational activities carried on wholly within a building, including dance hall, theater, health club and activities of a similar nature. This does not include an adult-oriented business or amusement center.

Manufacturing, Limited A facility conducting light manufacturing operations within a fully-enclosed building, generally serviced by trucks no longer than 24 feet in length. Limited manufacturing shall include the following: bulk mailing service; clothing or textile manufacturing; manufacture or assembly of equipment, instruments (including musical instruments), appliances, precision items, and electrical items; printing, publishing, and lithography; production of artwork and toys; sign-making; building maintenance service; exterminator; movie production facility; photo-finishing laboratory; repair of scientific or professional instruments and electric motors; sheet metal; welding,

machine, tool repair shop or studio; woodworking, including cabinet makers and furniture manufacturing; or any similar use.

Office, General: A facility generally focusing on business, government, professional or financial services. General office shall include the following: advertising office; bank; business management consulting; data processing; financial business such as lender, investment or brokerage house; collection agency; real estate or insurance agent; professional service such as lawyer, accountant, bookkeeper, engineer, or architect; sales office, travel agency or any similar use.

Office, Medical: A medical facility in which a doctor, dentist, psychiatrist, physician's assistant, nurse practitioner or similar medial provider treats or counsels patients.

Outdoor Recreation: Any recreational facility where activity takes place primarily outdoors, including miniature golf courses, batting cages, swimming pool, driving range or a similar facility.

Retail, General: A facility involved in the wholesale or retail sale, lease, or rental of new or used products to through traffic as well as the surrounding neighborhood. General retail shall include the selling, leasing or renting of the following goods: antiques; art; art supplies; bicycles; building supplies; cameras; carpet and floor coverings; crafts; clothing; computers; dry goods; electronic equipment; fabric; furniture; garden supplies; hardware; household products; jewelry; medical supplies; musical instruments; music; pets; pet supplies; printed materials; sporting goods; or any similar use. The retail sale of automobile parts shall be considered retail general provided no on-site automobile service or repair is provided. This definition does not include any adult entertainment establishment.

Retail, Neighborhood: A facility involved in the sale, lease, or rental of new or used products primarily to local traffic in the surrounding neighborhood. Neighborhood retail shall include the selling, leasing or renting of the following goods: books; health and beauty products; photo finishing; crafts; flowers; gifts or souvenirs; groceries; plants; picture frames; produce; stationery; tobacco; videos or any similar use. Also includes preparation and sale of baked goods, coffee, ice cream, fountain drinks, confections and similar products whose preparation does not require installation of an exhaust hood.

Service, General: A facility involved in providing personal or repair services to through traffic as well as the surrounding neighborhood. General services shall include the following personal services: animal grooming; dance, martial arts, photographic, music studio or classroom; photocopy, blueprint, quick-sign service; psychic or medium; security service; taxidermist; catering service or any similar use. General services shall also include the following repair services: bicycles; mopeds, canvas products; clocks; computers; jewelry; musical instruments; office equipment; radios; shoes; televisions; furniture; watches or any similar use. Also includes a tailor, milliner, upholsterer or locksmith. This definition does not include any adult entertainment establishment.

Service, Neighborhood: A facility involved in providing limited personal services to local traffic in the surrounding neighborhood. Neighborhood services shall include the following: personal care services such as hair, nail, tanning, massage therapy; laundromat; dry cleaning and laundry pickup station; pack and ship facility; or any similar use.

Vehicle Sales: A facility involved in providing direct sales, renting or leasing of motor vehicles, light and medium trucks, tractor trailers, recreational vehicles, earthmoving equipment; construction equipment; farming equipment; and other consumer motor vehicles such as motorcycles and boats, or any similar use.

Vehicle Service: A facility involved in providing limited service to passenger vehicles and other small consumer vehicles. Such minor operations are primarily provided while customers wait for their vehicles. Limited vehicle service shall include the following: alignment shop; quick lubrication facilities; brake service, battery sales and installation; outdoor car wash; auto detailing and tire sales and mounting; or any similar use.

Vehicle Repair: A facility involved in providing repair services to passenger vehicles, light and medium trucks, tractor trailers, recreational vehicles, earthmoving equipment; construction equipment; farming equipment; and other consumer motor vehicles such as motorcycles and boats, or any similar use.

Warehouse and Freight Movement: A facility involved in the storage or movement of goods for themselves or other firms. Goods are delivered to other firms or the final consumer with little on-site sales activity to customers. Warehouse and freight movement shall include the following: bulk storage, including nonflammable liquids, feed and grain storage; cold storage plants, including frozen food lockers; household moving and general freight storage; separate warehouse used by retail store such as furniture or appliance store; bus barn; parcel services, mail order facility; stockpiling of sand, gravel, or other aggregate materials; transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred; or any similar use.

E. Industrial Use Groups

Manufacturing, General: A facility conducting manufacturing with some operations conducted outside. General manufacturing shall include the following: bulk mailing service; clothing or textile manufacturing; manufacture or assembly of equipment, instruments (including musical instruments), appliances, precision items, and electrical items; printing, publishing, and lithography; production of artwork and toys; sign-making; building maintenance service; exterminator; movie production facility; laundry or dry cleaning plant; photo-finishing laboratory; repair of scientific or professional instruments and electric motors; sheet metal; welding, machine, tool repair shop or studio; woodworking, including cabinet makers and furniture manufacturing; or any similar use.

Manufacturing, Heavy: A facility conducting assembly heavy manufacturing with operation conducted indoors and outdoors. Heavy manufacturing shall include the following: heavy factory production; industrial yards; any use that is potentially dangerous, noxious or offensive to neighboring uses or those who pass on public ways by reason of smoke, odor, noise, glare, fumes, gas, vibration, threat of fire or explosion, emission of particulate matter, interference with radio, television reception, radiation or any other likely cause; animal processing, packing, treating, and storage; livestock or poultry slaughtering; citrus concentrate plant; processing of food and related products; production of chemical, rubber, leather, clay, bone, paper, pulp, plastic, stone, or glass materials or products, production or fabrication of metals or metal products including enameling and galvanizing, sawmill; bulk storage of flammable liquids; commercial feed lot; concrete batching and asphalt processing and manufacture; wrecking, junk or salvage yard; bottling plant; or any similar use.

Research and Development: A facility focused primarily on the research and development of new products. Research and development shall include: laboratories, offices, and other facilities used for research and development by or for any individual, organization, or concern, whether public or private; prototype production facilities that manufacture a limited amount of a product in order to fully investigate the merits of such a product; pilot plants used to test manufacturing processes planned for use in production elsewhere; production facilities and operations with a high degree of

scientific input; facilities and operations in which the input of science, technology, research, and other forms of concepts or ideas constitute a major element of the value added by manufacture per unit of product.

Waste Service: A facility that generally receives solid or liquid wastes from others for transfer to another location, collects sanitary waste or manufactures a product from the composting of organic material. Waste-related service shall include the following: animal waste processing; landfill, incinerator; manufacture and production of goods from composting organic material; outdoor recycle processing center; outdoor storage of recyclable material, including construction material; transfer station; or any similar use.

F. **Uses Not Specifically Listed**

1. Any use not specifically listed in this chapter is expressly prohibited, unless the Planning Director determines in accordance with §156.715 Written Interpretation, that the use is similar to a permitted individual use or permitted group of uses as listed in this chapter. Where such similar permitted individual use or permitted group of uses is subject to a use standard contained in this Article or conditional use or special use review, the proposed use shall also be subject to such standard or approval. The Planning Director shall not amend this chapter by adding to or eliminating any use standard for the proposed use.
2. Where a use not listed is found by the Planning Director not to be similar to any other permitted individual use or permitted group of uses, the use shall be permitted only following a text amendment in accordance with §156.703. The decision of the Planning Director may not be appealed to the Board of Adjustment.
3. When considering the appropriate districts for a use not listed in the Permitted Land Use Table, the district intent statements (see §156.203A) shall be taken into consideration.
4. Determination of an appropriate group of uses for a proposed use not currently listed shall be made by applying the following criteria.
    a. The actual or projected characteristics of the activity in relationship to the stated characteristics of each use category.
    b. The relative amount of site area or floor space and equipment devoted to the activity.
    c. Relative amounts of sales from each activity.
    d. The customer type for each activity.
    e. The relative number of employees in each activity.
    f. Hours of operation.
    g. Building and site arrangement.
    h. Types of vehicles used and their parking requirements.
    i. The relative number of vehicle trips generated.
    j. Signs.
    k. How the use is advertised.
    l. The likely impact on surrounding properties.
    m. Whether the activity is likely to be found independent of the other activities on the site.

G. Developments with Multiple Principal Uses

1. Except as set forth in §156.301, Complexes, no more than one principal building or use may be erected on a single lot of record.

2. When all principal uses of a development fall within one use category, the entire development shall be assigned to that use category.

3. When the principal uses of a development fall within different group of uses or no group of uses, each principal use shall be classified in the applicable group of uses or treated as an individual use and each use shall be subject to all applicable regulations for that group of uses or individual use.

4. A development comprised of uses regulated by separate rows on the Permitted Land Use Table shall be reviewed using the most restrictive process from among the proposed uses.

   ***Commentary**: If a proposed development includes a gas station, library and a restaurant, including outparcels, and one of those uses is only permitted has a special use in the district, then the entire development requires special use review.*

5. Where a use requiring approval as a conditional use or a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

   ***Commentary:** For example, where a vehicle repair shop in a B-3 District (subject to special use review) is an outparcel within a larger retail development, the special use shall review the outparcel only – not the entire development. However, where a special use is proposed in a building that contains a variety of other uses, the entire building and its associated parcel(s) of land shall require special use review.*

156.301 COMPLEXES

Nonresidential, townhouse and apartment complexes may be established on a single unified parcel, provided that the following requirements are met.

A. Defined

A group of two or more office, industrial, commercial, multifamily and/or other operations on an unsubdivided parcel, operating under one name or presenting other elements of a unified image of identity to the public.

B. General

Complexes shall meet all applicable development standards as set forth in Article 2, Zoning Districts, Article 4, General Development Standards. Applicants shall comply with all other provisions in this chapter and all other applicable laws.

C. Uses

Uses within complexes shall be limited to those permitted within the zoning district in which the development is located (see §156.202B, Permitted Land Use Table).

D. Intensity

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

E. Setbacks

The distance of every building from every property line shall meet the relative setback requirements of the district in which the development is located (the rear of a building must meet rear yard requirements, (the front of the building must meet street yard requirements, the side of the building must meet side yard requirements). In no case, however, shall any portion of a building be located closer to a public street than the required minimum street yard setback of the zoning district.

F. Height

The building heights shall not exceed the height limits permitted in the district in which the development is located.

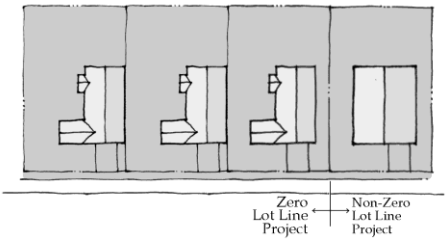
G. Building Separation

The minimum spacing between buildings in a complex shall be 20 feet, with an additional ten feet provided between buildings for every story over two.

156.302 RESIDENTIAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Permitted Land Use Table (see §156.202B). Additional design considerations may be outlined in the Benson General Design Guidelines.

A. Zero Lot Line



1. A single side yard shall be provided comprising the equivalent of two side yards of a conventional detached house. This reduction shall not be allowed on the street yard or to the side yard adjacent to lots that are not part of the zero lot line project.
2. An easement between the two property owners to allow for maintenance or repair of the house shall be required when the roof overhang or side wall of the house are within four feet of the adjacent property line (no roof overhang shall be permitted to extend across the property line). The easement on the adjacent property must provide at least five feet of unobstructed space. The easement shall be recorded on the subdivision plat.
3. If the side wall of the house is on the property line, or within three feet of the property line, windows or other openings that allow for visibility into the side yard of the adjacent lot shall not be allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, shall be allowed.

B. Alley-Loaded House

An alley shall be provided to the rear of all alley-loaded houses. All vehicular access shall take place from the alley. No parking shall be permitted in the required street yard.

C. Townhouse

1. Side yards are not required for interior townhouses, but street and rear yards shall be provided for all townhouses, and building separation requirements shall be maintained for all townhouse structures.
2. All townhouse garages and parking areas shall be located to the rear of the building. No parking shall be permitted in the required street yard.
3. The maximum number of units allowed in a single building is eight.
4. The first floor shall be located a minimum of two feet and a maximum of three feet above grade.
5. For townhouse complexes see §156.301 for additional requirements.

D. Apartments

1. No parking space shall be located in a required yard, except for the rear yard
2. No off-street parking space shall be located closer than ten feet to any residential building wall.
3. For developments of 40 or more dwelling units, a divided ingress-egress driveway with a landscaped median for all entrances from public streets shall be provided for all developments.
4. Sidewalks shall be constructed within the interior of the development to link residential buildings with other destinations such as, but not limited to: parking, adjoining streets,

mailboxes, trash disposal, adjoining sidewalks or greenways and on-site amenities such as recreation areas.

5. For apartment complexes see §156.301 for additional requirements.

E. **Upper-Story Residential**

An upper-story residential unit is allowed on the upper floors of a permitted civic or commercial use as set forth in Permitted Land Use Table (see §156.202B) and shall adhere all dimensional standards of the permitted civic or commercial use.

F. **Manufactured Home**

All manufactured homes shall meet or exceed the following criteria:

1. The manufactured home shall be set up and tied down in accordance with the standards set by the North Carolina Department of Insurance.
2. The manufactured home shall have a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
3. The manufactured home shall have a minimum of 960 square feet of enclosed and heated living area per dwelling area.
4. Screening of the foundation area shall be by a continuous, permanent masonry foundation or masonry curtain wall which is in accordance with NC Building Code regulations, unbroken except for required ventilation and access, and which shall be is installed under the perimeter of the manufactured home.
5. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the manufactured home shall be installed or constructed in accordance with the standards set by the North Carolina Building Code, free standing or attached firmly to the primary structure and anchored securely to the ground.
6. The exterior siding shall consist predominantly of vinyl or aluminum horizontal siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
7. The moving hitch, wheels and axles, and transporting lights shall be have been removed.
8. At least two off-street parking spaces shall be provided.
9. The lot shall be cleared of all excess growth and graded to provide adequate drainage.
10. All areas not used for parking, manufactured homes, or required porches, shall be grassed or otherwise suitably landscaped to prevent erosion.
11. All standards must be met prior to issuance of a certificate of occupancy.

G. **Manufactured Home Parks**

1. **General Requirements**

   a. Manufactured homes located within manufactured home parks shall be in accordance with the requirements of §156.302F above.

   b. All manufactured home parks shall be a minimum of three acres in size.

   c. No living compartment or structure, other than a Florida Room or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be

permitted if yard space requirements of this chapter are not violated, and if such addition complies with the North Carolina Building Code.

d. Up to two manufactured home park identification signs may be utilized, but the sum of the areas of one side of these signs shall not exceed 40 square feet. Only external, non-flashing lighting shall be used for illumination. The top portion of any sign shall not exceed 12 feet in height.

e. Within a manufactured home park, one manufactured home may be used as an administrative office.

2. **Streets and Parking**

a. Each manufactured home shall abut upon an improved street or driveway, which shall have unobstructed access to a Town or state maintained road.

b. Streets shall have a minimum paved width of 20 feet. In addition, every such street shall lie within a cleared right-of-way having a minimum width of 40 feet.

c. Maintenance of such streets shall be provided by the owner or operator of the park.

d. Permanent dead-end streets or cul-de-sacs shall not exceed 500 feet in length and shall be provided with a turnaround of at least 70 feet in diameter.

e. Streets or drives within the manufactured home park shall intersect as nearly as possible at right angles, and no street shall intersect at less than 75 degrees. Where a street intersects a public street or road, the design standards of the North Carolina Highway Commission shall apply.

f. New street names or manufactured home park names shall not duplicate nor be similar to existing street names or manufactured home park names in the area.

g. A minimum of two paved parking spaces shall be provided adjacent to each manufactured home space, but shall not be located within any public right-of-way or within any street in the park.

h. No manufactured home lots shall be located within the 100-year floodway area, as shown on the latest National Flood Insurance Program map for the Town.

3. **Lot Size and Lot Width Requirements**

a. Lots served by community or public water and sewer shall have a minimum lot size of 6,000 square feet and have a minimum lot width of 50 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40 percent of the lot area.

b. Lots served by individual septic tank and individual well shall have a minimum lot size of 25,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit and any accessory structures shall not exceed 40 percent of the lot area.

c. Lots served by community or public water and individual septic tank or public sewer and individual well shall have a minimum lot size of 15,000 square feet and have a minimum lot width of 75 feet at the front building line. The maximum coverage of the lot by the unit shall not exceed 40 percent of the lot area.

4. **Project Boundary Buffer**

A Class C buffer shall be provided (see §156.402, Landscaping, Screening and Buffering) along all project boundaries of a manufactured home park.

5. **Yard Requirements**

   a. The following yard requirements shall pertain to every manufactured home in the manufactured home park:

      i. Minimum depth of street yard, measured from front lot line: 20 feet.

      ii. Minimum width of side yard, measured from side lot line:

         a) Ten feet.

         b) Six feet, if served by public water and sewer.

   b. Minimum depth of rear yard, measured from rear lot line: 20 feet.

   c. Detached garages and accessory buildings may be erected on manufactured home lots as permitted in §156.305, Accessory Structure and Use Standards.

6. **Utility Requirements**

   a. **Water**

   An accessible, adequate, safe supply of water shall be provided in each manufactured home park. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of the Sanitary Engineering Division of the North Carolina Division of Health Services and the County Health Department.

   b. **Sewer**

   Adequate and safe sewage disposal facilities shall be provided in all manufactured home parks. Collection systems and sewage treatment complying with the requirements of the North Carolina Department of Natural Resources and Community Development and the County Health Department shall be provided.

   c. **Solid Waste**

      i. The storage, collection, and disposal of solid waste in the manufactured home park shall be so constructed as to create no health hazards, rodent harborage, insect breeding area, accident or fire hazard, or pollution, and shall be maintained at least 100 feet from a well site.

      ii. All solid waste containing garbage shall be stored in a standard fly-tight, watertight, rodent-proof container, which shall be located at each manufactured home space, or an approved bulk container site. The manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste as specified by the County Health Department.

      iii. Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestation.

      iv. No junked or abandoned vehicles shall be allowed in the park.

7. **Street Lights**

   All streets in the manufactured home park shall be adequately illuminated. The minimum size street light shall be a 175-watt mercury vapor, approximately 7000 lumen class or its equivalent, spaced at intervals of not more than 400 feet. Street lights shall be at each intersection.

8. **Telephone and Power Lines**

   All telephone lines and power lines are to be located underground. Utility easements shall not be less than ten feet in width.

9. **Recreation Areas and Facilities**

   a. Adequate and suitable recreation areas to serve the anticipated population shall be provided and shall consist of at least 10,000 square feet for each 25 manufactured home lots. All manufactured home parks having five or more lots shall have a minimum size recreational area of 10,000 square feet. Manufactured home parks having more than 25 manufactured home lots shall provide 400 square feet of recreation space per lot in excess of 25.

   b. No recreational facilities shall be placed in an area utilized for septic tank filter fields.

10. **Mobile Home Parks with Prior Approval**

All mobile home parks approved for development by the Town, county, or state prior May 4, 1987 are hereby granted special use status under the terms of §156.109A.2, and the number of units contained therein may be maintained and replaced with other units, provided that:

   a. A copy of the mobile home park plan bearing proof of approval by the responsible governmental agency shall be filed in the Planning Department no later than 90 days after the approval of this revision.

   b. All replacement units shall obtain an approved zoning compliance permit and inspection by the Town Inspections Department prior to occupancy.

   c. All replacement units shall meet the requirements of §156.302F above.

   d. No replacement unit may increase any nonconforming standard of the existing unit, and in no case may any replacement unit be located nearer than ten feet to a public street right-of-way or periphery property line.

   e. Any expansion of a mobile home park shall be in full accordance with the current standards of this chapter.

   f. If a mobile home park which does not conform to current standards has been discontinued, or if 80 percent of the number of spaces are vacated for a period of 180 days, the mobile home park shall not be reestablished, and all future use of the land therein shall comply fully with the provisions of this chapter.

156.303 CIVIC USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Permitted Land Use Table (see §156.202B). Additional design considerations may be outlined in the Benson General Design Guidelines.

A. Adult Care Home

1. In the R-E District, an adult care home shall provide at least 150 square feet of gross floor area per occupant and 4,000 square feet of lot area per occupant.
2. In the R-11District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 2,000 square feet of lot area per occupant.
3. In the R-6 District, an adult care home shall provide least 150 square feet of gross floor area per occupant and 1,200 square feet of lot area per occupant.

B. Boarding House

1. Boarding houses shall meet the standards of §152.25, Minimum Standards for Rooming Houses, of the Town Code of Ordinances.
2. Each boarding house shall have a full-time resident manager.
3. Fifteen square feet of common living area other than kitchens, hallways and bathrooms shall be provided per occupant.
4. A boarding house shall not be located within 1,000 feet, as measured in any direction from property line to property line, of another boarding house.

C. Child Care Home

Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property. Such buffer shall consist of trees or other vegetation of such height and depths as determined by the Board of Adjustment or an appropriate fence or wall or combination thereof.

D. Child Care Center

1. An off-street passenger drop-off and passenger loading area shall be provided for any child care center. Such area shall not be located in the street yard.
2. Where abutting a residential use, visual buffers shall be provided so as to shield all parking areas, play areas and outdoor activity from abutting property. Such buffer shall consist of trees or other vegetation of such height and depths as determined by the Board of Adjustment or an appropriate fence or wall or combination thereof.

E. Place of Worship

1. Following the initial approval of places of worship through the special use permit process (see §156.711), expansions of up to 20 percent of the area originally approved through the special use permit process may be approved administratively.
2. Administrative approvals of expansions of places of worship shall not waive any conditions of approval of the special use permit.
3. Accessory uses standards for a place of worship are set forth in §156.305E.

F. Public Safety Facility

1. Following the initial approval of a public safety facility through the special use permit process see §156.711), expansions of up to 35 percent of the area originally approved through the

special use permit process may be approved administratively, unless such administrative approval is explicitly prohibited as a condition of the special use permit.

2. Administrative approvals of expansions of public safety facilities shall not waive any conditions of approval of the special use permit.

G. School (Public or Private)

1. Following the initial approval of a school through the special use permit process (see §156.711), expansions of up to 20 percent of the area originally approved through the special use permit process may be approved administratively.

2. Administrative approvals of expansions of schools shall not waive any conditions of approval of the special use permit.

H. Wireless Telecommunication Facility

Specific standards for wireless telecommunication facilities are set forth in §156.307.

I. Keeping of Livestock

I. Livestock (recreational)

1. Keeping of livestock in zoning districts as referenced in §156.202.B(2), Permitted Land Use Table, shall be applicable only to property within the corporate limits of the Town of Benson. The keeping of livestock within the extraterritorial jurisdiction of the Town of Benson shall not be governed by the requirements of this section.

2. For purposes of this section **"Livestock"** shall include: any species of cattle or bovines, horses, or other equines, ponies, donkeys, mu les, or any other animal weighing more than 200 pounds. Livestock shall not include any species of hog, pig, swine or other similar animal, nor shall Livestock include any species of domesticated canine or feline.

3. Any existing situations of Livestock being kept within the corporate limits of the Town of Benson prior to the effective date (June 8, 2010) of this section shall be allowed to continue as non-conforming use as provided in §156.719 of this code. Should any pre-exiting livestock situation cease by removal of structure or fence for more than 6 months (180 days), such use shall no longer be allowed.

4. Livestock shall be kept only on property consisting of a minim um of one (1) contiguous acre with a primary residence located thereon. Livestock shall be maintained or housed in the rear yard only.

5. A maxim um of two (2) livestock per contiguous acre may be kept. The keeping of greater than six (6) livestock on any single parcel shall be presumed to be a commercial animal boarding and/or breeding operation, which shall be governed by the applicable sections of this code.

6. No animal shall be maintained, housed, kept, boarded, or otherwise allowed to remain within one hundred (100) feet of any dwelling or structure used for human habitation by any entity other than the owner and immediate family of the owner of the animal deemed livestock for the purposes of this section.

7. A structure and enclosure approved by the Building Inspector and Zoning Administrator shall be provided to adequately accommodate all livestock kept, maintained or housed on the property. Any structure or enclosure shall meet the requirements prescribed in within this code and the N .C. Building Codes. This approval must be granted prior to the keeping of any animal deemed livestock as per this section within said structure.

8. All waste should be collected and properly disposed so as not to constitute a nuisance for adjoining property owners and to protect public health. Fly control measures shall be used to prevent any

nuisance to adjoining property owners.

9. Additional considerations or conditions may apply as deemed necessary by the Planning Board and/or Board of Commissioners in the case of a required special use review.

156.304 COMMERCIAL USE STANDARDS

The following standards shall apply to all permitted uses, conditional uses and special uses, as set forth in the Permitted Land Use Table (see §156.202B). Additional design considerations may be outlined in the Benson General Design Guidelines.

A. Adult-Oriented Business

1. No such use shall be located within 1,000 feet of a church, primary, elementary or secondary school, residence or residentially zoned property, any establishment serving on-premises beverages requiring an ABC license, or any other adult-oriented business.
2. There shall be no more than one such use on the same property or in the same building or structure.
3. Except for permanent signage as permitted in §156.403, there shall be no advertisement, promotional materials, displays, or temporary signs visible to the public from public rights-of-way.

B. Bed & Breakfast

1. An owner shall reside on site.
2. There shall be no substantial modifications to the exterior appearance of the structure; however, fire escapes, handicapped entrances and other features may be added to protect public safety.
3. Meals shall be served on the premises only for guests and employees. Rooms may not be equipped with cooking facilities.
4. Parking shall not be allowed in any street yard.

C. Contractor's Office

1. Except in the I-1 and I-2 districts, all activity shall be conducted entirely within a fully-enclosed building. The temporary loading and off-loading of vehicles shall be permitted outside.
2. Outdoor storage and display may be allowed subject to Planning Board approval (see §156.405, Outdoor Storage and Display).
3. Combustible materials and chemicals shall be stored in compliance with all local, state, and federal regulations.

D. Hotel, Motel

1. All hotel and motel buildings and parking shall be located at least 50 feet from any property line adjoining a residential district or use.
2. Any accessory commercial activities such as restaurants shall not be located along the side of the property adjacent to a residential district or use.
3. Any outdoor recreation facilities, such as swimming pools, shall not be located along the side of the property adjacent to a residential district or use. If the outdoor recreation facility is a swimming pool, it shall meet the standards of §156.305D.3.

E. Gas Station with Convenience Retail

1. **General Standards**
   a. Vehicle repair or service shall not be permitted.
   b. The primary building, including any attached canopy, shall conform to all setback requirements.

c. Gasoline pumps, tanks and pump islands shall be located no closer than 20 feet to any side or rear property line or right-of-way.

d. No sign of any type or any gasoline pump or tank shall be located within 20 feet of a residential use.

e. A Class C buffer (see §156.402) shall be established along any side of the property where the gas station abuts a residential use, provided such buffer shall not restrict clear sight at any intersection or driveway.

f. Freestanding vents shall not be permitted.

g. Outdoor storage and display may allowed subject to Planning Board approval (see §156.405, Outdoor Storage and Display).

2. **Fuel Canopies**

a. The canopy shall be located no closer than 15 feet to any side or rear property line or right-of-way.

b. The canopy shall not exceed the height of the principal building, but in no case shall the canopy height exceed 20 feet.

3. **Single-Bay Automatic Car Wash**

An accessory single-bay automatic (not self-service) car wash completely enclosed except for openings necessary to allow entry and exit of vehicles shall be permitted subject to the following:

a. The car wash structure shall be located no closer than 20 feet to any side or rear property line or right-of-way.

b. The car wash structure shall not exceed a height of 20 feet or exceed an overall building dimension of 25 feet in width and 50 feet in length.

c. The car wash structure shall be located behind the rear building line of the principal building.

d. All car wash structures shall meet all applicable yard requirements.

F. **Manufacturing, Limited**

1. All manufacturing activity shall be conducted entirely within a fully-enclosed building.

2. Outdoor storage and display may allowed subject to Planning Board approval (see §156.405, Outdoor Storage and Display).

3. Uses shall not emit smoke, odor or objectionable waste materials.

4. No vibration shall be produced that is transmitted through the ground (and is discernible without the aid of instruments) at or beyond the lot line.

5. No direct glare from high temperature processes such as combustion or welding visible from the street shall be permitted.

G. **Recreational Club, Private**

A recreational club shall be located on a parcel of land not less than three acres in size.

H. **Retail, Neighborhood or General**

All activity shall be conducted entirely within a fully-enclosed building, except for the following:

1. Outdoor storage and display may be allowed subject to Planning Board approval (see §156.405, Outdoor Storage and Display).

2. Outdoor seating and dining may be allowed subject to Planning Board approval (see §156.305D.2).
3. For shopping centers see §156.301 for additional requirements.

I. Self-Storage Facility

1. All storage shall be contained within a fully-enclosed building. However, outdoor storage of boats, travel trailers, recreational vehicles, and other noncommercial occasional use vehicles may allowed subject to Planning Board approval (see §156.405, Outdoor Storage and Display).
2. A Class C buffer (see §156.402) shall be established along any side of the property where the self-storage facility abuts or is across the street from a residential use.
3. Where the end wall of the self-storage facility is visible from a public right-of-way, the wall shall be buffered by a hedge that has a mature height of at least four feet.
4. The following activities shall be prohibited on the premises:
   a. Commercial, wholesale or retail sales, flea markets or peddling, or miscellaneous or garage sales. However, once a month, the management of the self-storage facility may conduct a one-day auction or sale of abandoned or stored materials to settle unpaid storage bills in accordance with State of North Carolina regulations.
   b. Servicing, repair, or fabrication or motor vehicles, boats, trailers, lawn mowers, appliances, or other similar equipment.
   c. Operation of a transfer-and-storage business.
   d. Operation of power tools, spray painting equipment, table saws, lathes, compressors, welding equipment, kilns, or other similar equipment except when needed for maintenance of the use.
   e. Any activity that is noxious or offensive because of odors, dust, noise, fumes, or vibrations.
   f. Storage of hazardous chemicals, flammable liquids, or combustible and explosive materials.
   g. Habitation of storage units by humans or animals.

J. Service, Neighborhood or General

All activity shall be conducted entirely within a fully-enclosed building, except for the following:

1. Outdoor storage and display may allowed subject to Planning Board approval (see §156.405, Outdoor Storage and Display).
2. Outdoor seating and dining may be allowed subject to Planning Board approval (see §156.305D.2).
3. For shopping centers see §156.301 for additional requirements.

K. Vehicle Repair

1. No vehicle sales shall be permitted.
2. A Class C buffer (see §156.402) shall be established along any side of the property adjacent to a residential use,
3. If the facility has more than one service bay, the additional service bay doors shall not be oriented toward any residential use, or the service bays shall be screened from view from adjacent property using landscaping.

4. All repair or service operations, excluding washing, shall be conducted entirely within a fully-enclosed building. The term fully-enclosed building shall not be construed to limit open bay doors during hours of operation.
5. Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.
6. The outdoor overnight storage of vehicles may be allowed subject to Planning Board approval (see §156.405, Outdoor Storage and Display).
7. There shall be no dismantling of vehicles for salvage.
8. The storage of impounded vehicles shall not be permitted.

L. **Vehicle Sales**

1. A Class C buffer (see §156.402) shall be established along any side of the property adjacent to a residential use.
2. Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.
3. The outdoor overnight storage of vehicles under repair may be allowed subject to Planning Board approval (see §156.405, Outdoor Storage and Display).
4. Vehicle sales displayed for rental or sale visible from the public right-of-way shall provide a parking buffer as set forth in §156.402E.2.b.

M. **Vehicle Service**

1. A Class C buffer (see §156.402) shall be established along any side of the property adjacent to a residential use.
2. If the facility has more than one service bay, the additional service bay doors shall not be oriented toward the right-of-way or a residential use, or the service bays shall be screened from view from the right-of-way or adjacent property using landscaping.
3. All repair or service operations, excluding washing, shall be conducted entirely within a fully-enclosed building. The term fully-enclosed building shall not be construed to limit open bay doors during hours of operation.
4. Operable vehicles may be parked on-site during business hours. All vehicle parking shall be accomplished on the site, and in no case shall a parked vehicle encroach into the right-of-way.
5. The outdoor overnight storage of vehicles may be allowed subject to Planning Board approval (see §156.405, Outdoor Storage and Display).
6. There shall be no dismantling of vehicles for salvage.
7. The storage of impounded vehicles shall not be permitted.

N. **Veterinarian, Animal Hospital**

1. Outdoor runs may be permitted subject to Board of Adjustment approval (see §156.710, Conditional Use Review).
2. All animal boarding shall occur indoors. All pens, kennels and runs shall be located within an enclosed structure.

O. Internet Sweepstakes/Gaming Facilities

1. No facility shall be located any closer than 1000 feet from any other like facility, and no closer than 500 feet of a residential dwelling, child daycare, school, pre-school or church. For purposes of this section the distance shall be measured in a straight line from the closest point of the build ing housing the internet sweepstakes/gaming establishment and another like establishment or any of the other aforementioned uses.

2. There shall be no more than one electronic gaming operations establishment on the same lot or property or in the same building, structure or potiion thereof and no other principal or accessory use may occupy the same building or structure or portion thereof as an electronic gaming operations establishment.

3. No screens, curtains, blinds, partitions or other obstruction shall be placed between the entrance to the room where electronic gaming operations occur and the rear wall of such room so that a clear view of the interior may not be had from the entrance to the room.

4. On premise alcohol sales and consumption shall be prohibited.

5. No person under the age of 18 years shall be permitted within any such facility.

6. The number of gaming machines shall be calculated at I machine/50 square feet of gross floor area, not including restrooms, storage closets, mechanical rooms, and unheated uninhabitable space, to a maximum of 30 machines for any one establishment.

7. Off-street parking shall be required at 1.0 space per internet/gaming terminals.

8. Establishments shall not operate between the hours of 11:00 p.m. and 8:00 a.m. any day of the week.

9. Facilities may be subject to additional conditions as deemed necessary by the governing boards of the Town of Benson as part of the special use approval process.

156.305 ACCESSORY STRUCTURES AND USES

A. General

Accessory structures and uses shall be consistent with all standards in the district for the principal use, except as expressly set forth below. Additional design considerations may be outlined in the Benson General Design Guidelines.

1. Accessory structures and uses shall be accessory and clearly incidental and subordinate to a permitted principal uses. An accessory use shall only be allowed when a principal use exists.
2. Accessory structures and uses shall be located on the same lot as the permitted use or structure, or on a contiguous lot in the same ownership.
3. Accessory structures and uses shall not involve operations or structures not in keeping with the character of the primary use or principal structure served.
4. Accessory structures and uses shall not be of a nature likely to attract visitors in larger numbers than would normally be expected, where applicable.
5. An accessory use shall contribute to the comfort, convenience or necessity of occupants of the primary use served.
6. An accessory use shall be located within the same district as the principal use.
7. Tractor trailers are prohibited as storage buildings or structures except as permitted on an active construction site.

B. Accessory Structures

Accessory structures, not including accessory dwelling units (see paragraph C.1 below) shall be subject to the following requirements:

1. **Zoning Permit Required**

   It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of an accessory structure, until the Planning Department has issued a zoning permit for such work (see §156.709).

2. **Setbacks**

   a. No accessory structure shall be located closer than ten feet to any other building or manufactured home.

   b. No accessory structure shall extend in front of the rear line of the principal structure, except in the B-1 District, where the Board of Adjustment may approve a conditional use permit for an accessory use or structure to be placed in any yard other than the rear yard.

   c. No accessory structure may extend within five feet of any lot line in R-6 and R- zoning 11 districts, and within ten feet in all other zoning districts. No accessory structure shall be located within 20 feet of any street right-of-way.

3. **Height**

   The height of an accessory structure shall not exceed the height of the principal structure, unless approved as a conditional use by the Board of Adjustment, as provided in §156.710.

4. **Number**

   No more than one accessory structure shall be permitted on the same lot as any primary structure in R-6, R-8, and R-10 residential districts, and no more than two accessory structures shall be permitted on the same lot as any primary structure in all other zoning districts.

C. Accessory Uses in Residential Districts

1. **Accessory Dwelling Units**

   One accessory dwelling shall be permitted as a conditional use by the Board of Adjustment (see §156.710) subject to their approval and the following requirements:

   a. The living area of the accessory dwelling shall not exceed the living area of the principal structure. In no case shall the total floor area of the accessory dwelling unit exceed 600 square feet.

   b. The accessory dwelling shall not have a separate electrical meter.

   c. The owner of the property shall occupy either the primary structure or the accessory dwelling.

   d. The principal dwelling and accessory dwelling unit together shall not exceed the maximum building coverage and impervious surface requirements for the district.

   e. All principal structure setbacks and yard requirements shall be met.

   f. One additional parking space on the same premises shall be required for the accessory dwelling unit.

   g. A subdivision with accessory dwelling units shall not exceed the maximum district density requirements, counting all principal dwelling units and any accessory dwelling units.

   h. An accessory dwelling shall either be located within the principal structure; or meet the following standards:

      i. The accessory dwelling shall be located on the same lot as the principal structure.

      ii. The accessory dwelling shall be separated by at least ten feet from the principal structure.

      iii. The accessory dwelling shall be located in the rear or side yard of the principal structure. The rear and side setback shall be equal to those of all accessory structures.

      iv. Total building coverage and impervious surface area shall not exceed that permitted in the district.

      v. The height of a principal structure shall not be exceeded by any accessory dwelling.

      vi. The accessory dwelling unit shall be architecturally consistent with the principal structure.

2. **Home Occupations**

   a. **Prohibited Home Occupations**

      The following uses are not permitted as home occupations:

      i. Vehicle and/or body and fender repair.

      ii. Outdoor repair.

      iii. Commercial nursery or truck farming.

      iv. Food handling, processing or packing, other than services that utilize standard home kitchen equipment.

      v. Medical or dental lab.

      vi. Restaurant.

      vii. Sale or repair of firearms.

viii. Bulk storage of flammable liquids.

ix. Funeral homes and mortuaries.

x. Animal hospitals and kennels.

b. **Class A**

The intent of a Class A Home Occupation is to permit very limited activities in a residential dwelling, provided such activities do not impact or detract from the residential character of the neighborhood. A Class A Home Occupation shall be deemed an accessory use and no further approval shall be required, provided the use meets the standards of this chapter.

i. The use of the dwelling unit for Class A home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character of the structure.

ii. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of a home occupation.

iii. No business, storage or warehousing of material, supplies or equipment shall be permitted outside of the primary dwelling unit.

iv. No equipment or process shall be used that creates excessive noise, vibration, glare, fumes, odors, or electrical interference.

v. No display of products shall be visible from the street.

vi. A Class A Home Occupation shall be subject to all applicable licenses and business taxes

vii. No persons other than members of the family residing on the premises shall be engaged in the home occupation.

viii. Storage space and the operation of the business inside the dwelling unit shall not exceed 25 percent of the first floor area of the residence.

ix. Customers and employees coming to the residence to conduct business shall not be permitted.

x. No signage shall be permitted.

c. **Class B**

A Class B Home Occupations is a business, profession, occupation or trade conducted for gain or support within a residential dwelling or its accessory buildings that requires employees, customers, clients or patrons to visit the home. A Class B Home Occupation shall be permitted as a conditional use provided that the Board of Adjustment shall determine in its judgment that:

i. It is carried on by a person residing on the premises and employs no more than two employees not living on the premises.

ii. No more than 20 percent of the total actual floor area of the dwelling shall be in the conduct of the home occupation.

iii. No more than two vehicles are used in the conduct of the home occupation, and such vehicles are parked off the street.

iv. No merchandise or commodity is sold on the premises, except what is incidental to the home occupation.

v. No mechanical equipment is installed or used except such that is normally used for domestic or professional purposes.

vi. No expansion shall be permitted outside the principal structure that houses the home occupation, except that which is necessary to house vehicles used in the conduct of home occupation.

vii. It is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

viii. The use will not create undue traffic congestion or create a traffic hazard.

ix. Advertising signs shall be limited to one unlighted wall sign no larger than three square feet in area, attached to the structure housing the home occupation, or one yard sign of the same size not to exceed three feet in height.

3. **Swimming Pools**

When allowed, in-ground and above ground swimming pools that have a water depth over 24 inches and or have a surface area of at least 100 square feet shall be subject to the following requirements (see of Chapter 154, Swimming Pools, of the Town Code of Ordinances for additional standards).

a. **Private Pools**

Private swimming pools (as well as the decking and equipment associated with the pool) on single-family detached, zero lot lines, alley-loaded, and two-family lots shall not be located in the street yard and shall not be closer than five feet to the any property line.

b. **Outdoor Community Pools, Private Club Pools, or Pools in Multifamily Complexes**

i. Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.

ii. When the pool is adjacent to off-site residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

4. **Vehicle Repair**

Up to two vehicles may be repaired simultaneously on a residential property if the vehicles are registered to an occupant of the residence.

5. **Vehicle Sales**

Vehicle sales shall be prohibited within a residential district or on property devoted to residential use, except that the sale of a private vehicle registered to the occupant of the residence shall be allowed. No more than one such vehicle shall be displayed at a time.

D. **Accessory Uses in Nonresidential Districts**

1. **Drive-Thru**

Drive-thru facilities shall be subject to the following requirements:

a. A drive-thru shall only be permitted in conjunction with a permitted nonresidential use.

b. Drive-thru windows and lanes shall be screened in accordance with §156.402G.

2. **Outdoor Seating and Dining**

Outdoor seating and dining may be allowed subject to major site plan approval by the Planning Board (see §156.707).

3. **Swimming Pools**

   a. Outdoor pools shall meet the standards of Chapter 154, Swimming Pools, of the Town Code of Ordinances.

   b. Outdoor pools including decking shall be located at least 50 feet from any property line adjacent to a residential district or use, and at least 25 feet from any property line adjacent to any other district or use.

   c. When the pool is adjacent to residences, the playing of music detectable off-site on a public address system is prohibited. Informational announcements shall be permitted. This requirement may be waived if a permit has been issued for a special event.

E. **Accessory Uses for Places of Worship**

Accessory uses are permitted for a place of worship in accordance with the following standards.

1. The following facilities may be considered accessory to a place of worship. Additional buffering may be required through the review and approval of a site plan to address the intensity of the proposed place of worship and the proposed accessory uses.

   a. Offices for the place of worship;

   b. Rooms for religious instruction or counseling;

   c. Meeting rooms for intermittent community meetings or instruction;

   d. Fellowship hall;

   e. Kitchen facilities;

   f. Senior center, neighborhood arts center or other community center;

   g. Temporary child care during religious services or events;

   h. Outdoor play area;

   i. Columbarium;

   j. "Meals on Wheels" or other similar programs using the kitchen in the place of worship but delivering food elsewhere; and

   k. Residence for clergy employed by the place of worship.

2. The following accessory uses are subject to approval of a major site plan by the Planning Board (see §156.707).

   a. Gymnasium or similar indoor recreational facility;

   b. Cemetery;

   c. Overnight accommodation for visiting clergy and non-paying guests of clergy employed by the place of worship;

   d. Child care center;

   e. School;

   f. Soup kitchen or other social service facility; and

   g. Athletic field or similar facility.

156.306 TEMPORARY USES

A. General Requirements

Certain uses are temporary in character. They vary in type and degree, as well as length of time involved. Such uses may have little impact on surrounding and nearby properties or they may present questions involving potential incompatibility of the temporary use with existing uses. Unless otherwise specified in this chapter, the following regulations shall govern temporary uses.

B. Temporary Uses Exempt from Permit

The following permitted temporary uses are exempt from these requirements.

1. Christmas tree sales lots.
2. Garage or yard sales are permitted only by the property owner on their property and are allowed once every four months at any given location. The sale may not exceed three consecutive days in length. Advertising signs may not be placed on any rights-of-way or off-site locations without the owners' permission.
3. Storage pods for off-site storage of household or other goods located in any street yard are permitted for a maximum of seven consecutive days, and any side or rear yard for a maximum of 30 consecutive days.

C. Temporary Use Permit Required

The following temporary uses are allowed in the frequency stated below except that no property shall have more that four of the events listed below in one calendar year.

Example: *A temporary use permit for a carnival would be counted in considering whether to issue a temporary use permit for a non-profit special event.*

1. **Commercial Circuses, Carnivals or Fairs**

   Commercial circuses, carnivals or fairs, for not more than two consecutive weeks in any calendar year.

2. **Temporary Religious or Revival Activities**

   Temporary religious or revival activities in tents in association with a place of worship, for not more than two consecutive weeks in any calendar year.

3. **Non-Profit Special Events**

   Special events run by non-profit, eleemosynary organizations occurring no longer than seven consecutive days once every three months.

4. **Tent Sales**

   Tent sales by merchants occupying the premises on which the sale is conducted and having a valid certificate of occupancy, and occurring no longer than seven consecutive days once every six months.

5. **Grand Opening Sales**

   Grand opening sales, including outside food and beverage vending, for three consecutive days, once per certificate of occupancy.

6. **Outdoor Vehicle Show or Sale**

   Outdoor motor vehicle or recreational vehicle show or sale, for three consecutive days, twice per calendar year.

7. **Other Temporary Uses**

   Other temporary uses similar in nature to the ones listed above, with corresponding limitations, as determined by the Planning Director.

D. Temporary Outdoor Display of Merchandise

Commentary: *The temporary outdoor display of merchandise should not be confused with the permanent outdoor display of merchandise approved as part of major site plan (see §156.405).*

1. Outdoor display of merchandise in nonresidential districts by merchants occupying the premises and having a valid certificate of occupancy, occurring no longer than nine consecutive days up to four times per year, is allowed subject to issuance of a temporary use permit and all of the following conditions.
   a. Merchandise shall only be displayed in front of the premises occupied by the merchant.
   b. Merchandise shall not be displayed closer than five feet to any entrance to the premises.
   c. Merchandise shall only be displayed in a manner that does not obstruct pedestrian or vehicular circulation or traffic.
   d. The display of merchandise shall not exceed eight feet in height.
   e. Merchandise shall only be displayed during the merchant's hours of operation, and must be taken inside the premises at closing.
   f. Merchandise shall only be displayed in an area not wider than 50 percent of the total linear foot frontage of the building occupied by the merchant.
   g. The required temporary use permit must be visibly displayed at the main entrance of the associated merchant.
   h. A violation of any conditions set out in this section shall constitute a violation of the temporary use permit and cause said temporary use permit to be revoked. Once revoked, a temporary use permit shall not be issued for the same temporary use for a period of one year.
2. Any temporary use permit issued under paragraphs C.1 through C.7 above shall be counted in the maximum number of temporary use permits allowed for the temporary outdoor display of merchandise.
3. The requirements of this section do not supersede the permanent outdoor storage or display requirements of §156.405, Outdoor Storage and Display.

E. Manufactured Home or Trailer for Temporary Use

After approval by the Planning Director, a manufactured home or trailer may be used as a temporary office, security shelter, or shelter for materials or tools (but not for residential purposes or sales offices) incident to construction on or development of the premises upon which the manufactured home or trailer is located. Such use shall be strictly limited to the time construction or development is actively underway. In no event shall the use continue more than six months without the further approval of the Planning Director. The temporary use shall be approved only upon finding that actual construction is continuing.

F. Temporary Use in Conjunction with Special Event Permit

Where a valid permit has been issued by the Town for use of adjacent right-of-way that makes the street unavailable to vehicular traffic, a temporary use permit may be issued in accordance for events on the grounds or in the parking lot of any adjacent parcel during the period of the special event permit.

G. Real Estate Development Projects

1. A developer may request a temporary use permit for necessary commercial promotional, storage, or fabrication activities at the development site which occur during construction of that developer's project.
2. When the request is for a temporary sales office, model home, or apartment, the application shall list the lots, apartment units, or dwelling units to be initially sold.
3. The temporary use permit shall be restricted to only those activities and properties listed on the petition. Such activities shall not include any sale of properties outside the development site or any resale of properties.
4. The following uses in connection with such a project require a temporary use permit:
   a. Offices for sale of real estate or for persons engaged in the development
   b. Construction materials storage, general contractor's business office, processing, or fabrication.
   c. Equipment storage.
   d. Model homes or sample apartments.

156.307 WIRELESS TELECOMMUNICATION FACILITIES

A. Purpose and Legislative Intent

The Telecommunications Act of 1996 affirmed the Town's authority concerning the placement, construction and modification of wireless telecommunications facilities. The Town finds that wireless telecommunications facilities may pose significant concerns to the health, safety, public welfare, character and environment of the Town and its inhabitants. The Town also recognizes that facilitating the development of wireless service technology can be an economic development asset to the Town and of significant benefit to the Town and its residents. In order to ensure that the placement, construction or modification of wireless telecommunications facilities is consistent with the Town's land use policies, the Town is adopting a single, comprehensive, wireless telecommunications facilities application and permit process. The intent of this subchapter is to minimize the negative impact of wireless telecommunications facilities, establish a fair and efficient process for review and approval of applications, assure an integrated, comprehensive review of environmental impacts of such facilities, and protect the health, safety and welfare of the Town.

B. Overall Policy and Desired Goals for Special Use Permits

In order to ensure that the placement, construction, and modification of wireless telecommunications facilities protects the health, safety, public welfare, environmental features of the Town, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this subchapter, the Town hereby adopts an overall policy with respect to a special use permit for wireless telecommunications facilities for the express purpose of achieving the following goals:

1. Implementing an application process for person(s) seeking a special use permit for wireless telecommunications facilities.
2. Establishing a policy for examining an application for and issuing a special use permit for wireless telecommunications facilities that is both fair and consistent.
3. Promoting and encouraging, wherever possible, the sharing and/or co-location of wireless telecommunications facilities among service providers.
4. Promoting and encouraging, wherever possible, the placement, height and quantity of wireless telecommunications facilities in such a manner, including but not limited to the use of stealth technology, to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

C. Special Use Permit Application and Other Requirements

1. All applicants for a special use permit for wireless telecommunications facilities or any modification of such facility shall comply with the requirements set forth in this section. The Town Board of Commissioners is the officially designated agency or body of the Town to whom applications for a special use permit for wireless telecommunications facilities must be made, and that is authorized to review, analyze, evaluate and make decisions with respect to granting or not granting, recertifying or not recertifying, or revoking special use permits for wireless telecommunications facilities. The Town may at its discretion delegate or designate other official agencies of the Town or others to accept, review, analyze, evaluate and make recommendations to the Town Board with respect to the granting or not granting, recertifying or not recertifying or revoking special use permits for wireless telecommunications facilities.

2. An application for a special use permit for wireless telecommunications facilities shall be signed on behalf of the applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information. The landowner, if different than the applicant, shall also sign the application. At the discretion of the Town, any false or misleading statement in the application may subject the applicant to denial of the application without further consideration or opportunity for correction.

3. Applications not meeting the requirements stated herein or which are otherwise incomplete, may be rejected by the Town.

4. The applicant shall include a statement in writing:

   a. That the applicant's proposed wireless telecommunications facilities shall be maintained in a safe manner, and in compliance with all conditions of the special use permit, without exception, unless specifically granted relief by the Town in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable Town, state and federal laws, rules, and regulations; and

   b. That the construction of the wireless telecommunications facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state.

5. No wireless telecommunications facilities shall be installed or constructed until the application is reviewed and approved by the Town, and the special use permit has been issued. There shall be no public hearing required for an application to co-locate on an existing tower or other structure, as long as there is no proposed increase in the height of the tower or structure, including attachments thereto.

6. All applications for the construction or installation of new wireless telecommunications facilities shall contain the information herein after set forth. The application shall be signed by an authorized individual on behalf of the applicant. Where a certification is called for, such certification shall bear the signature and seal of a professional engineer licensed in the state. The application shall include the following information:

   a. Documentation that demonstrates the need for the wireless telecommunications facility to provide service primarily and essentially within the Town. Such documentation shall include propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites;

   b. The name, address and phone number of the person preparing the report;

   c. The name, address, and phone number of the property owner, operator, and applicant, and to include the legal form of the applicant;

   d. The postal address and tax map parcel number of the property;

   e. The zoning district or designation in which the property is situated;

   f. Size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines;

   g. The location of nearest residential structure;

   h. The location, size and height of all structures on the property which is the subject of the application;

   i. The location, size and height of all proposed and existing antennae and all appurtenant structures;

j. The type, locations and dimensions of all proposed and existing landscaping, and fencing;

k. The number, type and design of the tower(s) and antenna(s) proposed and the basis for the calculations of the tower's capacity to accommodate multiple users;

l. The make, model and manufacturer of the tower and antenna(s);

m. A description of the proposed tower and antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;

n. The frequency, modulation and class of service of radio or other transmitting equipment;

o. The actual intended transmission and the maximum effective radiated power of the antenna(s);

p. Direction of maximum lobes and associated radiation of the antenna(s);

q. Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC;

r. Certification that the proposed antenna(s) will not cause interference with other telecommunications devices;

s. A copy of the FCC license applicable for the intended use of the wireless telecommunications facilities; and

t. Certification that a topographic and geomorphologic study and analysis has been conducted, and that taking into account the subsurface and substrata, and the proposed drainage plan, that the site is adequate to assure the stability of the proposed wireless telecommunications facilities on the proposed site.

7. In the case of a new tower, the applicant shall be required to submit a written report demonstrating its meaningful efforts to secure shared use of existing tower(s) or the use of alternative buildings or other structures within the Town. Copies of written requests and responses for shared use shall be provided to the Town in the application, along with any letters of rejection stating the reason for rejection.

8. The applicant shall certify that the telecommunication facility, foundation and attachments are designed and will be constructed to meet all local, Town, state and federal structural requirements for loads, including wind and ice loads.

9. The applicant shall certify that the wireless telecommunications facilities will be effectively grounded and bonded so as to protect persons and property and installed with appropriate surge protectors.

10. An applicant may be required to submit an Environmental Assessment Analysis and a Visual Addendum. Based on the results of the analysis, including the Visual Addendum, the Town may require submission of a more detailed visual analysis. The scope of the required environmental and visual assessment will be reviewed at the pre-application meeting.

11. The applicant shall furnish a Visual Impact Assessment, which shall include:

a. A " Zone of Visibility Map" which shall be provided in order to determine locations from which the tower may be seen.

b. Pictorial representations of "before and after" views from key viewpoints both inside and outside of the Town as may be appropriate, including but not limited to state highways and other major roads; state and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is

visible to a large number of visitors, travelers or residents. Guidance will be provided, concerning the appropriate key sites at a pre-application meeting.

c. An assessment of the visual impact of the tower base, guy wires and accessory buildings from abutting and adjacent properties and streets as relates to the need or appropriateness of screening.

12. The applicant shall demonstrate and provide in writing and/or by drawing how it shall effectively screen from view the base and all related facilities and structures of the proposed wireless telecommunications facilities.

13. Any and all representations made by the applicant to the Town on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon. in good faith by the Town.

14. All utilities at a wireless telecommunications facilities site shall be installed underground and in compliance with all laws, ordinances, rules and regulations of the Town, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

15. All wireless telecommunications facilities shall contain a demonstration that the facility be sited so as to be the least visually intrusive reasonably possible and thereby have the least adverse visual effect on the environment and its character, on existing vegetation, and on the residences in the area of the wireless telecommunications facility.

16. Both the wireless telecommunications facility and any and all accessory or associated facilities shall maximize the use of building materials, colors and textures designed to blend with the structure to which it may be affixed and/or to harmonize with the natural surroundings, this shall include the utilization of stealth or concealment technology as may be required by the Town.

17. At a telecommunications site, an access road, turn around space and parking shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion.

18. A person who holds a special use permit for wireless telecommunications facilities shall construct, operate, maintain, repair, provide for removal of, modify or restore the permitted wireless telecommunications facilities in strict compliance with all current applicable technical, safety and safety-related codes adopted by the Town, state, or United States, including but not limited to the most recent editions of the National Electrical Safety Code and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

19. A holder of a special use permit granted under this subchapter shall obtain, at its own expense, all permits and licenses required by applicable law, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the Town or other governmental entity or agency having jurisdiction over the applicant.

20. An applicant shall submit to the Town the number of completed applications determined to be needed at the pre-application meeting.

21. The applicant shall examine the feasibility of designing a proposed tower to accommodate future demand for at least five additional commercial applications, for example, future co-locations. The tower shall be structurally designed to accommodate at least five additional antenna arrays equal to those of the applicant, and located as close to the applicant's antenna as possible without causing interference. This requirement may be waived, provided that the applicant, in writing, demonstrates that the provisions of future shared usage of the tower is not technologically feasible, is commercially impracticable or creates an unnecessary and unreasonable burden, based upon:
    a. The foreseeable number of FCC licenses available for the area;
    b. The kind of wireless telecommunications facilities site and structure proposed;
    c. The number of existing and potential licenses without wireless telecommunications facilities spaces/sites; and
    d. Available space on existing and approved towers.
22. The owner of the proposed new tower, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed tower by other wireless service providers in the future, and shall:
    a. Respond within 60 days to a request for information from a potential shared-use applicant;
    b. Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers;
    c. Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charges may include, but are not limited to, a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, less depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
    d. Failure to abide by the conditions outlined above may be grounds for revocation of the special use permit for the tower.
23. There shall be a pre-application meeting with the Town staff and selected consultant. The purpose of the pre-application meeting will be to address issues, which will help to expedite the review and permitting process. A pre-application meeting shall also include a site visit if there has not been a prior site visit for the requested site. Costs of the Town's consultants to prepare for and attend the pre-application meeting will be borne by the applicant.
24. The holder of a special use permit shall notify the Town of any intended modification of a wireless telecommunication facility and shall apply to the Town to modify, relocate or rebuild a wireless telecommunications facility.
25. In order to better inform the public, in the case of a new telecommunication tower, the applicant shall, prior to the public hearing on the application, hold a "balloon test." The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a three-foot in diameter brightly colored balloon at the maximum height of the proposed new tower. The dates (including a second date, in case of poor visibility on the initial date), times and location of this balloon test shall be advertised by the applicant seven and 14 days in advance of the first test date in a newspaper with a general circulation in the Town . The applicant shall inform the Town, in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours sometime between 7:00 a.m. and 4:00 p.m. on the

dates chosen. The primary date shall be on a weekend, but in case of poor weather on the initial date, the secondary date; may be on a week day.

26. The applicant will provide a written copy of an analysis, completed by a qualified individual or organization, to determine if the tower or existing structure intended to support wireless facilities requires lighting under Federal Aviation Administration Regulation Part 77. This requirement shall be for any new tower or for an existing structure or building where the application increases the height of the structure or building. If this analysis determines that the FAA must be contacted, then all filings with the FAA, all responses from the FAA and any related correspondence shall be provided in a timely manner.

D. **Location and Types of Wireless Telecommunications Facilities**

1. Applicants for wireless telecommunications facilities shall locate, site and erect said wireless telecommunications facilities in accordance with the following priorities, one being the highest priority and six being the lowest priority.
   a. On existing towers or other structures on Town-owned properties without increasing the height of the tower or structure.
   b. On other existing towers or other structures without increasing the height of the tower or structure.
   c. On existing towers or other structures but which must be modified in height in order to be of service.
   d. On Town-owned property.
   e. On properties in areas zoned for Heavy Industrial use.
   f. On properties in areas zoned for Commercial use.
   g. On properties in areas zoned for Agricultural use.
   h. Towers shall be prohibited from installation in areas zoned residential, except when located in accordance with paragraphs 1.a and 1.b above or having a height of less than 35 feet.
2. Applicants for wireless telecommunications facilities shall erect said wireless telecommunications facilities in accordance with the following priorities, one being the highest priority and four being the lowest priority.
   a. Stealth (i.e.: flag poles, spires, steeples, and the like).
   b. Monopole.
   c. Lattice.
   d. Guy wire tower.
3. If the proposed site/type is not for the highest priority listed above, then a detailed explanation must be provided as to why a site of a higher priority was not selected. The person seeking such an exception must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site/type, and the hardship that would be incurred by the applicant if the permit were not granted for the proposed site.
4. An applicant may not by-pass sites/types of higher priority by stating the site proposed is the only site leased or selected. An application shall address co-location as an option. If such option is not proposed, the applicant must explain to the reasonable satisfaction of the Town why co-location is commercially or otherwise impracticable. Agreements between providers limiting or

prohibiting co-location shall not be a valid basis for any claim of commercial impracticability or hardship.

5. Notwithstanding the above, the Town may approve any site/type located within an area in the above list of priorities, provided that the Town finds that the proposed site/type is in the best interest of the health, safety and welfare of the Town and its inhabitants and will not have a deleterious effect on the nature and character of the community and neighborhood.

6. The applicant shall submit a written report demonstrating the applicant's review of the above locations/types in order of priority, demonstrating the technological reason for the site selection. If appropriate, based on selecting a site/type of lower priority, a detailed written explanation as to why sites/types of a higher priority were not selected shall be included with the application.

7. Notwithstanding that a potential site/type may be situated in an area of highest priority or highest available priority, the Town may disapprove an application for any of the following reasons.

   a. Conflict with safety and safety-related codes and requirements;

   b. Conflict with the historic nature or character of a neighborhood or historical district;

   c. The use or construction of wireless telecommunications facilities which is contrary to an already stated purpose of a specific zoning or land use designation;

   d. The placement and location of wireless telecommunications facilities which would create an unacceptable risk, or the reasonable probability of such, to residents, the public, employees and agents of the Town, or employees of the service provider or other service providers;

   e. Conflicts with the provisions of this subchapter.

E. **Shared Use of Wireless Telecommunications Facilities and Other Structures**

1. Locating on existing towers or others structures without increasing the height, shall be preferred by the Town, as opposed to the construction of a new tower. The applicant shall submit a comprehensive report inventorying existing towers and other suitable structures within four miles of the location of any proposed new tower, unless the applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing tower or other suitable structure can not be used.

2. An applicant intending to locate on an existing tower or other suitable structure shall be required to document the intent of the existing owner to permit its use by the applicant.

3. Such shared use shall consist only of the minimum antenna array technologically required to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.

F. **Height of Telecommunications Towers**

1. The applicant shall submit documentation justifying the total height needed of any tower, facility and/or antenna and the basis therefore. Such documentation will be analyzed in the context of the justification of the height needed to provide service primarily and essentially within the Town, to the extent practicable, unless good cause is shown.

2. No tower constructed after the effective date of this subchapter, including allowing for all attachments, shall exceed that height which shall permit operation without required artificial lighting of any kind in accordance with municipal, Town, state, and/or any federal statute, law, local law, Town ordinance, code, rule or regulation.

G. Appearance and Visibility of Wireless Telecommunications Facilities

1. Wireless telecommunications facilities shall not be artificially lighted or marked, except as required by law.
2. Towers shall be galvanized and painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this subchapter.
3. If lighting is required, applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations.

H. Security of Wireless Telecommunications Facilities

All wireless telecommunications facilities and antennas shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

1. All antennas, towers and other supporting structures, including guy wires, shall be made inaccessible to unauthorized individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and
2. Transmitters and telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

I. Signage

Wireless telecommunications facilities shall contain a sign no larger than four square feet in order to provide adequate notification to persons in the immediate area of the presence of an antenna that has transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule or regulation. No other sign display, including advertising, logo or trademark shall be permitted.

J. Lot Size and Setbacks

All proposed towers and any other proposed wireless telecommunications facility structures shall be set back from abutting parcels, recorded rights-of-way and road and street lines by the greater of the following distances: A distance equal to the height of the proposed tower or wireless telecommunications facility structure plus ten percent of the height of the tower or structure, or the existing setback requirement of the underlying zoning district, whichever is greater. Public utility structures are exempt from these setbacks if co-location or stealth type technology is utilized. Any accessory structure shall be located so as to comply with the applicable minimum setback requirements for the property on which it is situated.

K. Retention of Expert Assistance and Reimbursement by Applicant

1. The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.
2. An applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of any application including the construction and modification of the site, once permitted. The initial deposit shall be determined by the Town Board of Commissioners and listed in the Town's comprehensive list of fees and charges. The placement of the initial deposit with the Town shall precede the pre-application meeting. The Town will maintain a complete accounting of all such funds. The Town's consultants/experts shall provide the applicant with a fee schedule for the project prior to the start of the application review process. The Town's

consultants/experts shall invoice the Town for its services in reviewing the application, including the construction and modification of the site, once permitted. If at any time during the process this escrow account has a balance less than $1,000, the applicant shall immediately, upon notification by the Town, replenish said escrow account to a balance of at least $5,000. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

3. The total amount of the funds needed as set forth in paragraph 2 above may vary with the scope and complexity of the project, the completeness of the application and other information as may be needed to complete the necessary review, analysis and inspection of any construction or modification.

L. Exceptions from a Special Use Permit

1. No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of wireless telecommunications facilities as of the effective date of this subchapter without having first obtained a special use permit for wireless telecommunications facilities. Notwithstanding anything to the contrary in this subchapter, no special use permit shall be required for those non-commercial exceptions noted in the definition of wireless telecommunications facilities.

2. All wireless telecommunications facilities existing on or before the effective date of this subchapter shall be allowed to continue as they presently exist, provided however, that any visible modification of an existing wireless telecommunications facility shall require a special use permit.

M. Public Hearing and Notification Requirements

1. Prior to the approval of any application for a special use permit for wireless telecommunications facilities, a public hearing shall be held by the Town, notice of which shall be published in the official newspaper of the Town no less than ten calendar days prior to the scheduled date of the public hearing. In order that the Town may notify nearby landowners, the application shall contain the names and address of all landowners whose property is located within 1,500 feet of any property line of the lot or parcel on which the new wireless telecommunications facilities are proposed to be located.

2. There shall be no public hearing required for an application to co-locate on an existing tower or other structure, as long as there is no proposed increase in the height of the tower or structure, including attachments thereto.

3. The Town shall schedule the public hearing referred to in paragraph 1 above once it finds the application is complete, the Town, at any stage prior to issuing a special use permit, may require such additional information as it deems necessary.

N. Action on an Application for a Special Use Permit

1. The Town will undertake a review of an application pursuant to this subchapter in a timely fashion, and shall act within a reasonable period of time given the relative complexity of the application and the circumstances, with due regard for the public's interest and need to be involved, and the applicant's desire for a timely resolution.

2. The Town may refer any application or part thereof to any advisory or other committee for a non-binding recommendation.

3. After the public hearing and after formally considering the application, the Town may approve, approve with conditions, or deny a special use permit. Its decision shall be in writing and shall

be supported by findings of fact as outlined in §156.711. The burden of proof for the grant of the permit shall always be upon the applicant.

4. If the Town approves the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such approval in writing within ten calendar days of the Town's action, and the special use permit shall be issued within 30 days after such approval. Except for necessary building permits, and subsequent certificates of compliance, once a special use permit has been granted hereunder, no additional permits or approvals from the Town, such as site plan or zoning approvals, shall be required by the Town for the wireless telecommunications facilities covered by the special use permit.

5. If the Town denies the special use permit for wireless telecommunications facilities, then the applicant shall be notified of such denial in writing within ten calendar days of the Town's action.

O. Recertification of a Special Use Permit for Wireless Telecommunications Facilities

1. Between 12 months and six months prior to the five year anniversary date after the effective date of the special use permit and all subsequent five year anniversaries of the effective date of the original special use permit for wireless telecommunications facilities, the holder of a special use permit for such wireless telecommunication facilities shall submit a signed written request to the Town for recertification. Any tower approved prior to the adoption of this amendment is also subject to recertification beginning five years from the effective date of this amendment and shall follow all recertification procedures. In the written request for recertification, the holder of such special use permit shall note the following:

   a. The name of the holder of the special use permit for the wireless telecommunications facilities;

   b. If applicable, the number or title of the special use permit;

   c. The date of the original granting of the special use permit;

   d. Whether the wireless telecommunications facilities have been moved, re-located, rebuilt, or otherwise visibly modified since the issuance of the special use permit and if so, in what manner;

   e. If the wireless telecommunications facilities have been moved, re-located, rebuilt, or otherwise visibly modified, then whether the Town approved such action, and under what terms and conditions, and whether those terms and conditions were complied with;

   f. That the wireless telecommunications facilities are in compliance with the special use permit and compliance with all applicable codes, laws, rules and regulations;

   g. Recertification that the tower and attachments both are designed and constructed and continue to meet all local, Town, state and federal structural requirements for loads, including wind and ice loads. Such recertification shall be by a professional engineer licensed in the state, the cost of which shall be borne by the applicant.

2. If, after such review, the Town determines that the permitted wireless telecommunications facilities are in compliance with the special use permit and all applicable statutes, laws, local laws, ordinances, codes, rules and regulations, then the Town issue a recertification of the special use permit for the wireless telecommunications facilities, which may include any new provisions or conditions that are mutually agreed upon, or that are required by applicable statutes, laws, ordinances, codes, rules or regulations. If, after such review it is determined that the permitted wireless telecommunications facilities are not in compliance with the special use permit and all applicable statutes, laws, ordinances, codes, rules and regulations, then the Town

may refuse to issue a recertification special use permit for the wireless telecommunications facilities, and in such event, such wireless telecommunications facilities shall not be used after the date that the applicant receives written notice of the decision by the Town until such time as the facility is brought into compliance. Any decision requiring the cessation of use of the facility or imposing a penalty shall be in writing and supported by substantial evidence contained in a written record and shall be promptly provided to the owner of the facility.

3. If the applicant has submitted all of the information requested and required by this subchapter, and if the review is not completed, as noted in paragraph 1 above, prior to the five year anniversary date of the special use permit, or subsequent five year anniversaries, then the applicant for the permitted wireless telecommunications facilities shall receive an extension of the special use permit for up to six months, in order for the completion of the review.

4. If the holder of a special use permit for wireless telecommunications facilities does not submit a request for recertification of such special use permit within the timeframe noted in paragraph 1 above, then such special use permit and any authorizations granted thereunder shall cease to exist on the date of the fifth anniversary of the original granting of the special use permit, or subsequent five year anniversaries, unless the holder of the special use permit adequately demonstrates that extenuating circumstances prevented a timely recertification request. If the Town agrees that there were legitimately extenuating circumstances, then the holder of the special use permit may submit a late recertification request or application for a new special use permit.

P. Extent and Parameters of Special Use Permit for Wireless Telecommunications Facilities

The extent and parameters of a special use permit for wireless telecommunications facilities shall be as follows:

1. Such special use permit shall be non-exclusive;

2. Such special use permit shall not be assigned, transferred or conveyed without prior written notification to the Town.

3. Such special use permit may, following a hearing upon due prior notice to the applicant, be revoked, canceled, or terminated for a violation of the conditions and provisions of the special use permit, or for a material violation of this subchapter after prior written notice to the holder of the special use permit.

Q. Application Fee

1. At the time that a person submits an application for a special use permit for a new tower, such person shall pay a non-refundable application fee in accordance with the Town's adopted comprehensive list of fees and charges to the Town. If the application is for a special use permit for co-locating on an existing tower or other suitable structure, where no increase in height of the tower or structure is required, a lesser non-refundable fee shall be paid in accordance with the comprehensive list of fees and charges.

2. No application fee is required in order to recertify a special use permit for wireless telecommunications facilities, unless there has been a visible modification of the wireless telecommunications facility since the date of the issuance of the existing special use permit for which the conditions of the special use permit have not previously been modified. In the case of any modification, the fees provided in paragraph 1 above shall apply.

R. Reservation of Authority to Inspect Wireless Telecommunications Facilities

In order to verify that the holder of a special use permit for wireless telecommunications facilities and any and all lessees, renters, and/or licensees of wireless telecommunications facilities, place and construct such facilities, including towers and antennas, in accordance with all applicable technical,

safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the Town may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to towers, antennas and buildings or other structures constructed or located on the permitted site.

S. **Annual NIER Certification**

The holder of the special use permit shall, annually, certify to the Town that NIER levels at the site are within the threshold levels adopted by the FCC.

T. **Liability Insurance**

1. A holder of a special use permit for wireless telecommunications facilities shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the special use permit in amounts as set forth below:

   a. Commercial general liability covering personal injuries, death and property damage: $1,000,000 per occurrence/$2,000,000 aggregate;

   b. Automobile coverage: $1,000,000 per occurrence/$2,000,000 aggregate;

   c. Workers compensation and disability: statutory amounts.

2. The commercial general liability insurance policy shall specifically include the Town and its officers, boards, employees, committee members, attorneys, agents and consultants as additional named insured.

3. The insurance policies shall be issued by an agent or representative of an insurance company licensed to do business in the state and with a Best's rating of at least A.

4. The insurance policies shall contain an endorsement obligating the insurance company to furnish the Town with at least 90 days prior written notice in advance of the cancellation of the insurance.

5. Renewal or replacement policies or certificates shall be delivered to the Town at least 15 days before the expiration of the insurance that such policies are to renew or replace.

6. Before construction of a permitted wireless telecommunications facilities is initiated, but in no case later than 45 days after the grant of the special use permit, the holder of the special use permit shall deliver to the Town a copy of each of the policies or certificates representing the insurance in the required amounts.

U. **Indemnification**

1. Any application for wireless telecommunication facilities that is proposed for Town property, pursuant to this subchapter, shall contain a provision with respect to indemnification. Such provision shall require the applicant, to the extent permitted by the law, to at all times defend, indemnify, protect, save, hold harmless, and exempt the Town, and its officers, boards, employees, committee members, attorneys, agents, and consultants from any and all penalties, damages, costs, or charges arising out of any and all claims, suits, demands, causes of action, or award of damages, whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might arise out of, or are caused by, the placement, construction, erection, modification, location, products performance, use, operation, maintenance, repair, installation, replacement, removal, or restoration of said facility, excepting, however, any portion of such claims, suits, demands, causes of action or award of damages as may be attributable to the negligent or intentional acts or omissions of the Town, or its servants or agents. With respect to the penalties, damages or charges referenced herein, reasonable

attorneys' fees, consultants' fees, and expert witness fees are included in those costs that are recoverable by the Town.

2. Notwithstanding the requirements noted in paragraph 1 above, an indemnification provision will not be required in those instances where the Town itself applies for and secures a special use permit for wireless telecommunications facilities.

V. **Fines**

1. In the event of a violation of this subchapter or any special use permit issued pursuant to this subchapter, the Town may impose and collect, and the holder of the special use permit for wireless telecommunications facilities shall pay to the Town, fines or penalties as set forth in § 10.98.

2. Notwithstanding anything in this subchapter, the holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with this subchapter or any section of this subchapter. An attempt to do so shall subject the holder of the special use permit to termination and revocation of the special use permit. The Town may also seek injunctive relief to prevent the continued violation of this subchapter, without limiting other remedies available to the Town.

W. **Default and/or Revocation**

1. If wireless telecommunications facilities are repaired, rebuilt, placed, moved, re-located, modified or maintained in a way that is inconsistent or not in compliance with the provisions of this subchapter or of the special use permit, then the Town shall notify the holder of the special use permit in writing of such violation. Such notice shall specify the nature of the violation or non-compliance and that the violations must be corrected within seven days of the date of the postmark of the notice, or of the date of personal service of the notice, whichever is earlier. Notwithstanding anything to the contrary in this subsection or any other section of this subchapter, if the violation causes, creates or presents an imminent danger or threat to the health or safety of lives or property, the Town may, at its sole discretion, order the violation remedied within 24 hours.

2. If within the period set forth in paragraph 1 above the wireless telecommunications facilities are not brought into compliance with the provisions of this subchapter, or of the special use permit, or substantial steps are not taken in order to bring the affected wireless telecommunications facilities into compliance, then the Town may revoke such special use permit for wireless telecommunications facilities, and shall notify the holder of the special use permit within 48 hours of such action.

X. **Removal of Wireless Telecommunications Facilities**

1. Under the following circumstances, the Town may determine that the health, safety, and welfare interests of the Town warrant and require the removal of wireless telecommunications facilities.

   a. Wireless telecommunications facilities with a permit have been abandoned (i.e. not used as wireless telecommunications facilities) for a period exceeding 90 consecutive days or a total of 180 days in any 365 day period, except for periods caused by *force majeure* or acts of God, in which case, repair or removal shall commence within 90 days;

   b. Permitted wireless telecommunications facilities fall into such a state of disrepair that it creates a health or safety hazard;

   c. Wireless telecommunications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required special use permit, or any other necessary authorization.

2. If the Town makes such a determination as noted in paragraph 1, then the Town shall notify the holder of the special use permit for the wireless telecommunications facilities within 48 hours that said wireless telecommunications facilities are to be removed, the Town may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless telecommunications facilities.

3. The holder of the special use permit, or its successors or assigns, shall dismantle and remove such wireless telecommunications facilities, and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the Town. However, if the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so with the approval of the Town.

4. If wireless telecommunications facilities are not removed or substantial progress has not been made to remove the wireless telecommunications facilities within 90 days after the permit holder has received notice, then the Town may order officials or representatives of the Town to remove the wireless telecommunications facilities at the sole expense of the owner or special use permit holder.

5. If the Town removes, or causes to be removed, wireless telecommunications facilities, and the owner of the wireless telecommunications facilities does not claim and remove it from the site to a lawful location within ten days, then the Town may take steps to declare the wireless telecommunications facilities abandoned, and sell them and their components.

6. Notwithstanding anything in this section to the contrary, the Town may approve a temporary use permit/agreement for the wireless telecommunications facilities, for no more 90 days, during which time a suitable plan for removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the Town, and an agreement to such plan shall be executed by the holder of the special use permit and the Town. If such a plan is not developed, approved and executed within the 90 day time period, then the Town may take possession of and dispose of the affected wireless telecommunications facilities in the manner provided in this section.

Y. Relief

Any applicant desiring relief, waiver or exemption from any aspect or requirement of this subchapter may request such at the pre-application meeting, provided that the relief or exemption is contained in the original application for either a special use permit, or in the case of an existing or previously granted special use permit a request for modification of its tower and/or facilities. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested relief, waiver or exemption is solely on the applicant to prove. The applicant shall bear all costs of the Town in considering the request and the relief, waiver or exemption. No such relief or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that, if granted, the relief, waiver or exemption will have no significant effect on the health, safety and welfare of the Town, its residents and other service providers.

Z. Periodic Regulatory Review

1. The Town may at any time conduct a review and examination of this entire subchapter.

2. If after such a periodic review and examination of this subchapter, the Town determines that one or more provisions of this subchapter should be amended, repealed, revised, clarified, or deleted, then the Town may take whatever measures are necessary in accordance with applicable law in order to accomplish the same. It is noted that where warranted, and in the best interests of the Town, the Town may repeal this entire subchapter at any time.

3. Notwithstanding the provisions of paragraphs 1 and 2 above, the Town may at any time, and in any manner (to the extent permitted by federal, state, or local law), amend, add, repeal, and/or delete one or more provisions of this subchapter.

AA. **Adherence to State and/or Federal Rules and Regulations**

1. To the extent that the holder of a special use permit for wireless telecommunications facilities has not received relief, or is otherwise exempt, from appropriate state and/or federal agency rules or regulations, then the holder of such a special use permit shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any state or federal agency, including, but not limited to, the FAA and the FCC. Specifically included in this requirement are any rules and regulations regarding height, lighting, security, electrical and RF emission standards.

2. To the extent that applicable rules, regulations, standards, and provisions of any state or federal agency, including but not limited to, the FAA and the FCC, and specifically including any rules and regulations regarding height, lighting, and security are changed and/or are modified during the duration of a special use permit for wireless telecommunications facilities, then the holder of such a special use permit shall conform the permitted wireless telecommunications facilities to the applicable changed and/or modified rule, regulation, standard, or provision within a maximum of 24 months of the effective date of the applicable changed and/or modified rule, regulation, standard, or provision, or sooner as may be required by the issuing entity.

BB. **Conflict With Other Laws**

Where this subchapter differs or conflicts with other laws, rules and regulations, unless the right to do so is preempted or prohibited by the Town, state or federal government, this subchapter shall apply.

CC. **Severability**

1. If any word, phrase, sentence, part, section, subsection, or other portion of this subchapter or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this subchapter, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

2. Any special use permit issued under this subchapter shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the Town.

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156.400 ACCESS

A. Benson General Design Guidelines

Additional considerations may be outlined in the Benson General Design Guidelines.

B. Access Required

1. Except as provided in paragraph 2 below, no principal building, structure, or use may be erected or established on any lot which does not abut at least 30 feet on a street constructed to the standards of the Town and dedicated as a public street to the Town or the state.

2. The Planning Director may authorize, in specific situations, the erection or establishment of a principal building, structure, or use on a lot not meeting these requirements if it is clear that adequate provision for access for the type and intensity of use proposed has been or will be provided, and there are special circumstances, such as the rural nature of the lot and area, or in the case of a nonresidential use, that an easement has been recorded guaranteeing accessibility, that make the application of these requirements to the proposed use not feasible or undesirable.

C. Access to Major Thoroughfares

1. Whenever a subdivision that involves the creation of one or more new streets borders on or contains an existing or proposed major thoroughfare, no direct driveway access may be provided from lots within the subdivision onto this street.

2. When a lot or development borders on or contains an existing or proposed thoroughfare access to the thoroughfare may be limited by one of the following means:

   a. Driveway access between the lot and the thoroughfare shall be located not closer than 400 feet to the nearest centerline of any other proposed or existing driveway access along the same side of the thoroughfare.

   b. Lots shall be subdivided so as to provide access onto a frontage road or reverse frontage road. The centerline of the frontage or reverse frontage road where it intersects the thoroughfare shall be no closer than 800 feet to the centerline of the nearest proposed or existing driveway access or road.

   c. Approval of driveway access between a lot and the thoroughfare at an interval less than those specified may be granted only by review and recommendation of the Public Works Director and NCDOT.

3. The driveway access provisions shall not be applicable to any subdivision lot where:

   a. The effect of such application would be to deprive the lot of reasonable access; or

   b. The size of the parcel being subdivided, or lack of frontage on the thoroughfare makes the alternatives above not feasible.

4. No zoning permit or certificate of occupancy may be issued until the major thoroughfare access requirements of this chapter have been met.

D. Access to Minor Thoroughfares

All access to minor thoroughfares shall occur in accordance with the following.

1. **Provision of a Frontage Road**

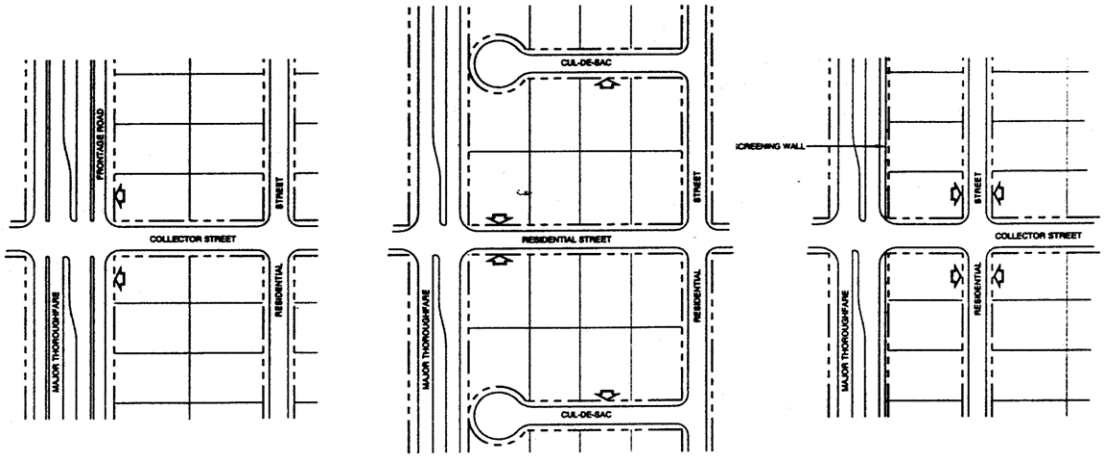
   Lots may take direct access onto a frontage road.

2. **Provision of Cul-de-sacs**

   Lots may take indirect access by fronting on cul-de-sacs.

3. **Change of Lot Orientation**

Lots may front on a parallel residential street.



E. **Residential Driveways**

Residential driveway access to and from streets shall be constructed in accordance with Town standards as outlined below:

1. **Driveway Type**

The standard residential driveway access for the Town shall be the "ramp" type driveway section. Ramp-type driveways shall be constructed in accordance with Town standards and specifications as outlined in the Town's Engineering Design Manual.

2. **Width of Driveway**

The width of a residential driveway shall be no less than ten feet and no more than 24 feet. When two residential driveways coincide along a property line, the maximum width shall not exceed 24 feet.

3. **Number of Driveway Access Points**

The number of residential driveway access points servicing any lawful lot should be limited to one; however, in no instance shall there be more than two residential driveway access points servicing the lot.

4. **Location of Driveway Access Points**

Residential driveways shall be spaced at least 20 feet from any other driveway on the same lot, but not nearer than 3½ feet to any lot line, except where two residential driveways coincide along the same lot line. The minimum corner clearance from the curb line or edge of pavement of intersecting streets shall be at least 20 feet from the point of tangency of the radius curvature, or 20 feet from the intersection of right-of-way lines, whichever is greater. The radius of the driveway shall not encroach on the minimum comer clearance.

F. **Nonresidential Driveways**

1. Nonresidential driveway access to and from streets shall be constructed in accordance with the standards and specifications provided in the manual, Policy on Street and Driveway Access to North Carolina Highways, as adopted and amended by NCDOT. For any development, the number of driveway access points may be restricted where it is necessary for purposes of decreasing traffic congestion or hazards. These restrictions may include required common

access points. The Town Attorney shall approve the recordable documents for all required common access points.

2. Outparcels shall take access from within the development, where possible.

3. Emergency access drives shall be a minimum of 24 feet in width.

G. Multiple Entrances Required

In order to accommodate emergency and service vehicles, the following standards shall apply.

1. Any residential subdivision of greater than 30 lots shall include at least two access points. The second access may consist of stub street.

2. Any residential subdivision of greater than 75 lots shall include at least two access points. Stub streets shall not be considered part of the two access points.

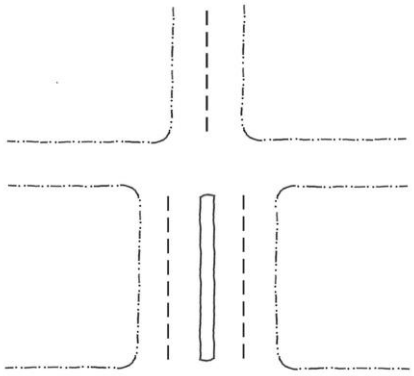
3. No more than 75 certificates of occupancy may be issued within the subdivision until the required secondary access has been constructed or bonded for construction.

4. Residential subdivisions of 250 or more lots shall provide three separate access points. Where three or more access points are required, the Town Board of Commissioners may waive the requirement for immediate construction of more than two access points, provided that subdivision phasing and design illustrates the additional required connections. For those subdivisions large enough to require a third access, a stub-out street may be credited as a required access if the two functioning access roads are both connected to a collector road.

5. A waiver (see §156.706I.7) of these standards may be allowed by the Town Board of Commissioners during approval of the preliminary subdivision plat only in extreme cases where limited frontage, natural features (slope, topography), or similar circumstances preclude the required connections and there is no substantial impact noted regarding emergency service delivery.

H. Divided Entrances Required

Where the Town Board of Commissioners determines it is necessary, a divided entrance shall be required for a subdivision or development. Where a divided entrance is credited as two access points, the divided entrance shall be four travel lanes from the intersection with the public road system to the first intersection within the development.



Public Street System

I. Nonresidential Driveway Access to Adjacent Development

1. Driveway connections to adjacent development shall be provided and clearly identified. All driveway connections shall be constructed and stubbed, and future development of adjacent property shall complete a connection to any existing stub.

2. Access easements may be required to ensure outparcels or adjacent developments have adequate access if ownership patterns change.

3. The Planning Board or Town Board of Commissioners may waive the requirement for a driveway connection required above in those cases where unusual topography or site conditions would render such an easement of no benefit to adjoining properties.

4. The Planning Board or Town Board of Commissioners may approve the closure of driveway access in those cases where adjoining parcels are subsequently developed with a residential use.

J. Shared Access

A shared access easement may be required between adjacent lots fronting on arterial and collector streets in order to minimize the total number of access points along those streets and to facilitate traffic flow between lots. The location and dimensions of such easement shall be determined by the Planning Board.

K. Closure or Relocation of Existing Access Points

The Planning Board or Town Board of Commissioners, in conjunction with NCDOT, shall have the authority to require the closure or relocation of existing access points where multiple access points to the site are available.

L. Visibility at Intersections

1. **Corner Lots**

   On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2½ feet and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect.

2. **Driveways**

   Adequate sight distance should be provided at all driveway access points and shall be in accordance with the standards provided in the manual, Policy on Street and Driveway Access to North Carolina Highways, as adopted and amended by the NCDOT.

156.401 OFF-STREET PARKING AND LOADING

A. Applicability

1. Unless specifically exempt, all existing and proposed development shall provide off-street parking and loading facilities in accordance with this section. No certificate of occupancy shall be issued until these parking requirements and regulations have been met.
2. With the exception of a restriping of a parking area or other vehicular use area which does not result in a reconfiguration of the parking spaces, any modification to existing off-street parking and loading facilities shall conform to the requirements of this section.
3. No land with more than five parking spaces shall be developed as a parking area or parking garage without an approved site plan issued in accordance with §156.707, Site Plan Review.
4. Buildings and uses lawfully existing as of the effective date of this chapter may be redeveloped, renovated or repaired without providing additional off-street parking and loading facilities, providing there is no increase in gross floor area or change in use of existing floor area that would increase parking demands.
5. Where a building existed as of the effective date of this chapter, and such building is enlarged in gross floor area or impervious area by ten percent or 2,000 square feet, whichever is less, off-street parking and loading as specified in this section shall be required for the enlarged area.
6. A change in use of a building or use existing as of the effective date of this chapter shall require additional off-street parking and loading facilities to comply with the requirements of this section for the new use unless:
   a. The building is less than 2,000 square feet in floor area; or
   b. The new use has the same parking requirement or a lesser requirement than the previous one.
7. In the Central Business District, the Planning Director may allow a new use to be established, even if all off-street parking and loading requirements of this section cannot be met for the new use, provided that as much off-street parking and loading as can reasonably be provided is provided by the use, and no foreseeable traffic congestion problems will be created.

B. How to Use this Section

This section is divided into the following:

Part 1. Off-Street Parking	§156.401C
Part 2. Off-Street Stacking	§156.401D
Part 3. Off-Street Loading	§156.401E

PART 1. OFF-STREET PARKING

C. Off-Street Parking Requirements

1. **Calculation of Parking Ratios**

   a. Developments containing more than one use shall provide parking spaces in an amount equal to the total of the requirements for all uses.

   b. Where fractional spaces result, the parking spaces required shall be construed to be the next highest whole number.

   c. The parking space requirements for a use not specifically listed in the table below shall be the same as for the listed use deemed most similar to the proposed use by the Planning Director.

   d. In residential districts in which garage space is provided, the garage space may be considered in determining whether required parking has been met.

2. **Parking Ratios**

   a. **Minimum**

   The following minimum off-street parking ratios shall be applicable to all general use zoning districts. Where in the opinion of the applicant, a listed ratio requires too much or too little parking, the applicant may provide an alternative parking plan with data submitted in support of higher or lower ratios (see §156.401C.4).

*** = Group of Uses (§156.300)**

RESIDENTIAL USES		
Single-family detached Zero lot line Alley-loaded Two-Family Townhouse Manufactured home	All uses	2 per unit
Apartment Upper-story residential	Studio 1 bedroom 2 bedroom 3+ bedroom	1.25 per unit 1.50 per unit 1.75 per unit 2.00 per unit
Manufactured home park		2 per unit + 1 visitor space per 4 units
CIVIC USES		
Adult care home (2 to 6 adults) Adult care home (7 to 12 adults) Adult care home (13+ adults) Boarding house	All uses	2 per unit + 1 per 4 bedrooms
Child care home (3 to 8 children) Child care center (9+ children)	All uses	1 per employee
College	--	6 per classroom + 1 per 300 SF of office area + 1 per 5 seats in any auditorium or similar facility
Civic club	--	1 per 500 SF of GFA
Hospital	--	1 per 2 beds
Museum, library	--	1 per 200 SF of GFA
Nursing home	--	1 per 5 beds
Park, open area*	All uses	As determined by Planning Director
Place of worship	--	1 per 8 seats in largest assembly room
Public safety facility	--	As determined by Planning Director

School (public or private)	Elementary/ Junior High High School	1 per classroom + 1 per 300 SF of office area 6 per classroom + 1 per 300 SF of office area + 1 per 5 seats in any auditorium or similar facility
Technical, trade or business school	--	6 per classroom + 1 per 300 SF of office area + 1 per 5 seats in any auditorium or similar facility
Utility, Minor*	All uses	1 per 1,000 SF of GFA
Utility, Major*	All uses	1 per 1,000 SF of GFA
Wireless telecommunication facility	--	As determined by Planning Director
COMMERCIAL USES		
Adult-oriented business	--	1 per 100 SF of seating area
Agriculture (involving livestock)*	All uses	As determined by Planning Director
Agriculture (sales and processing)*	All uses	As determined by Planning Director
Artist studio, gallery	--	1 per 400 SF of GFA
Bed & Breakfast	--	1 per unit + 1 per guest room
Cemetery	--	As determined by Planning Director
Club, private	--	1 per 500 SF of GFA
Contractor's office	--	1 per 1,000 SF of GFA
Funeral home	--	1 per 8 seats in largest assembly room
Gas station with convenience retail	--	1 per 200 SF of GFA
Hotel, motel	--	1 per guest room + 1 per 200 SF of conference/banquet/restaurant area
Indoor recreation (commercial)*	Bowling Alley All other uses	3 per lane 1 per 250 SF of GFA
Kennel	--	1 per 250 SF of GFA of office area
Manufacturing, Limited*	All uses	1 per 1,000 SF of GFA
Newspaper publisher	All uses	1 per 1,000 SF of GFA
Office, General*	Bank All other uses	1 per 250 SF of GFA 1 per 400 SF of GFA
Office, Medical*	All uses	1 per 250 SF of GFA
Outdoor recreation (commercial)*	Campground Golf course All other uses	1 per campsite 2 per hole + 1 per 200 FGA As determined by Planning Director
Radio or television studio	--	1 per 300 SF of GFA
Recreational club, private	--	1 per 500 SF of GFA
Restaurant	--	1 per 100 SF GFA
Retail, Neighborhood*	All uses	1 per 200 SF GFA
Retail, General*	All uses	1 per 200 SF GFA
Self-storage facility	--	Minimum 5 + 1 per 100 storage units
Service, Neighborhood*	All uses	1 per 200 SF GFA
Service, General*	All uses	1 per 200 SF GFA
Vehicle repair*	All uses	3 per service bay
Vehicle sales*	All uses	1 per 500 SF GFA
Vehicle service*	Car wash All other uses	1 per wash bay 3 per bay
Veterinarian, animal hospital	--	1 per 250 SF of GFA
Warehouse and freight movement*	All uses	1 per 1,000 SF of GFA
INDUSTRIAL USES		
Crematorium	--	1 per 8 seats in largest assembly room
Manufacturing, General*	All uses	1 per 1,000 SF of GFA
Manufacturing, Heavy*	All uses	1 per 1,000 SF of GFA

Research and development*	All uses	1 per 1,000 SF of GFA
Waste service*	All uses	1 per 5,00 SF of GFA + 1 per 5,000 SF of outside storage area

*** = Group of Uses (§156.300)**

b. **Maximum**

i. No use shall provide more than 110 percent of the required parking shown in the table above unless any parking above the 110 percent threshold is pervious or is provided through use of structured parking.

ii. Where a project is intended to be developed in phases, the Planning Board may approve development of a parking area intended to serve current and future development.

c. **Modifications**

The Planning Director may reduce the required number of spaces by up to five percent if for reasons of topography, mixes of uses, ride sharing programs, availability of transit, or other conditions specific to the site, provided the reduction in the required number of parking spaces satisfies the intent of this chapter.

3. **Design Standards**

a. **Benson General Design Guidelines**

Additional considerations may be outlined in the Benson General Design Guidelines.

b. **Dimensions**

i. Parking space sizes shall be governed by the following dimensions:

Parallel stall	20 feet x 9 feet
Angle stall	19 feet x 9 feet
Ninety-degree stall	19 feet x 9 feet
Handicapped stall	19 feet x 12.5 feet

ii. Minimum aisle widths shall be as follows:

	Aisle Width in Feet	
Parking Angle	**One-Way Traffic**	**Two-Way Traffic**
0-15	12	24 (0 degrees only)
16-37 degrees	11	--
38-57 degrees	13	--
58-74 degrees	18	--
75-90 degrees	24	24

iii. The maximum grade permitted for any required parking shall not exceed eight percent.

iv. Parking spaces using geometric standards other than those specified above may be approved if developed and sealed by a registered engineer with expertise in parking facility design subject to a determination by the Public Works Director, that the proposed facility will satisfy off-street parking requirements as adequately as would a facility using those specified above.

c. **Surfacing**

i. **Surfacing Required**

Except as provided below, where off-street facilities are provided for parking or any other vehicular use area, they shall be surfaced with asphalt bituminous, concrete or dustless material approved by the Public Works Director and shall be maintained in a smooth, well-graded condition.

ii. **Grass Lawn Parking**

a) Grass lawn or other pervious parking surfaces may be permitted for specific uses as set forth below, provided they are approved by the Public Works Director. Where provided, such alternative parking surfaces shall be maintained in a smooth, well-graded condition. If parking demand is such that the grass or lawn is caused to be damaged or destroyed to the extent that it ceases to grow, then paving of such an area in accordance with this section may be required.

b) All driveways, access aisles and parking spaces (excluding handicapped) may be surfaced with grass lawn for the following:

1) Uses which require parking on an average of less than five days per week during a month;

2) Schools and churches; and

3) Parks, playgrounds, ballfields, football and baseball stadiums, fairgrounds, and other similar outdoor recreation areas.

d. **Landscaping**

Off-street parking areas in excess of 1,500 square feet or five spaces shall provide landscaped areas in accordance with the following requirements.

i. **Perimeter Screening**

a) All parking areas and other vehicular use areas with frontage on any portion of an existing public right-of-of way shall provide a parking buffer as set forth in §156.402E.2.b.

b) The perimeter of all parking areas and other vehicular use areas adjacent to residentially-zoned property shall provide a Class C buffer (see §156.402, Landscaping, Screening and Buffering).

ii. **Interior Landscaping**

a) Interior Islands. An interior landscaped island shall be provided for every ten spaces. Each island shall contain a minimum of 200 square feet with a minimum width of eight feet inside the curb and include a minimum of one tree with a minimum caliper of 2½ inches. Planting islands shall be evenly distributed throughout the parking area, with no parking space located more than 100 feet from a planting island. Interior islands may be consolidated or intervals may be expanded in order to preserve existing trees where approved by the Planning Director.

b) Terminal Islands. All rows of spaces shall terminate in a curbed landscaped island. Each island shall conform to the specifications described in paragraph a) above.

c) Median Islands. A median island with a minimum width of eight feet inside the curb shall be sited between every six single parking rows and along primary internal and external access drives. Median intervals may be expanded in order to preserve existing trees, where approved by the Planning Director.

e. **Markings**

Each parking stall shall be marked off and maintained so as to be distinguishable.

f. **Lighting**

Where off-street facilities are provided for parking or any other vehicular use area adequate outdoor lighting shall be provided. Lighting shall be so arranged as to direct the light and glare away from streets and adjacent property (see §156.404, Outdoor Lighting).

g. **Yards**

All parking lots shall observe a minimum front yard of not less than five feet, and a side yard on a corner lot of not less than five feet. Parking lots in residential districts shall have front yards of not less than 15 feet and side and rear yards of not less than five feet.

h. **Curbs**

i. All landscaping in or adjacent to a vehicular use area shall be protected from vehicular damage by a raised concrete curb six inches in height or equivalent barrier, however, the barrier need not be continuous.

ii. Landscaped areas adjacent to parking areas shall be landscaped so that no plant material greater that 12 inches in height will be located within two feet of the curb or other protective barrier.

i. **Separation from Walkways and Streets**

In the event any parking area abuts a walkway, sidewalk, or street, the parking area shall separated by curbing or other protective device with a minimum distance of 3½ feet between the protective device and the edge of the walkway.

j. **Drainage**

Parking lots shall not drain onto or across public sidewalks or into adjacent property, except into a natural watercourse or a drainage easement. In already developed areas where this condition would be impossible to meet, the Public Works Director may exempt the applicant from this requirement, provided that adequate provision is made for drainage.

k. **Entrances and Exits**

On all corner lots, all vehicular openings shall be located at least 20 feet from the point of intersection of established right-of- way lines. No entrance and exit, whether or not on a corner lot, shall exceed 30 feet in width at the property line or 40 feet in width at the curb line. There shall be a minimum distance between driveways of 25 feet, measured along the curb line, unless such driveways are less than five feet apart.

4. **Alternative Parking Plans**

a. **General**

The Planning Board may modify the parking requirements of this section (beyond that permitted by §156.401C.2.c, Modifications) where applicant-submitted parking data, prepared and sealed by a registered engineer in the State North of Carolina with transportation expertise, illustrates that the standards of this section do not accurately apply to a specific development. The data submitted for an alternative parking plan shall include, at a minimum, the size and type of the proposed development, the mix of uses, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads of all uses.

b. **On-Street Parking**

The Planning Director may approve on-street parking spaces located immediately abutting the subject parcel, entirely within the extension of the side lot lines into the roadway, and

not within any required clear sight triangle may be counted toward meeting off-street parking requirements.

c. **Off-Site Parking**

The Planning Director may approve the location of required off-street parking spaces on a separate lot from the lot on which the principal use is located if the off-site parking complies with the all of following standards.

i. **Ineligible Activities**

Off-site parking may not be used to satisfy the off-street parking requirements for residential uses (except for guest parking), as well as convenience stores or other convenience-oriented uses. Required parking spaces reserved for persons with disabilities may not be located off-site.

ii. **Location**

Off-site parking spaces shall be located within 750 feet from the primary entrance of the use served unless shuttle bus service is provided to the remote parking area. Off-site parking may not be separated from the use that it serves by a street right-of-way with a width of more than 80 feet unless a grade-separated pedestrian walkway is provided, or other traffic control or shuttle bus service is provided to the off-site parking area.

iii. **Zoning Classification**

Off-site parking areas serving uses located in nonresidential districts shall be located in nonresidential districts. Off-site parking areas serving uses located in residential districts may be located in residential or nonresidential districts.

iv. **Agreement**

a) In the event that an off-site parking area is not under the same ownership as the principal use served, a written agreement between the record owners shall be required.

b) The owner of the off-site parking area shall enter into a written agreement with the Town, with enforcement running to the Town, providing that the land comprising the parking area shall never be disposed of except in conjunction with the sale of the building which the parking area serves so long as the facilities are required; and that the owner agrees to bear the expense of recording the agreement and such agreement shall bind his or her heirs, successors, and assigns.

c) An off-site parking agreement may be rescinded only if all required off-street parking spaces will be provided in accordance with this section.

d. **Shared Parking**

The Planning Director may allow shared parking facilities if the shared parking complies with the all of following standards.

i. **Ineligible Activities**

Shared parking may not be used to satisfy the off-street parking standards for upper-story residential uses. Required parking spaces reserved for persons with disabilities may not be located off-site.

ii. **Location**

Shared parking spaces shall be located within 750 feet of the primary entrance of all uses served, unless shuttle bus service is provided to the parking area.

iii. **Zoning Classification**

Shared parking areas serving uses located in nonresidential districts shall be located in nonresidential districts. Shared parking areas serving uses located in residential districts may be located in residential or nonresidential districts. Shared parking areas shall require the same or a more intensive zoning classification than that required for the most intensive of the uses served by the shared parking area.

iv. **Shared Parking Study**

Applicants wishing to use shared parking as a means of satisfying off-street parking requirements shall submit a shared parking analysis to the Planning Director that clearly demonstrates the feasibility of shared parking. The study shall be provided in a form established by the Planning Director and made available to the public. It shall address, at minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

v. **Agreement**

a) A shared parking plan will be enforced through written agreement among all owners of record. An attested copy of the agreement between the owners of record shall be submitted to the Planning Director on forms made available by the Planning Director.

b) A shared parking agreement may be rescinded only if all required off-street parking spaces will be provided in accordance with this section.

e. **Valet Parking**

The Planning Director may approve valet parking as a means of satisfying otherwise applicable off-street parking requirements where all of the following standards have been met:

i. Adequate assurance of the continued operation of the valet parking is provided, such as a contractual agreement for valet services or the tenant's affidavit agreeing to provide such services;

ii. An equivalent number of valet spaces are available to replace the required parking spaces. Such valet spaces do not require individual striping, and may take into account the tandem or mass parking of vehicles. All valet parking areas visible from the public right-of-way shall meet the requirements of §156.402E.2.b.

iii. Valet parking drop-off locations shall meet the requirements of §156.401D, Vehicle Stacking Areas; and

iv. The design of the valet parking shall not cause customers who do not use the valet service to park off-premise or cause queuing in the right-of-way.

f. **Recording of Approved Plans**

An attested copy of an approved Alternative Parking Plan shall be recorded in the deed records for Johnston County on forms made available by the Planning Director. An Alternative Parking Plan may be amended by following the same procedure required for the original approval. The applicant shall provide proof of recording prior to approval of the certificate of occupancy.

g. **Violations**

Violations of an approved Alternative Parking Plan constitute a violation of this chapter and will be subject to the enforcement and penalty provisions of §156.720, Enforcement.

PART 2. OFF-STREET STACKING

D. **Off-Street Stacking Requirements**

The following vehicle stacking standards shall apply unless otherwise expressly approved by the Public Works Director. The Public Works Director may require additional stacking spaces where trip generation rates suggest that additional spaces will be needed.

1. **Minimum Number of Spaces**

Off-street stacking spaces shall be provided as follows:

	Minimum Spaces	Measured From
Automated teller machine	3	Machine
Bank teller lane	4	Teller or window
Car lubrication stall	2	Entrance to stall
Car wash stall, automated	4	Entrance to wash bay
Car wash stall, hand-operated	3	Entrance to wash bay
Day care drop off	3	Passenger loading area
Gasoline pump island	2	Pump island
Parking area, controlled entrance	4	Key code box
Restaurant drive-thru	6	Order box
Restaurant drive-thru	4	Order box to pick-up window
Valet parking	3	Valet stand
School drop-off (Public and Private)	Determined by Public Works Director	
Other	Determined by Public Works Director	

2. **Design and Layout**

Required stacking spaces are subject to the following design and layout standards:

a. **Dimensions**

Stacking spaces shall be a minimum of eight feet by 20 feet in size.

b. **Location**

Stacking spaces shall not impede on- or off-site traffic movements or movements into or out of off-street parking spaces.

c. **Design**

Stacking spaces shall be separated from other internal driveways by raised medians if deemed necessary by the Public Works Director for traffic movement and safety.

PART 3. OFF-STREET LOADING

E. **Off-Street Loading Requirements**

1. **Loading Facilities Required**

a. As determined by the Planning Director, off-street loading facilities shall required for uses that regularly handle large quantities of goods. Loading facilities shall be of sufficient quantity to adequately serve the proposed use.

b. Any vehicle sales or rental facility or similar use requiring delivery of vehicles by truck shall demonstrate adequate on-site area exists for the loading and unloading of such trucks.

c. Any convenience store or similar use requiring deliveries by truck shall demonstrate adequate on-site area exists for the loading and unloading of such trucks.

2. **Design and Layout**

a. Loading and unloading activity be shall not be permitted in any public right-of-way. In no case shall loading and unloading activity encroach on or interfere with the public use of streets, sidewalks, and lanes by automotive vehicles or pedestrians. Adequate space shall be made available for the unloading and loading of goods, materials, items or stock for delivery and shipping.

b. Where off-street loading facilities are provided, they shall be not less than 15 feet in width by 40 feet in length, with not less than 15 feet of vertical clearance.

c. Hours of loading and unloading operation adjacent to ground floor residential uses shall be limited between the hours of 6:30 a.m. and 10:00 p.m. Loading docks shall be signed to indicate "no idling."

3. **Screening**

All loading areas shall be screened in accordance with §156.402G.

156.402 LANDSCAPING, SCREENING AND BUFFERING

A. Applicability

1. Unless specifically exempt, all existing and proposed development for which site plan approval is required (see §156.707) shall meet the provisions of this section.
2. Buildings and structures lawfully existing as of the effective date of this chapter may be redeveloped, renovated or repaired without providing or modifying landscaping, screening, and buffering in conformance with this section, provided there is no increase in gross floor area in such building or structure or impervious area on the site.
3. The maintenance standards in §156.402H.2 shall apply as of the effective date of this chapter to all existing development and new construction.
4. Where a building or structure existed as of the effective date of this chapter, and such building or structure is enlarged in gross floor area or impervious area by ten percent or 2,000 square feet, whichever is less, landscaping, screenings, and buffering as specified in this section shall be provided.
5. In the Central Business District, the Planning Director may allow a new use to be established, even if all landscaping, screening, and buffering requirements cannot be met for the new use, provided that as much landscaping, screening and buffering as can reasonably be provided is provided by the use.

B. Landscape Plan Required

1. A landscape plan shall submitted in conjunction with a required site plan (see §156.707).
2. A registered Landscape Architect shall prepare all landscape plans, except where expressly exempted by the Planning Director. The landscape treatment shall adequately detail the requirements of this section and any additional considerations set forth in the Benson General Design Guidelines.

C. How to Use this Section

This section is divided into the following:

Part 1. Landscaped Areas	§156.402D
Part 2. Buffers	§156.402E
Part 3. Street Yard Trees	§156.402F
Part 4. Screening	§156.402G
Part 5. General Landscaping, Screening and Buffering Provisions	§156.402H

PART 1. LANDSCAPED AREAS

D. **Landscaped Areas**

All site plans requiring landscaping in accordance with this section shall have a landscape plan designed to provide landscaping in the following manner. These standards shall not apply in the B-1 District.

1. Twenty percent of the total lot area shall be landscaped.
2. No less than one canopy tree, one understory tree, and two shrubs shall be planted for each 1,000 square feet of landscape area required. Trees need to be evenly planted throughout the landscaped area, but may be staggered or clustered as necessary to maximize visual and screening objectives, and to meet the needs of the particular species of plants for root space, water, light, and air circulation. At the time of planting all canopy trees shall be at least six feet in height, all understory trees shall be at least four feet in height, and all shrubs shall be at least one foot in height.
3. Landscape areas may include interior landscaping in parking lots and other vehicular use areas (see §156.401C.3.d.ii). However, the district boundary buffer requirements of paragraph E.2.c below shall be provided completely, as required, in addition to these requirements. Resource conservation areas may be used to satisfy a maximum of 40 percent of the total required landscaped area.

PART 2. BUFFERS

E. **Buffers**

1. **Buffer Defined**

A buffer is a specified land area, located parallel to and within the outer perimeter of a lot and extending to the lot line, together with the planting and landscaping required on the land. A buffer may also contain, or be required to contain, a barrier such as a berm or wall where such additional screening is necessary to achieve the desired level of buffering between various land use activities. A buffer is not intended to be commensurate with the term "yard" or "setback."

2. **Buffer Types**

There are four types of required buffers that may occur on any given parcel (for the specific width and plant material for each buffer classification see paragraph 3 below).

a. **Street Buffers**

i. All new development with frontage on a commercial street or designated minor thoroughfare shall provide a Class A buffer as set forth in paragraph 3 below.

ii. Double frontage lots abutting a collector street or residential collector street shall provide a Class A buffer along the entire rear yard frontage.

b. **Parking Buffers**

i. The perimeter of all parking areas and other vehicular use areas with frontage on any portion of an existing public right-of-of way shall be screened by either a berm, a continuous landscaped hedge, a decorative masonry wall or any combination thereof.

ii. At the time of installation, such screening shall be at least 30 inches in height. Any vegetative screen shall reach a maximum height of 36 inches within two years of planting.

iii. No such buffer shall be required along a alley.

c. **District Boundary Buffers**

i. **Required Buffers**

Perimeter compatibility is required along the boundaries of all incompatible zoning districts. The following table shall be used to determine the required buffer classification between adjacent districts.

SUBJECT PROPERTY DISTRICT	ADJACENT PROPERTY DISTRICT										
	R-E	R-10	R-8	R-6	O-R	O-I	B-1	B-2	B-3	I-1	I-2
R-E	--	--	--	--	--	--	--	--	--	--	--
R-10	A	--	--	--	--	--	--	--	--	--	--
R-8	B	A	--	--	--	--	--	--	--	--	--
R-6	B	A	A	--	--	--	--	--	--	--	--
O-R	B	A	A	A	--	--	--	--	--	--	--
O-I	B	B	B	B	A	--	--	--	--	--	--
B-1	B	B	B	B	B	B	--	B	--	--	--
B-2	B	B	B	B	B	B	--	--	--	--	--
B-3	C	C	C	C	C	B	B	B	--	--	--
I-1	C	C	C	C	C	C	C	C	B	--	--
I-2	C	C	C	C	C	C	C	C	B	--	--

ii. **Credit for Existing Plant Material**

Credit for existing plant material shall be allocated on a one-for-one basis for canopy trees, understory trees or shrubs. The size of material shall not be taken into account, except where such material is below the required minimum planting size.

d. **Project Boundary Buffers**

The following project boundary buffers have been established to mitigate the effect of specific types of development on adjacent properties. Where project boundaries coincide with district boundaries the following project boundary buffers shall apply. A project boundary buffer shall not be required along a major thoroughfare, collector street, and minor thoroughfare (see paragraph a above).

i. **Open Space Residential Subdivision**

A buffer shall be required along all project boundaries of an open space subdivision (see §156.203G.7).

ii. **Planned Development**

A buffer shall be required along all project boundaries of a planned development (see §156.203K).

iii. **Manufactured Home Park**

A buffer shall be required along all project boundaries of a manufactured home park (see §156.302G.4).

3. **Buffer Classifications**

a. The following table establishes the specific width and plant material for a variety buffer classifications. The applicant is free to choose from each alternative (1, 2, or 3) in the respective buffer classification. Buffers planted below overhead utility lines shall apply any of the allowed buffer alternatives, except that understory trees shall replace any canopy trees at a rate of two understory trees per required canopy tree. The plantings below are intentionally over-planted at maturity, in order to provide an immediate beneficial impact.

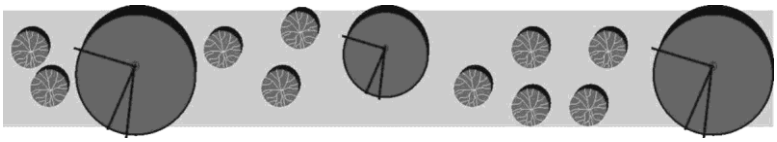
b. As determined by the Planning Director, a wall or berm meeting the standards in §156.402E.8 may be substituted in lieu of some of the required shrubs in buffer types A and B. A wall or berm is required in all Type C buffers.

CLASS A BUFFER
(plants/100 linear feet)

Alternative 1
10 feet

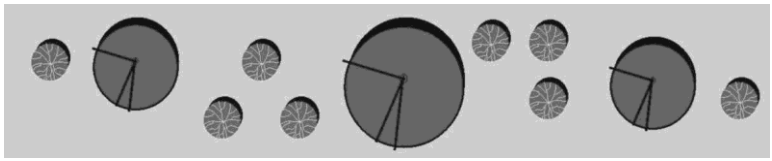
2 canopy trees
2 understory trees
12 shrubs

Alternative 2
15 feet



2 canopy trees
1 understory tree
10 shrubs

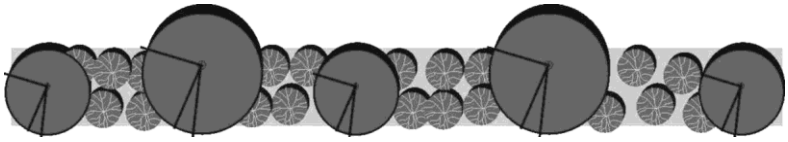
Alternative 3
20 feet



1 canopy tree
2 understory trees
8 shrubs

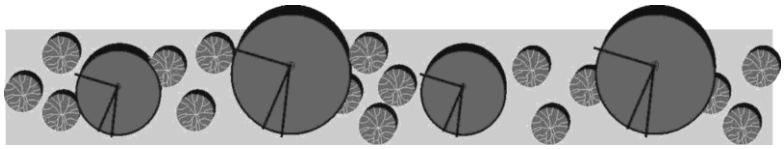
CLASS B BUFFER
(plants/100 linear feet)

Alternative 1
10 feet



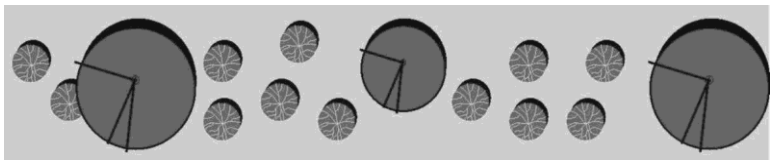
2 canopy trees
3 understory trees
20 shrubs

Alternative 2
15 feet



2 canopy trees
2 understory trees
16 shrubs

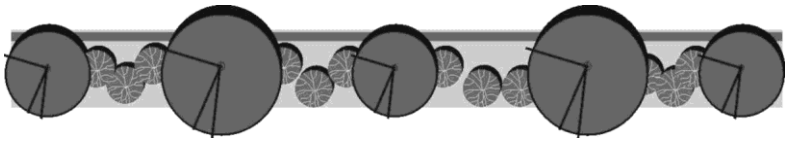
Alternative 3
20 feet



2 canopy trees
1 understory tree
12 shrubs

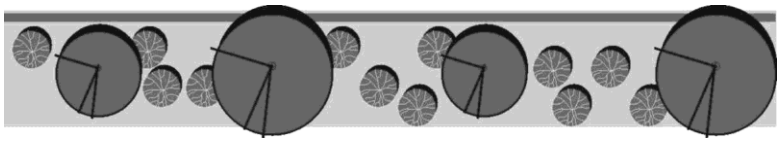
CLASS C BUFFER
(plants/100 linear feet)

Alternative 1
10 feet



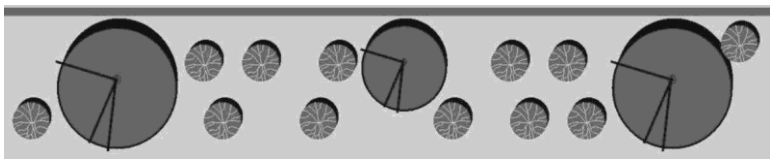
1 wall or berm
2 canopy trees
3 understory trees
12 shrubs

Alternative 2
15 feet



1 wall or berm
2 canopy trees
2 understory trees
12 shrubs

Alternative 3
20 feet



1 wall or berm
2 canopy trees
1 understory tree
12 shrubs

4. **Location of Buffer**

   a. Buffers shall be located within the outer perimeter of a lot or parcel, parallel to and extending to the lot or parcel boundary line. Buffers shall not be located on any portion of an existing, dedicated or reserved public or private street or right-of-way.

   b. Except as provided below, the required buffer shall be provided along the entire frontage abutting the existing, dedicated or reserved public or private street or right-of-way, district boundary, or project boundary, as applicable.

   c. A buffer may be interrupted in order to provide access (pedestrian or vehicular) to adjacent parcels or public right-of-way.

5. **Design Variations**

   While the buffer depth is normally calculated as parallel to the property line, design variations may be permitted and are calculated on the average depth of the buffer per 100 feet or portion of buffer. The minimum depth of the buffer at any one point shall not be less than ½ the required depth of the buffer chosen. Maximum depth for the purposes of installing required landscaping, or receiving credit for existing vegetation, shall not be more than 1½ the required depth of the buffer chosen.

6. **Plant and Structure Location within Buffer**

   The placement of required plants and structures shall be the decision of the applicant, except that the following requirements shall be satisfied:

   a. Plant materials shall be located so as to achieve the maximum level of protection. Plant material shall meet the buffer requirements every 100 feet.

   b. Canopy trees shall be located no closer than five feet from any structure. Understory trees shall be planted no closer than three feet from any structure.

   c. Buffer areas not retained in native habitat shall be seeded or sodded with lawn, established with ground cover, or mulched with organic mulch. No turfgrass shall be planted under the dripline of trees. Inorganic ground cover shall not exceed 20 percent of the total required area of the buffer.

7. **Planting in Easements**

   a. No buffer shall be planted in wet retention ponds or drainage easements.

   b. Trees and shrubs shall be installed a minimum of five feet away from the flow line of a swale.

   c. Existing trees may remain in dry retention ponds provided that the natural grade is undisturbed to the tree line, species are planted that are adapted to seasonal flooding and the pond is adequately maintained.

   d. Trees may be planted in underground utility easements with the Planning Director approval, provided the root structure of the proposed tree is not anticipated to extend more than three feet below the ground. Shrubs may be planted, provided they are only within the outer three feet of the easement. Where such trees and shrubs are planted, the property owner shall be responsible for replacement of such required vegetation if maintenance or other utility requirements require their temporary removal.

   e. A minimum buffer width of five feet, or at least half the minimum required buffer width, shall be provided outside of any required easements. The majority of buffer plantings and all structures shall be located outside the easements.

8. **Permitted Structures in Buffer Area**

a. **Walls**

Where walls are placed within any required buffer area, they shall meet the following requirements.

i. Walls shall be a minimum of three feet and a maximum of six feet in height.

ii. Walls shall be constructed of one or a combination of the following materials: stucco over concrete block, brick, stone, split-faced block or glass block in a structurally safe and attractive condition. Alternative walls (including vinyl, EIFS or other similar systems) may be permitted with the approval of the Planning Director. No walls of exposed concrete block are permitted, whether painted or not.

iii. No wall shall be located within any required drainage, utility or similar easement.

iv. The applicant shall be required to demonstrate provision for access and maintenance of landscaping and the wall structure at the time of landscape plan approval.

v. Breaks in the wall may be provided for pedestrian connections to adjacent developments.

b. **Berms**

Where berms are placed within any required buffer area, they shall meet the following requirements.

i. Berms shall have a minimum average height of 2½ feet with side slopes of not less than four feet horizontal for each one foot vertical.

ii. Slopes in excess of four feet horizontal for each one foot vertical may be permitted if sufficient erosion control methods are taken and deemed by the Public Works Director to be maintainable.

c. **Fences**

i. Fences in accordance with §156.402G.6 may be constructed in a required buffer, however, no reduction in buffer width shall be provided based on the provision of a fence.

ii. Fences shall be a minimum of three feet and a maximum of six feet in height.

iii. Fences shall be constructed of high quality materials, such as treated wood and wrought iron. Chain-link fences shall not be permitted.

iv. Breaks in the fence may be provided for pedestrian connections to adjacent developments.

v. Fences shall be maintained in a structurally safe and attractive condition and with finished faces and plantings located towards the adjacent property with at least one upright shrub for every six linear feet of fence length.

vi. Any fence constructed in a buffer shall be capable of withstanding a 30 pound per square foot horizontal wind load from any direction.

9. **Permitted Use of Buffer Area**

A buffer area shall not be used for any principal building or use, accessory building or use, vehicle use area or storage area except as specifically permitted below.

a. A buffer may be used for passive recreation and picnic facilities; and it may contain pedestrian or bike trails, provided that:

i. Trails may be incorporated provided adequate width (minimum 15 feet) is added to the required buffer width to accommodate both the trail and the required buffer plantings. Buffers with trails may also count toward the provision of recreation and open space for the development.

ii. No existing plant material shall be eliminated, other than nuisance exotics; and

iii. All other requirements of this section shall be met.

b. Other appurtenances which require high visibility and easy access, such as fire hydrants, public and emergency telephones, mail boxes and bus shelters or benches, are also permitted in a buffer. No screening of such appurtenances shall be required.

c. A required buffer is encouraged to retain areas of native habitat and may incorporate water resources including stormwater detention or retention facilities. However a minimum 10-foot contiguous width of the buffer shall be preserved as a planting area without stormwater facilities.

10. **Ownership of Buffers**

Buffers may remain in the ownership of the original applicant; they may be subjected to deed restrictions and subsequently be freely conveyed; or they may be transferred to any consenting grantees, such as the Town, a land conservancy or land trust, or homeowners association Any such conveyance shall adequately guarantee the protection and maintenance of the buffer in accordance with the provisions of this section.

11. **Alternative Compliance**

a. The buffer requirements may be modified by the Planning Board upon a finding that a modification would be consistent with the purpose of this chapter, this section and the adopted plans and policies of the Town; that such modification would not adversely affect the land use compatibility or public interest; and that the subject parcel or modified buffer complies with one or more of the following criteria:

i. The buffer is parallel and adjacent to an existing utility or drainage easement of at least 100 feet in width;

ii. The buffer is between uses that are to be developed under a common development plan or series of development plans;

iii. The buffer is adjacent to a property that has a joint use agreement with the subject parcel under;

iv. The buffer is parallel and adjacent to an existing railroad right-of-way; or

v. The topography of the parcel is such that buffering would not be effective.

b. Financial hardship due to meeting the requirements of this is section shall not be sufficient justification for alternative compliance.

PART 3. STREET YARD TREES

F. **Street Yard Trees**

1. Street yard trees shall be required along all collector streets, residential collector streets, residential streets and cul-de-sac streets at the rate of one canopy tree per lot or one canopy tree for every 40 linear feet (spaced a maximum of 50 feet part).

2. All street yard trees shall be a minimum of 2½ caliper inches at time of planting and shall be planted no less than five feet or more than 15 feet from the back of the sidewalk.

3. Credit shall be provided for any existing tree with a minimum dbh of six inches that is preserved within the planting strip at rate of one preserved tree for two required street yard trees.

4. Double frontage lots abutting a collector street or residential collector street shall provide a Class A buffer along the entire rear yard frontage.

PART 4. SCREENING

G. Screening

1. **Drive-Thru Facilities**

Drive-thru windows and lanes shall be designed to adhere to the following standards:

a. Drive-thru windows and lanes placed between the right-of-way and the associated building shall require landscape plantings installed and maintained along the entire length of the drive-thru lane, located between the drive-thru lane and the adjacent right-of-way.

b. Such screening shall be a compact evergreen hedge or other type of dense foliage. At the time of installation, such screening shall be at least 36 inches in height and shall reach a height of 48 inches within two years of planting.

c. No drive-thru window shall be permitted on the side of a building adjacent to any residential district.

2. **Service Areas**

a. Trash collection, trash compaction, recycling collection and other similar service areas shall be located on the side or rear of the building and shall be effectively screened from view from residential properties or public rights-of-way.

b. Screening enclosures shall be fully enclosed by opaque walls or fences at least eight feet high with self-closing access doors and shall be constructed of the same materials as the primary building.

c. All service areas shall be limited to the area shown on an approved site plan.

d. All service areas shall be located a minimum of 50 feet away from any residentially-zoned property line.

3. **Loading Areas**

Loading areas shall be subject to the following screening requirements:

a. Provide a minimum 100 percent year-round screen of all loading areas visible from residential properties or public rights-of-way.

b. This screen shall consist of berms, walls, fences, plant material or combination totaling eight feet in height at installation or completion of construction. Wall or fence materials shall be compatible with the primary structure.

c. Loading docks not in an I-1 or 1-2 district shall be located at the side or rear of buildings a minimum of 50 feet away from any residentially-zoned property, unless the loading area is wholly within a closed building.

4. **Mechanical Equipment**

   a. All roof, ground and wall mounted mechanical equipment (e.g. air handling equipment, compressors, duct work, transformers and elevator equipment) shall be screened from view from residential properties or public rights-of-way at ground level of the property line.

   b. Roof-mounted mechanical equipment shall be shielded from view on all sides. Screening shall consist of materials consistent with the primary building materials, and may include metal screening or louvers which are painted to blend with the primary structure.

   c. Wall or ground-mounted equipment screening shall be constructed of:

      i. Planting screens;

      ii. Brick, stone, reinforced concrete, or other similar masonry materials; or

      iii. Redwood, cedar, preservative pressure treated wood, or other similar materials.

5. **Utilities**

   Above-ground utilities and appurtenances to underground utilities which require above-ground installation shall be screened by a continuous planting of shrubs, with a minimum mature height equal to that of the utility structure. Required accessways to these utilities are exempt from the screening provisions.

6. **Fencing and Walls**

   a. A fence or wall not more than six feet in height may be installed along any side and rear lot line. A fence or wall in any required front yard shall not exceed four feet in height.

   b. Fences and walls shall be constructed of high quality materials, such as decorative blocks, brick, stone, treated wood and wrought iron. Chain-link fences and barbed wire or concertina wire shall not be permitted.

   c. Breaks in the fence or wall may be provided for pedestrian connections to adjacent developments.

   d. The maximum length of a continuous, unbroken and uninterrupted fence or wall plane shall be 100 feet. Breaks shall be provided through the use of columns, landscaped areas, transparent sections and a change in material.

PART 5. GENERAL LANDSCAPING, SCREENING AND BUFFERING PROVISIONS

H. **General Provisions**

1. **Design, Installation and Establishment**

   a. **Plant Material**

      i. Plant material shall be chosen from the lists of recommended plant species contained in the Benson General Design Guidelines. Plant materials shall be reviewed for suitability with regard to the eventual size and spread, susceptibility to diseases and pests, and appropriateness to existing soil, climate and site conditions. Plant materials that vary from this list may be used with the approval of the Planning Board.

      ii. The preferred plant list shall be used to define the species of trees and shrubs deemed to be canopy trees, understory trees and shrubs. The lists may be expanded but are intended to provide guidance in selecting predominately hardy North Carolina native species.

b. **Cold Hardy and Drought Tolerant Plants**

Plantings shall be cold hardy for the specific location where they are to be planted. Trees and shrubs shall be salt tolerant and drought tolerant and able to survive on natural rainfall once established with no loss of health.

c. **Soils**

Planting areas shall have uncompacted coarse loam that is a minimum of 12 inches deep. Soils shall be appreciably free of gravel, stones, rubble or trash. All compacted soil, contaminated soil or roadbase fill shall be removed.

d. **Issuance of Certificate of Occupancy**

The Code Enforcement Officer may not issue a permanent certificate of occupancy for an approved site plan or part thereof, until all seeding, trees, and plant material have been placed in accordance with the approved site plan and requirements of this section. A temporary certificate of occupancy may be issued for a period of 30 days under circumstances that would affect the seeding and planting of the site, or until the proper planting season is reached to complete the landscaping requirements, and may be extended up to 90 days upon request to the Code Enforcement Officer.

2. **Requirements for Maintaining Planted Areas**

a. **Responsibility**

The responsibility for maintenance of a planted area shall remain with the owner, his or her successors, heirs, assignees or any consenting grantee. Maintenance is required in order to ensure the proper functioning of a planted area.

b. **Maintenance**

i. All plantings shall be maintained in an attractive and healthy condition. Maintenance shall include, but not be limited to, watering, mulching, fertilizing and pest management, mowing, weeding, removal of litter and dead plant material, and necessary pruning and trimming.

ii. Necessary pruning and trimming shall be in accordance with the American National Standards for Tree Care Operations: Tree Shrub and Other Woody Plant Maintenance – Standards Practices (Pruning), and shall not be interpreted to include topping of trees through removal of crown material or the central leader, or any other similarly severe procedures such as lollipopping or meatballing that cause irreparable harm to the natural form of the tree, except where such procedures are necessary to maintain public overhead utilities. Any such activity shall be a violation of this chapter. Additional plant material shall be required to replace or supplement the damaged plant material.

iii. Dead or diseased plantings shall be removed. Replacement plantings shall be provided for any required plants which die or are removed for any reason and shall meet all minimum standards and conform to these regulations.

iv. Natural water courses shall be maintained in a natural condition.

v. A water source shall be supplied within 50 feet of any planting requiring continuing watering. Where non-native or non-drought tolerant native vegetation is incorporated an irrigation system shall be required. Irrigation systems shall meet the standards of the Town.

vi. Landscape structural features such as walls, fences, berms or water features shall be maintained in a structurally safe and attractive condition.

vii. Where other uses, including pedestrian, bike or other trails these uses shall be maintained to provide for their safe use.

c. **Failure to Maintain**

In the event that any owner of a planted area fails to maintain the planted area according to the standards of this section, the Town shall have the right to recover the cost of enforcement, including reasonable attorney fees. The Town may also, following reasonable notice and a demand that deficiency of maintenance be corrected, enter the planted area to take maintenance action. The cost of such maintenance shall be charged to the party having the primary responsibility for maintenance of the planted area.

3. **Credit for Existing Plant Material**

a. Required planting areas shall incorporate existing natural vegetation to the maximum extent feasible. Prior to disturbance of a required planting area approval shall be obtained from the Town. Where existing vegetation is inadequate to meet the required planting standards, additional plant material shall be required.

b. The retention of existing vegetation shall be maximized within proposed planting areas. Existing native habitat or vegetation located within planting area that meets the requirements of this section may be counted, provided such plant material meets the minimum standards of this section. If the existing vegetation has been credited and is subsequently removed or dies, it shall be replaced with the appropriate planting material.

c. Credit may be permitted for existing plant material and walls on adjacent property, provided such items are in a permanently protected area, including, but not limited to:

i. A conservation easement or preserve area on adjacent property; or

ii. An existing utility or drainage easement exceeding 100 feet in width.

4. **Tree Protection During Construction**

Existing trees specified on the landscape plan to remain on the site as a function of fulfilling the purpose of this section shall be protected from vehicular movement and material storage over their root spaces during the following construction. An undisturbed area with a porous surface shall be reserved around a tree, based on dbh of the tree as follows, and with no protective distance less than four feet from the base of the tree.

Trunk Diameter dbh	Area Required
4-10 inches	80 sq. ft.
11-16 inches	180 sq. ft.
17-20 inches	320 sq. ft.
21 inches plus	340 sq. ft.

156.403 SIGNS

A. Purpose and Intent

Signs are herein regulated in the interest of promoting traffic safety, safeguarding the public health, facilitating police and fire protection, preventing adverse community appearance and over-crowding of the land, and protecting the character of the area in which they are located. This section is intended to prevent their over concentration, improper placement, and excessive height, bulk, and area, in order to maximize sign legibility and effectiveness, while at the same time preserving community scenic, economic, and aesthetic values.

B. Elements of a Common Signage Plan

An application for a common signage plan shall be filed with the Planning Director by utilizing the same form used for other sign permits. In addition, the applicant shall indicate the standards of consistency of all signs on the subject property with regard to:

1. Colors: a maximum of four, including white, may be used. federal and state registered trademarks may be employed in addition to the specified colors, but may not exceed 12 square feet in copy area.
2. Letter/graphics style.
3. Location of each sign.
4. Materials used in sign construction.
5. Maximum dimensions and proportion.
6. Limitation in number of free standing signs to one per street frontage.
7. Other restrictions imposed by the applicant.

C. Sign Types

1. **On-Premises Signs**

   A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at the location on which the sign is located.

   a. **Wall/Fascia Sign**

      An on-premises sign attached flat to or mounted away from but parallel to the building wall, projecting no more than 12 inches from the building wall.

   b. **Projecting Sign**

      An on-premises sign fastened directly to a supporting building wall, and intersecting the building wall at a right angle.

   c. **Free Standing Sign**

      An on-premises sign that is not directly attached to, erected on, or supported by a building or other structure having a principal function other than the support of such sign, but is instead attached to, erected on, or supported by some structure such as a pole, frame, or other structure that is not itself a part of the building.

      i. **Ground Sign**

         A free standing sign attached to the ground with a clearance of less than eight inches and not exceeding 48 inches in height.

ii. **Monument Sign**

A free standing sign no more than eight feet in height and having a ratio of less than four to one sign width to narrowest width of support structure. Any sign constructed to the above referenced ratio of support structure to sign width, but in excess of 8 feet in height, shall be considered and regulated as a pole sign.

iii. **Pole Sign**

A free standing sign attached to the ground by one or more support structures having a ratio of greater than four to one sign width to narrowest width of support structure.

d. **Awning/Marquee/Canopy/Hanging Sign**

A sign which is attached flat to an awning, marquee, or canopy, or hanging from an awning, marquee or canopy.

e. **Window Sign**

An on-premise sign attached flat but parallel to the inside of a window, does not include wall/facia signs.

f. **Easel**

An upright A-frame structure used for displaying promotional information to the public.

g. **Tract Identification Sign**

An on- premises sign intended to. identify a subdivision, church, complex, civic club, fraternal organization, or community facility, but carrying no commercial message.

2. **Off-Premises Signs**

A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold, or offered at a location other than the premises on which the sign is located.

a. **Billboard**

A sign which describes or calls attention to products, activities, or services which are not customarily engaged in, produced, or sold on the premises upon which the sign is located.

3. **Temporary Signs**

A sign that is used in connection with a circumstance, situation, or event that is designed, intended, or expected to take place or to be completed within a reasonably short or definite period of time after the erection of such a sign.

a. **Decorative Flags or Banners**

Signs mounted by the Town to utility poles located within the public right-of-way displaying non-commercial information, specifically holiday decorations and seasonal banners.

b. **Promotional Banner**

An on-premise sign indicating special events such as grand openings, sales or similar non-permanent activity to be conducted within the Downtown Overlay District.

4. **Portable Signs**

A sign that is not directly attached to the ground or anchored therein by placement in a concrete footing, in holes with compacted earth or gravel, or other support so as to be adequately affixed to the ground as a permanent structure.

5. **Historic Sign**

A sign that is 50 years or older, or a sign that is particularly unique in character, design, or history, or that is part of the historic character of a business or building.

6. **Roof Sign**

A sign that is attached to the roof of a building that projects more than 12 inches above the apex of the roof to which it is attached.

D. **General Sign Regulations**

1. **Computation of Sign Area**

Except where specifically addressed, the area of all signs shall be computed as follows:

a. The area of a wall sign which consists of individual letters that are erected directly onto a wall is measured by finding the area of the minimum imaginary rectangle or square which fully encloses all sign words, copy, or message.

b. The area of a sign with three or more sides shall be computed as the sum of the area of each side designed either to attract attention or communicate information.

c. The area of any other sign is measured by finding the area of the minimum imaginary rectangle or square which fully encloses all extremities of one side of the sign, exclusive of its supports.

2. **Construction Standards**

a. All signs shall comply with the appropriate provisions of the North Carolina Building Code, the National Electric Code, and this subchapter.

b. Signs shall be located in such a way that they maintain sufficient horizontal and vertical clearance of all overhead electrical conductors in accordance with National Electric Code specifications, provided that no sign, except governmental signs, shall be installed closer than ten feet horizontally or vertically from any conductor or public utility guy wire.

c. In no way shall a sign hinder or obstruct the visibility of the right-of-way, as defined by §156.400L, either at intersections or points of ingress or egress from parking lots.

3. **Height of Sign**

The height of a sign shall be measured from the highest point of the sign or supporting structure to the average grade of the ground surrounding the sign. For the purposes of this section, the height of a ground sign or monument sign may be measured from the highest point of the sign or supporting structure to the grade of a landscape berm not exceeding 24 inches above the average surrounding ground.

E. **Specific Sign Regulations**

1. **On-Premises Signs**

The total amount of on- premises signage area permitted on any lot shall not exceed 1 ¼ times the amount of street frontage. On lots with frontage on more than one street, the longest dimension may be used to calculate the maximum area permitted. When no freestanding sign other than a ground sign or monument sign is proposed, a ten percent increase in permitted sign area shall be allowed.

a. **Wall/Facia Sign**

Including signage or letters affixed to the inside or outside of a window.

i. **Size**

The maximum size of a wall/facia sign shall not exceed the limits established in this section. Further, no more than 25 percent of the area of any wall or window may be devoted to signage.

ii. **Number**

More than one wall sign may be erected, provided the total surface area regulation is not exceeded.

iii. **Setback**

Setback requirements do not apply to wall/facia signs.

iv. **Height**

No sign may extend more than 12 inches above parapet walls or above roof lines of buildings without parapet walls.

v. **Projection/Clearance**

No sign may project more than 12 inches from the building wall. All wall signs shall maintain a clear height of eight feet above the ground below, if it projects more than six inches from the building wall to which it is attached.

vi. **Construction**

All wall signs shall be fastened directly to the supporting wall.

vii. **Illumination**

Wall signs may be illuminated either internally or externally, provided that no sign located within 150 feet of a residential use or district, except in the B-1 District, may be illuminated during the hours between 12:00 midnight and 6:00 a.m.

viii. **Location**

Wall signs may be located in all zoning districts so long as no illuminated sign is located in any residential district.

b. **Projecting Signs**

i. **Size**

The maximum area of any single side of a projecting sign shall be ten square feet, and such signs shall be limited to two sides.

ii. **Number**

Not more than one projecting sign shall be permitted for each business establishment.

iii. **Setback**

No projecting sign shall project closer than three feet to the curb line.

iv. **Height**

No sign shall extend above parapet walls or above roof lines of buildings without parapet walls, and the top of the sign shall not be higher than 15 feet above the ground.

v. **Projection/Clearance**

No sign shall project more than three feet from the building wall or ½ the width of the sidewalk, whichever is less, provided that no sign shall project closer than three feet to the curb line. All projecting signs shall maintain a clear height of eight feet above the ground below.

vi. **Construction**

All projecting signs shall be fastened directly to the supporting building wall, with the supporting structure physically integrated into the sign. All projecting signs shall intersect the building wall at right angles.

vii. **Illumination**

All projecting signs may be illuminated either internally or externally, provided that no illuminated sign located within 150 feet of any residential use or district, except in the B-1 District, may be illuminated during the hours between 12:00 midnight and 6:00 a.m. Lighting directed toward a sign shall be shielded so that it does not shine directly into a public right-of-way or residential building and does not interfere with the safe vision of motorists.

viii. **Location**

Projecting signs are permitted only in nonresidential zoning districts.

c. **Freestanding Signs (pole, monument, ground signs)**

These signs are permitted as set forth herein. Any freestanding sign which exceeds eight feet in height may be erected only after a plan for such sign has been approved by the Planning Board.

i. **Size**

a) Pole Sign. The maximum surface area of a single side of a pole sign shall not exceed .125 square foot per linear foot of street frontage along the street toward which such sign is primarily oriented.

b) Monument Sign. The maximum surface area of a single side of a monument sign shall not exceed .20 square foot per linear foot of street frontage along the street toward which such sign is primarily oriented.

c) Ground Sign. The maximum surface are of a single side of a ground sign shall not exceed .25 square foot per linear foot of street frontage along the street toward which such sign is primarily oriented.

ii. **Number**

One freestanding sign shall be allowed on any lot, subject to the criteria herein, provided a pole sign shall only be allowed on a lot which contains 100 feet or more of frontage on the street to which such sign is to be oriented. If a common signage plan is approved by the Planning Director, two freestanding signs may be allowed on a lot or development having a minimum frontage of 300 feet on each of two adjacent streets, or more than 600 lineal feet of frontage on a single street, but only one may be a pole sign. When a lot or development subject to the terms of an approved common signage plan contains more than 1,500 linear feet of frontage on a single street, or has frontage of 300 feet or more on each of three adjacent streets, a maximum of three freestanding signs may be allowed, but there shall be only one pole sign permitted. When more than one freestanding sign is to be constructed, the total permitted sign area of all signs shall not exceed the standard set forth in this division, and the total amount of freestanding sign area shall not exceed .25 square feet per linear foot of frontage on the adjacent street of greatest length.

iii. **Setback**

No portion of any freestanding sign may extend over any public right-of- way, or be located within 15 feet of any interior side lot line. Further, no sign may be constructed within 20 feet of a right-of-wayor within 30 feet of a right-of-way.

iv. **Height**

No freestanding sign nor any part thereof, including base or apron, supports, supporting structures, and trim, may exceed 20 feet in height. Further, no monument

sign may exceed eight feet in height and no ground sign may exceed four feet in height.

v. **Projection/Clearance**

All pole signs shall maintain a clear height of eight feet above the ground.

vi. **Construction**

All freestanding signs shall be securely fastened to the ground so that there is virtually no danger that the sign may be moved by wind or other forces of nature and cause injury to persons or property.

vii. **Illumination**

All freestanding signs may be illuminated either internally or externally, provided that no sign located within 150 feet of a residential use or district, except in the B-1 district, may be illuminated during the hours between 12:00 midnight and 6:00 a.m. Lighting directed toward a sign shall be shielded so that it does not shine directly into a public right-of-way or residential building and does not interfere with the safe vision of motorists.

viii. **Location**

Freestanding signs are permitted in nonresidential districts, however, pole signs are not permitted in the B-1 District. Home occupation signs shall be permitted in residential districts in accordance with §156.305C.2. The Town Board of Commissioners or Board of Adjustment may approve a freestanding sign in accordance with the standards of this section as part of a special or conditional use permit in a residential district.

ix. **Landscaping**

Shrubs, flowers, or ground cover with a minimum height of 18 inches and planting bed area equal to ½ of the sign area shall be planted around the entire base of any freestanding sign. The height of the plant materials may be waived for ground signs or monument signs.

d. **Awning, Marquee, Canopy and Hanging Signs**

i. **Size**

The maximum area of a single awning or marquee sign shall not exceed 75 percent of the surface area of the face of the awning or marquee to which it is attached. The maximum area of one side of any sign hanging from an awning shall be six square feet.

ii. **Number**

One awning or marquee sign shall be permitted per awning or marquee side that faces a public right-of-way or sidewalk. One hanging sign is permitted per business premises.

iii. **Setback**

No portion of any awning or marquee sign shall project closer to the curb line than the awning or marquee to which it is attached.

iv. **Height**

Awning and marquee signs shall not extend above the top of the awning or marquee to which they are attached. Hanging signs shall not exceed 18 inches in height.

v. **Projection/Clearance**

No portion of an awning or marquee sign shall project more than 12 inches from the surface it is attached to. Hanging signs shall maintain a clear height of eight feet above the ground.

vi. **Construction**

All awning or marquee signs shall be fastened directly to the awning or marquee so that there is virtually no danger that the sign may be moved by wind or other forces of nature and cause injury to persons or property.

vii. **Illumination**

All awning and marquee signs may be illuminated either internally or externally, provided that no illuminated sign located within 150 feet of any residential use or district, except in the B-1 District, may be illuminated during the hours between 12:00 midnight and 6:00 a.m. Lighting directed toward a sign shall be shielded so that it does not shine directly into a public right-of-way or residential building and does not interfere with the safe vision of motorists.

viii. **Location**

Awning and marquee signs are permitted nonresidential zoning districts.

2. **Off-Premises Signs**

a. **Billboards**

i. **Size**

The maximum area of a single side of a billboard shall not exceed 200 square feet, with a maximum height of 15 feet, and a maximum width of 20 feet, inclusive of any border and trim, but excluding the base or apron, supports, and other structural members. If an advertising message appears on the base or apron, it will not be excluded from the maximum dimensions. Not more than one advertising face is allowed on each side of the display.

ii. **Spacing**

No part of any billboard shall be located less than 500 feet from any part of another billboard. The minimum distance between billboards shall be measured along the nearest edge of the pavement between points directly opposite the sign along each side of the highway, and shall apply only to billboards located on the same side of the highway. Billboards shall not be located in such a manner as to obscure or physically interfere with the effectiveness of an official traffic sign, signal, or device or obstruct or physically interfere with a driver's view of approaching, merging, or intersecting traffic.

iii. **Setback**

Billboards shall be placed at least 50 feet off the state right-of-way.

iv. **Height**

No billboard or part thereof, including base or apron, supports, supporting structures and trim shall exceed 25 feet in height, measured from the top of the sign to the ground at the base of the sign or highway grade level, whichever may be higher.

v. **Projection/Clearance**

All billboards shall maintain a clear height of eight feet above the ground at the base of the sign or highway grade level, whichever may be higher.

vi. **Construction**

All billboards shall be constructed in accordance with the North Carolina Building Code and the National Electric Code.

vii. **Illumination**

All billboards may be externally illuminated, so long as such lighting is effectively shielded to prevent beams or rays of light from being directed into any portion of the traveled ways of a public street, and is not of such intensity or brilliance as to cause glare or to interfere with any driver's operation of a motor vehicle.

viii. **Location**

Billboards are permitted in all zoning districts by Special Use only.

ix. **Annexation**

Billboards located on property that is annexed by the Town shall be allowed a period of 42 months from the date of annexation to comply with the provisions of this section.

b. **Other Off-Premises Signs**

All other types of off-premises signage is prohibited unless specifically addressed below.

3. **Other Types of Signs**

a. **Temporary Signs**

The signs described in this section may be erected on a temporary basis only after a permit has been issued by the Planning Director. No sign shall be placed in a public right- of-way, nor attached to a pole or structure owned by a public utility company.

i. One on-premises construction project sign, not to exceed 20 square feet in size, may be erected in a residential district, and up to two on- premises construction project signs may be erected in a business, industrial, or office and institutional zone, so long as the sum of the areas of one face of these signs does not exceed 32 square feet. Construction signs shall not be erected prior to site plan or plat approval or the issuance of a building permit, and shall be removed within 15 days after final inspection and approval of the project.

ii. Political signs are permitted in all zoning districts for a period not exceeding 60 days preceding the opening of the polls, and shall be removed within five days of the closing of the polls. With the exception of election days, no political signs shall be placed on public property paid for by public funds or tax money. Signs shall not exceed 32 square feet in aggregate area per lot, and shall not exceed eight feet in height. No such sign shall be located within or over the public right-of-way. At the polls, any number of political signs may be erected. Such signs shall not be placed more than 24 hours preceding the opening of the polls, and shall be removed within 24 hours following the closing of the polls.

iii. Signs indicating special events, such as a fair, carnival, festival, grand opening, sale, or similar non-permanent activity to be conducted within the Benson zoning jurisdiction, not including the Downtown Overlay District (see paragraph J below). Such sign shall not exceed 32 square feet in area and may be erected for a period not to exceed 30 days. Such signs shall be removed by the applicant within seven days after the event has taken place, and may be permitted only one time within a 12-month period.

iv. "Yard Sale" signs, located off-site from the property where such activity is to occur, shall be permitted outside of public rights-of-way. Such signs may not exceed four

square feet in size. Signs shall not be erected more than seven before the sale date and shall be removed within 48 hours of the sale date.

v. Real estate, church or nonprofit organizational direction signs may be located off-site; however, such signs may not exceed six square feet and no more than one sign per intersection shall be permitted. Such signs may be erected for a period of three consecutive days and must be removed by the applicant for a period of at least three days before placement in the same location is reestablished. Such sign permit shall be subject to an annual renewal as established in the Town Comprehensive List of Fees and Charges.

b. **Tract Identification Signs**

Up to two on- premises permanent subdivision, church, apartment, civic club, fraternal organization, or community facility tract identification signs for each street frontage are permitted, but the sum of the areas of one face of these signs shall not exceed 40 square feet.

c. **Product and Information Signs**

On- premises product or information signs are permitted, so long as the sum of the areas of one face of these signs does not exceed 48 square feet, and the area of any single sign does not exceed 16 square feet in size.

d. **Community Service Signs**

A welcome sign, or a sign incorporating the insignias of more than one civic, governmental and/or nonprofit organization, may be permitted. Any such sign shall not exceed 100 square feet in area nor 20 feet in height. Location within a public right-of-way may only be permitted with written approval of the state or Town. Such sign may be on-premises or off-premises.

F. **Exemptions**

The following signs shall not be subject to regulation hereunder:

1. Signs erected by or on behalf of or pursuant to the authorization of a governmental body.
2. Flags, pennants, or insignia of any governmental or nonprofit organization, when not displayed in connection with a commercial promotion or as an advertising device.
3. Signs directing and guiding traffic on private property that do not exceed four square feet in size each and that bear no advertising message.
4. Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.
5. Signs not exceeding four square feet in size that are customarily associated with residential use and that are not of a commercial nature, such as signs giving names of occupants, signs on mailboxes and paper tubes, and signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.
6. “Yard Sale” signs located on-site and not exceeding four square feet in area not used in connection with any continuous commercial activity.
7. Signs containing the message that the real estate on which the sign is located is for sale, lease, or rent, together with information identifying the owner or agent. For uses nonresidential, such sign shall not exceed 16 square feet in size for developments under two acres, and shall not exceed 32 square feet in size or six feet in height for all nonresidential developments larger than two acres. For residential properties less than five acres, such sign shall not exceed nine square feet. For residential properties between five and 20 acres, such sign shall not exceed 16 square

feet. For residential properties in excess of 20 acres, such sign shall not exceed 32 square feet and six feet in height. Such sign shall be removed immediately after sale, lease, or rental. Only one sign on each street frontage may be erected, but on lots having a street frontage in excess of 400 feet, a second sign not exceeding nine square feet in size may be erected.

8. Displays, including lighting, erected in connection with the observance of holidays. Such signs shall be removed within ten days following the holiday.

G. Signs Prohibited

The following signs are expressly prohibited within all zoning districts:

1. Portable signs, including any signs painted on or displayed on vehicles or trailers usually parked in public places primarily for displays, except where provided for in paragraph F above. Additionally, any such prohibited sign designed to be portable shall not be permitted to be altered so as to be made permanent.
2. Roof signs.
3. Windblown signs, including banners, pennants, streamers, spinners, blimps, gas balloons, and no more than two flags, unless specifically provided for in paragraph F above.
4. Any sign or device set into motion by mechanical, electrical, or other means.
5. Any sign that are considered neon or have gas bulb fixtures (B-1 Zoning District Only)
6. Any flashing sign or device displaying flashing or intermittent lights or lights of changing degrees or intensity, except a sign indicating time and/or temperature, with changes alternating on not less than a five-second cycle.
7. Any sign which is a copy or imitation of an official sign, or which purports to have official status.
8. Off-premises signs, unless specifically provided for in this section.

H. Removal of Obsolete or Deteriorated Signs

1. **Obsolete Signs**
   a. Signs which identify business establishments no longer in existence, products no longer being sold, services no longer being rendered, or events which have already occurred shall be removed by the owner of the premises on which the sign is situated within 90 days of receipt of notification by the enforcement officer. In the case of sign structures designed to carry messages printed on non-permanent materials such as paper or cardboard, this provision applies only to the message, not the sign structure.
   b. When a sign is determined to have particular historical or culturally significant value, such determination to be made by a majority vote of the Planning Board, the terms of this section may be waived.
2. **Deteriorated Signs**

   Any sign which, together with its supports, braces, anchors, and other structural elements, is not maintained in accordance with the provisions of the North Carolina State Building Code, or which is otherwise determined to be unsound or unsafe, shall be removed or brought into compliance with all codes and ordinances within 30 days of notification by the enforcement officer.

I. Maintenance

1. All signs shall be maintained in a state of good repair. The Planning Director is authorized to inspect each sign periodically to determine that it meets the requirements set forth in this

subchapter. Whenever it shall appear to the Planning Director that any sign has been structured or is being maintained in violation of this subchapter, such sign shall be made to conform with all regulations herein, or shall be removed at the expense of the owner within ten days after written verification thereof by the Planning Director.

2. Maintenance responsibilities: to ensure that signs are erected and maintained in a safe and attractive manner, the following maintenance requirements shall apply to all signs visible from any street right-of-way:

   a. A sign shall have no more than 20 percent of its surface area covered with disfigured, cracked, ripped, or peeling paint, poster paper, or other material for a period of more than 30 successive days.

   b. A sign shall not stand with bent or broken sign facing, with broken supports, with loose appendages or struts, or more than 15 percent from vertical for a period of no more than ten successive days.

   c. A sign shall not have weeds, trees, vines, or other vegetation growing upon it, or obscuring the view of the sign from the street or right-of-way from which it is to be viewed, for a period of no more than 30 successive days.

J. Downtown Overlay District

The Downtown Overlay District is established for the purpose of fostering the economic vitality of the area within the District's boundaries. It is recognized that a vibrant downtown promotes the economic development and stability of the entire community. The standards established herein shall be applied to all nonresidential properties which are located within the District's boundaries.

1. **Designation of Downtown Overlay District**

   This District shall be an overlay district and shall include all commercially zoned properties located within the Downtown Overlay District of the Town of Benson Zoning Map.

2. **Permitted Uses**

   All permitted, special and conditional uses of the underlying zoning district are allowed subject to the specific requirements and procedures for each classification.

3. **Dimensional Requirements**

   The dimensional requirements of this Overlay District shall be the same as the underlying zoning district.

4. **Sign Regulations**

   a. **Easels**

      Easels shall be permitted within the Downtown Overlay District provided that there is a minimum of five feet of sidewalk clearance. Easels shall be uniform in size (maximum six square feet) and type as selected by the Town of Benson Downtown Development Association. Easels will only be allowed during business hours. Only one easel shall be allowed per business.

   b. **Window Signs**

      One 11-inch by 17-inch window sign or two 8 1/2-inch by 11-inch window signs shall be permitted per business per street frontage. Changeable letter signs shall be prohibited in the Downtown Overlay District except for "historic signs."

   c. **Promotional Banners**

      i. Promotional banners not exceeding 12 square feet shall be permitted in the Downtown Overlay District for periods of up to 14 days. Promotional banners shall be allowed a maximum of four times per year. All promotional banners must be reviewed and

approved by Planning Director and a permit must be issued. Promotional banners must be removed immediately following the 14-day period.

ii. Religious, governmental, civic, and bona fide nonprofit organizations may display a single promotional banner within or over a public right-of-way for a period not to exceed 14 days, subject to the issuance of a permit by the Planning Department. Such banner shall be erected by the Town of Benson in a manner which does not endanger the public use of said right-of-way. No organization may erect a promotional banner under the terms of this section more than twice in a 12 month period

d. **Decorative Flags and Banners**

Decorative flags and banners shall be reviewed and approved by the Planning Director. Holiday decorations may be installed for a maximum period of seven weeks. Seasonal banners must correspond to the appropriate season.

156.404 OUTDOOR LIGHTING

A. Applicability

1. Unless specifically exempt, all existing and proposed development for which site plan approval is required (see §156.707) shall meet the provisions of this section.
2. Buildings and structures lawfully existing as of the effective date of this chapter, may be redeveloped, renovated or repaired without modifying outdoor lighting in conformance with this section, provided there is no increase in gross floor area in such building or structure or impervious area on the site.
3. Where a building or structure existed as of the effective date of this chapter, and such building is enlarged in gross floor area or impervious area on the site by ten percent or 2,000 square feet, whichever is less, outdoor lighting as specified in this section shall be provided.

B. Prohibited Light Sources

The following light fixtures and sources shall not be used within the Town where the direct light emitted is visible from adjacent areas:

1. Low-pressure sodium and mercury vapor light sources;
2. Cobra-head-type fixtures having dished or drop lenses or refractors which house other than incandescent sources; and
3. Searchlights and other high-intensity narrow-beam fixtures.

C. Design Requirements

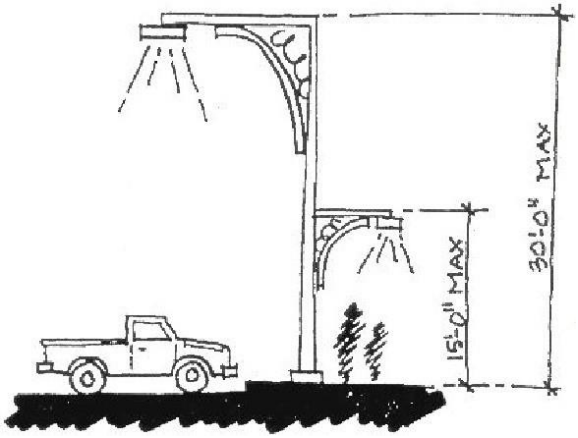
Outdoor lighting shall primarily be used to provide safety while secondarily accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the project. This may be accomplished through style, material or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

1. **Fixture (Luminaire)**

   The light source shall be concealed and shall not be visible from any street right-of-way or adjacent properties. In order to direct light downward and minimize the amount of light spillage into the night sky and onto adjacent properties, all lighting fixtures shall be cutoff fixtures.

2. **Fixture Height**

   Lighting fixtures shall be a maximum of 30 feet in height within parking areas and shall be a maximum of 15 feet in height within non-vehicular pedestrian areas. All light fixtures located within 50 feet of any residential use or residential property boundary shall not exceed 15 feet in height.



3. **Light Source (Lamp)**

   Only incandescent, fluorescent, metal halide, or color corrected high-pressure sodium may be used. The same light source type shall be used for the same or similar types of lighting on any one site throughout any development.

4. **Mounting**

Fixtures shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.

5. **Limit Lighting to Periods of Activity**

The use of sensor technologies, timers or other means to activate lighting during times when it will be needed may be required by the Planning Board to conserve energy, provide safety and promote compatibility between different land uses.

D. **Specific Lighting Standards**

1. **Security Lighting**

a. Building-mounted security light fixtures such as wall packs shall not project above the fascia or roof line of the building and shall be shielded.

b. Security fixtures shall not face a residential property.

c. Security fixtures shall not be substituted for parking area or walkway lighting and shall be restricted to loading, storage, service and similar locations.

2. **Accent Lighting**

Only lighting used to accent architectural features, landscaping or art may be directed upward, provided that the fixture shall be located, aimed or shielded to minimize light spill into the night sky.

3. **Canopy Area Lighting**

All development that incorporates a canopy area over fuel sales, automated teller machines or similar installations shall use a recessed lens cover flush with the bottom surface of the canopy that provides a cutoff or shielded light distribution.

4. **Entrances and Exits in Nonresidential and Multifamily Development**

All entrances and exits to buildings used for nonresidential purposes and open to the general public, along with all entrances and exits in multifamily residential buildings containing more than four units, shall be adequately lighted to ensure the safety of persons and the security of the building.

5. **Commercial Parking Area Lighting**

All commercial parking areas shall be required to provide lighting during nighttime hours of operation.

E. **Excessive Illumination**

1. Lighting within any lot that unnecessarily illuminates and substantially interferes with the use or enjoyment of any other property shall be prohibited. Lighting unnecessarily illuminates another lot if it exceeds the requirements of this section.

2. Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers.

156.405 OUTDOOR STORAGE AND DISPLAY

A. Applicability

1. Any merchandise, material or equipment stored outside of a fully-enclosed building shall be subject to the requirements of this section.
2. Vehicles for sale, lease or rent as part of a properly permitted use (including boats and manufactured housing) shall not be considered merchandise, material or equipment and shall be subject to the parking buffer requirements of §156.402E.2.b.

B. Outdoor Display

1. Outdoor display shall be defined as the outdoor display of products actively available for sale. The outdoor location of soft drink or similar vending machines shall be considered outdoor display. Outdoor display shall not include merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers. Such merchandise shall be considered limited outdoor storage.
2. Outdoor display shall be permitted in association with any nonresidential use following Planning Board review of a major site plan in accordance with §156.707, Site Plan Review, illustrating the extent of the permitted area for outdoor display provided it meets the standards below.
   a. Outdoor display shall be permitted adjacent to the primary façade (façade with principal customer entrance) and shall extend no more than eight feet from such façade.
   b. Outdoor display shall be located no closer than five feet from any public entrance.
   c. Outdoor display shall occupy no more than 30 percent of the horizontal length of the façade.
   d. Outdoor display shall not impair the ability of pedestrians to use the sidewalk or parking areas.

C. Outdoor Storage

1. **General**

   Outdoor storage is more intensive than outdoor display. Materials stored in outdoor storage are not normally brought indoors overnight. Outdoor storage is broken in two categories as follows:

2. **Limited Outdoor Storage**
   a. Limited outdoor storage shall be defined as the overnight outdoor storage of vehicles awaiting repair (includes the storage of vehicles at self-storage facility), merchandise or material in boxes, in crates, on pallets or other kinds of shipping containers, shopping carts, garden supplies, building supplies, plants, fleet vehicles and other similar merchandise, material or equipment.
   b. Limited outdoor storage shall only be permitted in the B-3, I-1 and I-2 districts following Planning Board review of a major site plan in accordance with §156.707, Site Plan Review, illustrating the extent of the permitted area for limited outdoor storage provided it meets the standards below.
      i. Limited outdoor storage shall not be more than 12 feet in height and shall be fully screened from view from the public right-of-way, public parking areas, or adjacent residential development by a 100 percent opaque visual barrier or screen. Chain-link fencing with slats inserted may be considered acceptable for this screening, except

where located abutting or across the street from a residential use or residentially-zoned property.

ii. All limited outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residentially-zoned district.

iii. Limited outdoor storage shall be located in the rear yard.

iv. Limited outdoor storage may be located to the side of a building, provided it is not located within the side yard.

v. Vehicles awaiting repair may be stored up to 14 days within the required screened storage area.

3. **General Outdoor Storage**

a. General outdoor storage shall be defined as salvage yards, vehicle storage yards, overnight outdoor storage of shipping containers, lumber, pipe, steel, junk and other similar merchandise, material or equipment.

b. General outdoor storage shall only be permitted in the I-1 and I-2 districts following Planning Board review of a major site plan in accordance with §156.707, Site Plan Review, illustrating the extent of the permitted area for general outdoor storage provided it meets the standards below.

i. General outdoor storage shall screened by 100 percent opaque, eight foot high visual barrier or screen, except where located abutting or across the street from a residential use or residentially-zoned property such screening shall be high enough to completely conceal all outdoor storage from view.

ii. All general outdoor storage shall be located at least 15 feet from the public right-of-way and any abutting residential use or residential district.

iii. No general outdoor storage shall be permitted in a street yard or otherwise forward of the front building line.

iv. General outdoor storage may be located in the side or rear yard.

ARTICLE 5. RESERVED

ARTICLE 6. SUBDIVISION STANDARDS

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156.600 APPLICABILITY

1. This Article shall apply to all development within the Town's planning jurisdiction, unless expressly exempted by the language of the sections below.
2. Prior to approval of a final plat for the subdivision of land, the applicant shall have installed improvements specified in this Article or guaranteed their installation as provided.
3. No municipal services or utilities shall be extended or furnished to any subdivision either within or outside the Town until the applicant shall have installed the improvements specified in this Article or guaranteed their installation as provided.
4. The appropriate acreage fees in accordance with §50.02 of the Town Code of Ordinances, which addresses the water and sewer extension policy, shall be collected by the Town prior to permission being granted to connect lines serving the property to the Town's facilities.

156.601 SEQUENCE OF IMPROVEMENTS

Subdivision improvements shall be installed on the site in the following sequence:

1. Street grading and installation of water distribution lines, sanitary sewers, storm sewers, gas, telephone, cable television, and electric service lines, with connections for each system extended beyond the curb line to preclude subsequent cutting of pavement.
2. Street base material.
3. Curb and gutter and sidewalks.
4. Street paving.

156.602 STREETS

A. **General**

1. Streets within the Town of Benson are intended for multi-purpose use, as follows:
   a. To carry motor vehicle traffic, and, in some cases, allow on-street parking;
   b. To provide a safe and convenient passageway for pedestrian traffic; and
   c. To serve as an important link in the Town's drainage system.
2. All public streets which serve properties connected to the Town's utility system shall be constructed in conformance with Town standards and specifications; however, if the roadway is maintained by NCDOT, then the roadway shall be constructed in conformance with either Town or NCDOT standards and specifications, whichever is more stringent.
3. If the final plat for a residential subdivision outside the Town limits but within the Town's extraterritorial jurisdiction has been approved and improvements have been guaranteed by the developer in accordance with §156.607, the applicant shall provide the Town and purchasers of land in the subdivision with an agreement providing for adequate maintenance of the newly constructed streets until such time that the streets are taken over by the NCDOT, as required by G.S. § 136-102.6.

B. **Street Improvements**

1. **Required Improvements**
   a. The applicant shall be responsible for the cost and installation of the applicable standard residential, residential collector, collector, or commercial street width and pavement design requirements. Paving shall be installed for roadways through and adjoining the development in accordance with Town standards and specifications (or NCDOT standards

if applicable). The applicant shall also provide additional pavement surfaces for turning lanes in accordance with the Town's Engineering Design Manual.

b. The applicant shall be responsible for making improvements to thoroughfare rights-of-way, as designated on the Town's Transportation Plan. The improvements to be installed are as follows: the thoroughfare sub-base and surface paving materials, thoroughfare grading, and the remaining standards of applicable minimum residential, residential collector, collector, or commercial streets shall be made to extend to the outer perimeter boundaries of a development for any development where any of the following conditions occur:

i. The thoroughfare improvements would provide necessary access to the development or adjoining properties.

ii. The improvement would be an extension of an already existing section of thoroughfare roadway.

iii. The traffic from the development is predominantly from nonresidential activities and the development would otherwise gain access through a residential area.

2. **Fee-In-Lieu**

a. The Town may require a fee-in-lieu of installation payment to the Town for minimum residential, residential collector, collector, or commercial streets for the length of the thoroughfare if any of the following criteria are met:

i. No direct access to the thoroughfare is proposed.

ii. The minimum street improvement is one-half of an existing unimproved right-of-way, and improvements, if constructed, would not be used for traffic circulation.

iii. Where the new thoroughfare right-of-way is only partially contained on the development site and therefore, construction of only a portion of the new street cross-section is possible.

b. The Town Board of Commissioners may allow fee-in-lieu of minimum street construction payments to the Town for residential, residential collector, collector, or commercial streets if any of the following criteria and their conditions are satisfied:

i. Where existing unimproved streets have:

a) Insufficient lineal footage to serve overall traffic circulation purposes or interrupts an existing swale/ditch storm drainage system with curb and gutter, which would disrupt the drainage system operation;

b) Curb and gutter improvements would not connect to existing curb and gutter, or there are no similar improvements on the same block;

c) There are no plans for Town improvements on the same block; and

d) The area is sufficiently developed (75 percent of the block) such that few future subdivision or site plan submittals are anticipated.

ii. Where construction of the streets by the Town or other party is imminent.

iii. Where construction of only a sidewalk is required without street improvements, and the new sidewalk is less than one block in length and would not connect to an existing sidewalk.

iv. Where approved by the Town Board of Commissioners for a new street that traverses a site when:

a) Street construction will not connect to an existing improved street;

b) There are no plans to construct an adjoining street in the near future; and

c) A letter of credit is not an appropriate financial security.

v. Where approved by the Town Board of Commissioners, when for reasons of topography, street construction is impractical due to:

a) The need for off-site construction or slope encroachment;

b) Proper street alignment should be determined with off-site development; or

c) Design of bridges or culverts are required and only a portion of the structure is on the development's property.

c. Developments will not be responsible for the cost and installation of any paving construction requirements along existing or planned roadways, if any of the following conditions exist:

i. The roadway is a freeway, expressway or any other fully controlled access facility.

ii. The roadway is in the Town's Capital Improvement Program, final design plans have been initiated, and the project will fall under the assessment policy of the Town.

iii. The roadway is on NCDOT's Transportation Improvement Program, final design plans have been initiated, and there will be no Town contribution or participation in funding the project. If the Town funds a portion of the project, then a fee-in-lieu of installation will be required as a contribution towards Town-funded improvements.

C. **Street Classification**

In all new subdivisions, streets that are dedicated to public use shall be classified as provided in paragraph D below.

1. The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day or during the peak hour of the day;

2. The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive; and

3. Whenever a subdivision street continues on an existing street or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

D. **Street Types**

1. **Major Thoroughfare**

A street serving the principal network for high volumes of traffic or high speed traffic as shown on the Town's Transportation Plan. This street type consists of at least two travel lanes in each direction. A major thoroughfare shall be designated where the anticipated average daily volume exceeds 10,000 vehicles. Residences should not front on a major thoroughfare.

2. **Minor Thoroughfare**

A street designed primarily to collect and distribute traffic between the local street network and major thoroughfares as shown on the Town's Transportation Plan. This street type generally consists of more than one travel lane in each direction. A minor thoroughfare shall be designated where the anticipated average daily volume ranges exceeds 6,000 vehicles. Residences should not front on a minor thoroughfare.

3. **Commercial Street**

A multi-lane, street connecting to major or minor thoroughfares designed to accommodate large volumes (in excess of 6,000 trips per day) of traffic at moderate speeds while also providing, as

a major part of its function, direct access to nonresidential or mixed use high trip generating land uses.

4. **Collector Street**

A street whose principal function is to carry traffic between residential collectors, residential streets, cul-de-sacs and major and minor thoroughfares, but that may also provide direct access to abutting properties. It is designed to carry more than 3,500 but less than 6,000 trips per day. Typically, a collector is able to serve, directly or indirectly, between 350 and 600 dwelling units.

5. **Residential Collector Street**

A street which serves as a connector street between residential streets, cul-de-sacs and major and minor thoroughfares. Residential collector streets typically collect traffic from 100 to 400 dwelling units.

6. **Residential Street**

A street whose principal function is to provide access to adjacent properties.

7. **Cul-de-sac (Commercial, Residential)**

A short, street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

8. **Alley**

A public vehicular way providing service access along rear or side property lines of lots which are also served by one of the other listed street types.

9. **Frontage Road**

a. A street, parallel and adjacent to a major or minor thoroughfare, which provides access to abutting properties, protection from through traffic, and control of access to the major or minor thoroughfare.

b. Where a parcel of land to be subdivided adjoins a major thoroughfare, the Planning Board or Town Board of Commissioners may require that such lots be provided access by a frontage road.

E. **Thoroughfare Dedication**

1. Whenever a parcel of land included within any proposed development plan embraces any part of a thoroughfare system roadway and is so designated in the Town's Transportation Plan, after such part of it has been adopted by the proper authority, such part of such proposed public way shall be platted and dedicated in the location and width indicated on the plans. This requirement shall not require the applicant to dedicate rights-of-way unless indicated on the Town's Transportation Plan. It is the responsibility of the applicant to take future roadway plans of the Town and the NCDOT into account when laying out a development plan.

2. Developments which embrace only one side of an existing or planned thoroughfare right-of-way will only be required to plat and dedicate additional right-of-way for that portion of roadway with which the development has frontage. Such improvements shall be in conformance with Town standards and shall be measured from the right-of-way centerline.

F. **Cross-Sections**

1. Appropriate street cross-sections shall be approved by the Town or NCDOT. Appendix A contains approved street cross-sections for the Town of Benson. Alternative cross-sections may be approved by the Town Board of Commissioners as a waiver (see §156.706I.7), and when necessary in conjunction with NCDOT.

2. Cul-de-sacs shall be used only when it is determined by the Town Board of Commissioners that extension of the street to an adjacent property is impractical or unnecessary. Alternative turnaround designs on residential streets serving six dwelling units or less may be considered on a case-by-case basis. Alternative designs must readily accommodate emergency vehicles and sanitation trucks. Medians may be permitted where the cul-de-sac radius is increased and it can be demonstrated that emergency vehicles and sanitation trucks can be accommodated. Unless specifically agreed upon with the Town, landscaped medians are not to be maintained by the Town, and a private maintenance agreement for the median shall be required to be approved by the Town Attorney.

3. Subdivisions along existing streets of inadequate right-of-way shall provide additional right-of-way to meet the minimum widths specified in Appendix A. The entire right-of-way shall be provided where any part of a new subdivision is on both sides of an existing street, and one-half the required right-of-way, measured from the center line of the existing street, shall be provided where a new subdivision is located on one side of an existing street.

4. A slope easement of 20 feet in width may be required adjoining each side of a street right-of-way. The Town may reduce or increase the slope easement width, if due to terrain. If the applicant submits to the Town sufficient information to show that improvements to be located in the slope easement do not interfere with the right of the public to construct within the adjoining right-of-way streets, sidewalks, or both, then the Town shall allow the proposed improvement.

G. Cul-de-sac Length

1. No residential street cul-de-sac serving lots of 20,000 square feet or greater in size shall exceed 1,000 feet in length. No residential street cul-de-sac serving lots less than 20,000 square feet in size shall exceed 700 feet in length.

2. No commercial street cul-de-sac shall exceed 400 feet in length.

H. Sidewalks

1. In order to enhance pedestrian safety and mobility, except as set forth below, sidewalks shall be required on both sides of all streets (see Appendix A for approved street cross-sections).

   a. Sidewalks shall not be required on the following roadways:

      i. In residential developments with minimum lot sizes one acre or greater, except where an existing school, park, open space, trail or greenway lies within ¼-mile of the boundaries of the proposed subdivision, in which case a safe pedestrian connection between the subdivision and the off-site facility is required.

      ii. Residential streets serving less than or equal to ten dwelling units. Corner lots that have frontage on both a connective or loop street shall not be included in determining the number of dwelling units served by the street. Street stubs temporarily serving ten lots or less shall provide sidewalks on both sides of the street.

      iii. Commercial street cul-de-sacs that are less than 150 feet in length.

   b. Sidewalks shall be required on only one side of a frontage road.

2. Sidewalk access ramps, also commonly referred to as wheelchair ramps for the physically handicapped, shall be provided at all intersections where curb and gutter are provided (see paragraph I below), and where sidewalks and/or greenway trails intersect any street.

3. Pedestrian crosswalks are required on any residential street at each intersection and at any mid-block pedestrian or bicycle connections.

4. The Town Board of Commissioners may allow a fee-in-lieu for sidewalk construction as set forth in paragraph B.2.b above.

I. Curb and Gutter

Unless granted a waiver (see §156.706I.7) by the Town Board of Commissioners, all public streets, inside the corporate limits of the Town and outside the Town when water or sewer is connected to the Town utility system, shall be constructed with curb and gutter (see Appendix A for approved street cross-sections). Curb and gutter shall be a combination curb and gutter or such other construction approved in the Town's Engineering Design Manual. Rolled or valley-type curbs are permitted for new collector, residential collector, and residential streets.

J. Relationship of Streets to Topography

1. Streets shall be designed to relate appropriately to the topography of a site. In particular, streets shall be designed to facilitate the storm drainage requirements specified in §156.604E and, subject to the design requirements relating to maximum grades set forth in paragraph 2 below, street grades shall conform as closely as practicable to the original topography.

2. The maximum grade for street construction shall meet design requirements of the Town of Benson or NCDOT. However, in no case may streets be constructed with grades that, in the professional opinion of the Public Works Director, create a substantial danger to the public safety or cause any substantial degradation to the street or drainage system.

K. Street Layout

1. The street layout of any development should be in conformity with the Town's Transportation Plan and all other applicable adopted plans and policies of the Town. Public streets shall be constructed to the boundary lines of the development submitted for approval when required to provide for efficient circulation of traffic within the community.

2. Each side of a collector street, commercial street or residential street shall, within every 1,500 foot length of the street, be intersected by at least one connective street. The 1,500 foot length shall be measured from the origination point, if established, of the collector, commercial, residential or residential street.

3. A waiver (see §156.706I.7) may be granted by the Town Board of Commissioners for developments that do not meet the above layout or creates a violation of this layout if:

   a. Existing surrounding development prevents extending a street to any adjoining developments to meet this regulation.

   b. The adjoining existing street pattern or a planned "stub" street provides for an appropriate intersecting street beyond the 1,500-foot point, that would provide equivalent benefits as an intersecting street within 1,500 feet.

   c. Severe topography or other physical features warrant making a connection of an intersecting street at another location either inside or outside the development to provide equivalent benefits as an intersecting street within a distance of 1,500 feet, and this other alternate specific location is provided for at the time the development making the request for an alternate location is approved.

4. Existing adjoining public streets, public platted streets, and publicly planned streets shall be continued and extended as public streets as part of the development. Streets that are not to be extended, as determined by the Town Board of Commissioners, shall be terminated in a permanent cul-de-sac.

5. Where a proposed development will extend a public street that is already stubbed out to the property line, such extension as a public street shall be required.

6. Wherever there exists a dedicated or platted half street adjacent to the parcel to be developed, the other half shall be platted and, where required, constructed.

7. Where a through street or a series of streets establishes a connection between two public streets and the connection is greater than 1,200 feet in length, or the connection may encourage through traffic not generated by the development, the street shall be a public street, except in instances where the Town Board of Commissioners determines that requiring such connection to be a public street will serve no purpose, due to the existing or proposed street pattern, traffic flow or traffic volumes.

8. Where a proposed development utilizing private streets has an area of 20 or more acres, at least one public through street must be provided in a location determined by the Town Board of Commissioners to assure continuity of the public street system, except in instances where the Town Board of Commissioners determines that such public through street will serve no purpose due to the existing or proposed street pattern, traffic flow or traffic volume. The Town Board of Commissioners may also require additional public through streets for the provision of emergency services, such as police and fire protection, or to provide alternate circulation at congested or critical intersections.

L. **Construction Standards and Specifications**

All streets and sidewalks required by this section shall be constructed according to the specifications of the Town's Engineering Design Manual, except that the Town Board of Commissioners may permit sidewalks to be constructed with other materials when they conclude that:

1. Such sidewalks would serve the residents of the development as adequately as concrete sidewalks;

2. Such sidewalks would be more environmentally desirable or more in keeping with the overall design of the development; or

3. Such sidewalks could be maintained as adequately as concrete sidewalks.

M. **Private Streets**

1. All private streets shall be constructed according to the Town's public street construction standards. Unless the recorded plat of a subdivision clearly indicates a street to be private, the recording of such plat shall constitute an offer of dedication of such streets. The Town shall have the discretion to require a public street connection for safety or access purposes.

2. The recorded plat of any subdivision that includes a private street shall clearly state that such street is a private street. Further, the initial purchasers of a newly-created lot served by a private road shall be furnished by the seller with a disclosure statement outlining the maintenance responsibilities for the street, in accordance with the requirements set forth in G.S. 136-102.6.

3. All private streets shall be maintained by a designated responsible party in accordance with Town of Benson standards.

4. Where private streets are later made public through dedication to the Town, such streets shall be brought up to public construction and maintenance standards, prior to their acceptance by the Town.

N. **Street Names and Signs**

1. Street names shall be subject to the approval of the Town Board of Commissioners. New street names shall not duplicate or be similar to existing street names in Johnston County. Existing street names, however, shall be projected where appropriate.

2. Street name signs shall be in place prior to approval of any certificate of occupancy for structures to be located on the street.

156.603 LOTS AND BLOCKS

A. **Lots**

1. Every lot shall abut or front on a public street.
2. Lot sites, shapes, and locations shall be made with due regard to topographic conditions, contemplated uses, and the surrounding areas. All lots approved after January 6, 1997 shall contain the minimum required lot width of the applicable zoning district within 50 feet of the street right-of-way adjoining the front yard.
3. Double frontage lots shall be avoided, except when lots adjoin a thoroughfare and access is desirable by a street of residential scale, and discouraged or prohibited on the thoroughfare.
4. Side lot lines shall be substantially at right angles or radial to street lines.

B. **Blocks**

1. Blocks shall be laid out with special consideration given to the type of land use proposed within the block.
2. Blocks shall not exceed 1,500 feet in length.
3. Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth, except where otherwise required to separate residential development from through traffic.
4. A pedestrian connection not less than ten feet in width may be required near the center and entirely across any block in excess of 900 feet in length to provide adequate access to schools, shopping centers, churches, or transportation facilities.
5. A pedestrian connection through a cul-de-sac not less than ten feet in width may be required when the cul-de-sac helps provide adequate access to schools, shopping centers, churches, or transportation facilities.

156.604 UTILITIES

A. **Easements**

1. Utility easements shall be at least 20 feet wide, and shall run along side or rear lot lines. Wider easements may be required if the topography along the proposed right-of-way is such that maintenance equipment cannot reasonably operate within the minimum 20-foot wide easement.
2. Where a subdivision is traversed by a water-course, drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way, conforming substantially with the lines of such watercourses, and of such further width or construction, or both, as will be adequate for the purpose. Lakes, ponds, watercourses, and the land immediately adjacent thereto shall be considered for maintenance by the Town only if sufficient land is dedicated as a public recreation area or park, or if such area constitutes a necessary part of the drainage control system. The Town reserves the right to reject any intended dedications.

B. **Ownership of Utilities**

All water, sanitary sewerage, electrical (when in Town's service area) and storm drainage facilities installed under the requirements of this chapter shall become the sole property of the Town upon acceptance. A deed to the Town for such facilities, including easements pertaining to right-of-way entrance for maintenance, shall be executed prior to connections to the respective municipal systems.

C. Required Additional Capacity

Where the Town Board of Commissioners deems it necessary, in the interest of the health, safety and general welfare of the residents of the Town of Benson and it's extraterritorial jurisdiction, the applicant shall make certain improvements at sizes in excess of those which would normally be required to serve only the applicant's subdivision. Where oversized improvements are required, the Town shall reimburse the applicant for the cost of materials incurred over and above those required to serve the applicant's subdivision. Such reimbursement shall be mutually agreed upon.

D. Water Distribution Lines and Sanitary Sewers

1. Each lot in all subdivisions within the Town's corporate limits, and each lot in all subdivisions in the extraterritorial jurisdiction within 500 feet of the Town's water and/or sanitary sewer system shall be connected at the applicant's expense to the Town's water and/or sewer system. In accordance with § 50.02 of the Town Code of Ordinance, the applicant shall pay an acreage fee for all property to be served by a connection to the Town's water and/or sanitary sewer system.

2. Where a subdivision, in the extraterritorial jurisdiction lies more than 500 feet from the municipal water and/or sewer system, the applicant may, at the applicant's expense, connect the subdivision lots to the Town's water and/or sanitary sewer system. If the applicant provides a community water and/or sewer system, rather than connecting to the municipal system, or provides individual wells and/or septic tanks, the materials, design, and installation shall be made in accordance with all applicable state and Johnston County specifications and standards.

3. Sanitary sewers shall be no smaller in size than eight inches nominal diameter. Water distribution lines shall be no smaller in size than six inches nominal diameter, with the following exception: On cul-de-sacs which are served by fire hydrants at their intersection with a local street, and the hydrant is connected to a water line of six inches nominal diameter, or larger, water service may be provided with lines smaller than six inches if a blow-off valve is established at the end of such line, or the line is connected to another line within the subdivision to form a loop. This exception shall not apply where such line represents the interconnection between the subdivision and the municipal system. On streets which are "stubbed out" at property lines to permit future development, service must be provided by lines of at least six inches nominal diameter.

4. Water systems in the extraterritorial jurisdiction not connected to the Town water system need not provide fire hydrants. However, such systems shall be designed for future file flows so that when tied in with the Town system in the future, adequate flow for fire fighting will be available to every lot in the subdivision. This provision will require that the main lines be a minimum six inches in diameter, and that a hydrant tee and valve be provided within 500 feet of each lot.

5. For the purpose of this section, the term "water system" shall include all appurtenances and fixtures normally associated with such facilities, including fire hydrants, gate valves, blow-offs, manholes, and pumping apparatus, but shall not include individual service meters, which shall be installed by the Town; the aforementioned appurtenances and fixtures shall comply with the specifications and standards of the Town.

E. Storm Drainage

1. The applicant shall provide an adequate drainage system for the proper drainage of all surface water in order to protect the proposed development from water damage. The design of such system shall be subject to the approval of the Town Board of Commissioners.

2. No surface water shall be channeled or directed into a sanitary sewer.

3. Where feasible, the applicant shall connect to the municipal storm drainage system.
4. Where the municipal storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to complement surface drainage systems to surrounding properties.
5. Cross pipes under streets and driveways shall be concrete, reinforced concrete, or other pipe, as approved by the Town Manager. All such cross pipes shall be a minimum of 15 inches in diameter.
6. Surface drainage courses shall have side slopes of at least one foot of horizontal distance for each foot of vertical distance.
7. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of approximately one foot in each 300 feet of horizontal distance.

F. **Electrical Utilities**

Electrical improvements in accordance with Town of Benson, South River EMC, or NC Progress Energy standards, whichever is applicable, shall be required in all subdivisions.

156.605 PUBLIC FACILITIES

A. **School Sites**

1. When a subdivision plat is submitted for approval, in which, according to the land use or land development plan, a school site should be reserved, the Planning Director shall notify the County Board of Education that the subdivision has been submitted for approval, and that under this chapter, a school site may be reserved therein.
2. In reviewing the subdivision and giving approval the Planning Director shall consult the Board of Education in determining the exact size and location of any school site to be reserved therein.
3. Before the final plat of the subdivision is approved, the Board of Education shall determine whether or not it wishes to have a school site reserved in the subdivision. If the Board of Education does wish to have a school site reserved in the subdivision, the subdivision as finally approved shall reserve a school site of a size and location agreeable to the Board of Education and to the Planning Board. The Board of Education shall then have 18 months, beginning on the date of the final approval of the subdivision, within which to acquire the site. If the Board of Education has not purchased or begun proceedings to acquire the site within 18 months after the subdivision is finally approved, the applicant may proceed to dispose of it in accordance with the subdivision procedure and provisions of this chapter.

B. **Recreation and Open Space**

The minimum recreation and open space requirements for conventional and open space residential subdivisions are set forth in §156.203H.

156.606 PERMANENT REFERENCE POINTS

Prior to the approval of the final plat, iron stakes shall be installed on all corners of the subdivision and at additional points in the subdivision, so that no point within the subdivision lies more than 500 feet from a monument. In addition, two or more control points shall be designated on the final plat.

156.607 GUARANTEE OF IMPROVEMENTS

A. **General**

1. No final plat will be accepted for review by the Planning Board or Town Board of Commissioners unless accompanied by written notice by the Town Manager, acknowledging compliance with paragraphs B and C below.

2. If the subdivision is to be phased or developed in sections, the Planning Board shall withhold final plat approval for the most recent phase until improvements in prior stages have been completed or guaranteed.

B. **Performance Guarantees**

In lieu of prior construction of the improvements required by this Article, the Town shall, for the purpose of approving a final plat, accept a guarantee from the applicant that such improvements will be carried out according to the Town's specifications at the applicants expense. Such guarantee may be in the form of a performance bond, letter of credit, or certified check drawn in favor of the Town or cash deposited with the Town. Such guarantee shall be in an amount of not less than 125 percent or more than 150 percent of the estimated cost of the construction of the required improvements. This amount shall be determined by the Town Manager. Performance guarantees shall run for a period of one year upon written approval of the Town Board of Commissioners.

C. **Performance Bond**

The Town shall require a bond guaranteeing: street improvements, curbs, gutters, drainage facilities, sidewalks, electrical facilities, water and sewer lines and taps and all other improvements against defects for one year from the date of final acceptance by the Town. This bond shall be in the amount determined by the Town Manager and shall be in cash, certified check, or be made by a bonding/insurance company authorized to do business in North Carolina.

D. **Town's Right of Inspection and Acceptance**

1. Whether the required improvements are performed prior to or following approval of the final plat, the applicant shall grant to the Town and its assignees authority to inspect all construction of the required improvements, and moreover, shall advise the Town at least two days in advance of beginning work on any of the various improvements. However, such right of inspection shall not constitute duty to inspect, nor shall it guarantee final acceptance by the Town of any required improvements.

2. If improvements are guaranteed by a bond or cash deposit, failure by the applicant to perform the work to the Town's standards shall free the Town, at the discretion of the Town Board of Commissioners, to liquidate the bond or cash deposit, in order to finance the necessary repairs. This provision shall extend through the one-year warranty period. The Town will provide the applicant with a written notice of its intent to carry out this provision at least two weeks prior to such liquidations, and shall also provide the applicant during this period a hearing at a regularly scheduled meeting of the Town Board of Commissioners.

3. The Town's final acceptance of required improvements in the event of their construction following final plat approval shall be evidenced by a written letter from the Town Manager as specifically authorized by the Town Board of Commissioners.

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156.700 REVIEW BODIES

A. **Town Board of Commissioners**

1. **Establishment and Composition**

The Town Board of Commissioners is established and composed pursuant to Title III of the Town Charter.

2. **Powers and Duties**

In execution of the provisions of this chapter, the Town Board of Commissioners shall be responsible for final action regarding the following:

a. Text amendments (§156.703);

b. Rezonings (§156.704);

c. Planned development review (§156.705);

d. Preliminary plat review (§156.706).

e. Special use review (§156.711); and

f. Zoning vested rights (§156.718).

B. **Planning Board**

1. **Establishment and Composition**

The Planning Board is established and composed pursuant to Title III of the Town Charter.

2. **Powers and Duties**

In execution of the provisions of this chapter, the Planning Board shall have the following power and duties.

a. **General Authority**

i. The Planning Board may exercise additional powers as may be described elsewhere in this chapter and as permitted by North Carolina General Statutes.

ii. The Planning Board shall perform related duties as directed by the Town Board of Commissioners.

b. **Review Authority**

The Planning Board shall make recommendations regarding the following:

i. Text amendments (§156.703);

ii. Rezonings (§156.704);

iii. Planned development review (§156.705);

iv. Preliminary plat review (§156.706); and

v. Special use review (§156.711).

c. **Final Authority**

The Planning Board shall be responsible for final action regarding the following:

i. Major site plan review (§156.707);

ii. Sign permits for signs eight feet in height or taller (§156.713); and

C. Board of Adjustment

1. Establishment

The Board of Adjustment is established pursuant to G.S. § 160A-388.

2. Composition

a. Number and Term

i. The Board of Adjustment shall consist of five members, each to be appointed for three years.

ii. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Town Board of Commissioners may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time.

b. Membership

i. Membership on the Board of Adjustment shall include representatives from the extraterritorial jurisdiction.

ii. Any member of the Board of Adjustment representing the extraterritorial jurisdiction shall be appointed by the Town Board of Commissioners, subject to approval by the Johnston County Board of County Commissioners.

c. Alternate Members

i. The Town Board of Commissioners may, in its discretion, appoint and provide compensation for two alternate members to serve on the Board of Adjustment in the absence of any regular member. One alternate member shall be from the Town of Benson and one alternate member shall be from the extraterritorial jurisdiction.

ii. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members.

iii. Each alternate member, while attending any regular or special meeting and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member. Three unexcused absences shall constitute a vacancy to be filled by the Town Board of Commissioners at the next regularly scheduled meeting.

3. Proceedings

a. Meetings

All meetings of the Board of Adjustment shall be held at a regular place and shall be open to the public.

b. Minutes

The Board of Adjustment shall keep minutes of proceedings in a book maintained for that purpose only, showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be by recorded resolution, indicating the reasons of the Board, all of which shall be a public record.

c. Quorum

No final action shall be taken on any issue unless a quorum is present.

4. Powers and Duties

In execution of the provisions of this chapter, the Board of Adjustment shall have the following powers and duties.

a. **General Authority**

The Board of Adjustment may exercise additional powers as may be described elsewhere in this chapter and as permitted by North Carolina General Statutes.

b. **Final Authority**

The Board of Adjustment shall be responsible for final action regarding the following:

i. Variances (§156.716);

ii. Administrative appeals (§156.717); and

iii. Interpretation of zoning district boundaries.

D. **Planning Director**

1. **Designation**

The Planning Director shall administer certain provisions of this chapter as may be required below.

2. **Delegation of Authority**

The Planning Director may designate any staff member to represent the Planning Director in any function assigned by this chapter but shall remain responsible for any final action.

3. **Powers and Duties**

In execution of the provisions of this chapter, the Planning Director shall have the following powers and duties.

a. **General Authority**

i. The Planning Director may exercise additional powers as may be described elsewhere in this chapter and as permitted by North Carolina General Statutes.

ii. The Planning Director shall perform related duties as directed by the Town Board of Commissioners.

b. **Review Authority**

The Planning Director shall make recommendations regarding the following:

i. Text amendments (§156.703);

ii. Rezoning (§156.704);

iii. Planned development review (§156.705);

iv. Preliminary plat review (§156.706);

v. Minor plat review;

vi. Major site plan review (§156.707);

vii. Conditional use review (§156.710);

viii. Special use review (§156.711);

ix. Sign permits for signs eight feet in height or taller (§156.713);

x. Variances (§156.716); and

xi. Zoning vested rights (§156.718).

c. **Final Authority**

The Planning Director shall be responsible for final action regarding the following:

i. Minor plat review (§156.706);

ii. Final plat review (§156.706);

iii. Minor site plan review (§156.707);

iv. Traffic impact analyses (§156.708).

v. Zoning permits (§156.709);

vi. Temporary use permits (§156.712);

vii. Sign permits for signs under eight feet in height (§156.713);

viii. Common signage plans (§156.714); and

ix. Written interpretations (§156.715).

E. **Technical Review Committee**

1. **Establishment and Composition**

The Technical Review Committee is established and composed pursuant to Title III of the Town Charter.

2. **Powers and Duties**

In execution of the provisions of the chapter, the Technical Review Committee shall have the following powers and duties.

a. **Review Authority**

The Technical Review Committee shall make recommendations regarding the following:

i. Planned development review (§156.705);

ii. Minor plat review (§156.706);

iii. Preliminary plat review (§156.706);

iv. Final plat review (§156.706);

v. Minor site plan review(§156.707); and

vi. Major site plan review (§156.707).

SUMMARY OF REVIEW AUTHORITY

The following table summarizes review and approval authority under this chapter.

	Technical Review Committee **TRC**	Planning Director **PD**	Board of Adjustment **BOA**	Planning Board **PB**	Town Board of Commissioners **TC**	
Text Amendment		review		review	<decision>	§156.703
Rezoning		review		review	<decision>	§156.704
Planned Development	Review	review		review	<decision>	§156.705
Minor Plat Review	decision					§156.706
Preliminary Plat Review	Review	review		review	<decision>	§156.706
Final Plat Review	Review	decision				§156.706
Minor Site Plan Review	Review	decision				§156.707
Major Site Plan Review	review	review		decision		§156.707
Traffic Impact Analysis						§156.708
Zoning Permit		decision				§156.709
Special Use Review		review		review	<decision>	§156.711
Temporary Use Permit		decision				§156.712
Sign Permit (under 8 feet)		decision				§156.713
Sign Permit (8 feet or taller)		review		decision		§156.713
Common Signage Plan		decision				§156.714
Written Interpretation		decision				§156.715
Variance		review	<decision>			§156.716
Administrative Appeal			<decision>			§156.717
Zoning Vested Right		review			<decision>	§156.718
< Public Hearing Required >						

156.702 COMMON REVIEW PROCEDURES

A. **Pre-Application Conference**

1. Before submitting an application for development approval, each applicant may schedule a pre-application conference with the Planning Director to discuss the procedures, standards and regulations required for development approval in accordance with this chapter.
2. A pre-application conference with the Planning Director shall be required for the following:
   a. Rezoning (§156.704);
   b. Planned development review (§156.705);
   c. Subdivision review (§156.706);
   d. Site plan review (§156.707);
   e. Traffic impact analysis (§156.708);
   f. Conditional use review (§156.710); and
   g. Special use review (§156.711).

B. **Neighborhood Meeting**

1. After the pre-application conference and prior to final acceptance of an application by the Planning Director, the applicant shall hold a mandatory neighborhood meeting for the following:
   a. Rezonings not in compliance with adopted plans and policies of the Town (§156.704);
   b. Planned development review (§156.705);
   c. Major subdivision review, open space subdivision only (§156.706);
   d. Major site plan review (§156.707); and
   e. Special use review (§156.711).
2. Only the initial application for planned development review shall require a neighborhood meeting. Subsequent applications for subdivision or site plan review do not require further neighborhood meetings.
3. The purpose of the neighborhood meeting shall be to inform the neighborhood of the nature of the proposed land use and development features, explain the site plan if any, and solicit comments.
4. The applicant shall provide notice by mail in accordance with paragraph D.2.c below. The notice shall be mailed at least ten days but not more than 25 days prior to the date of the neighborhood meeting.
5. The applicant shall prepare and submit to the Planning Director a meeting summary that outlines attendance, major points discussed, and any agreements reached between the parties involved.
6. The Planning Director may alter the neighborhood meeting procedures in cases where there are absentee land owners, limited number of land owners, or other situations they may limit the ability of adjoining property owners to attend the meeting.

C. Application Requirements

1. Forms

Applications required under this chapter shall be submitted on forms and in such numbers as required by the Planning Director.

2. Fees

a. All applications and associated fees shall be filed with the Planning Director.

b. Filing fees shall be established from time to time to defray the actual cost of processing the application, as listed in the Town's Fee Schedule.

c. An applicant who has paid the appropriate fee pursuant to the submission of an application, but who chooses to withdraw such application prior to its distribution for review shall be entitled to a refund of the total amount paid, less ten percent for administrative costs, upon written request to the appropriate department. Once review has begun, no refund shall be available, except that unused notice surcharges shall be refunded less ten percent for administrative purposes.

3. Applications Sufficient For Processing

a. All applications shall be sufficient for processing before the Planning Director is required to review the application.

b. An application shall be sufficient for processing when it contains all of the information necessary to decide whether or not the development as proposed will comply with all of the requirements of this chapter.

c. The presumption shall be that all of the information required in the application forms is necessary to satisfy the requirements of this section. However, it is recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case. The applicant may rely on the recommendations of the appropriate department as to whether more or less information should be submitted.

d. Once the application has been determined sufficient for processing, copies of the application shall be referred by the Planning Director to the appropriate reviewing entities.

e. The Planning Director may require an applicant to present evidence of authority to submit the application.

4. Application Deadline

Applications sufficient for processing shall be submitted to the Planning Director in accordance with the published calendar schedule. Schedules indicating submittal dates shall be developed each year and made available to the public.

5. Staff Consultation After Application Submitted

a. Upon receipt of an application sufficient for processing, the Planning Director shall review the application and confer with the applicant to ensure an understanding of the applicable requirements of this chapter; that the applicant has submitted all of the information they intend to submit; and that the application represents precisely and completely what the applicant proposes to do.

b. Once the applicant indicates that the application is as complete as the applicant intends to make it, the application shall be placed on the agenda of the appropriate review board in accordance with standard procedures. However, if the Planning Director believes the application is incomplete, a recommendation to deny the application on that basis shall be provided to the appropriate reviewing entity.

6. **Concurrent Applications**

a. If approved by the Planning Director, applications for development approvals may be filed and reviewed concurrently. Any application that also requires a variance shall not be eligible for final approval until the variance has been granted.

b. Applications submitted concurrently are subject to approval of all other related applications; denial or disapproval of any concurrently submitted application shall stop consideration of any related applications until the denied or disapproved application is resolved.

D. Notice and Public Hearings

1. **Summary of Notice Required**

Notice shall be required for applications for approval as shown in the table below.

	Published	Mailed	Posted	
Text Amendment	■			§156.703
Rezoning	■	■	■	§156.704
Planned Development	■	■	■	§156.705
Preliminary Plat	■	■	■	§156.706
Major Site Plan			■	§156.707
Conditional Use Review	■	■	■	§156.710
Special Use Review	■	■	■	§156.711
Variance	■	■	■	§156.716

2. **Public Notice Requirements**

a. **Published Notice**

Where published notice is required, a distinctive advertisement shall be placed by the Town in a local newspaper of general circulation once a week for two successive calendar weeks, the first notice being published not less than ten days nor more than 25 days before the date fixed for the public hearing.

b. **Posted Notice (Sign)**

Where posted notice is required, a sign shall be posted by the Planning Director not less than ten days prior to the public hearing at which the application shall be reviewed. The sign shall be posted on the property or at a point visible from the nearest public street.

c. **Mailed Notice**

i. Where mailed notice is required, the applicant shall notify by first-class mail (at the last addresses listed for such owners in the county tax records) all property owners within and immediately abutting the subject property. Where the subject property immediately adjoins a public or private right-of-way, landscape or riparian buffer, commonly-owned private area, public property, or homeowners' association property, then letters of notification shall be sent to adjoining property owners as if they directly abut the subject property. The applicant mailing such notices shall certify to the Town Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.

ii. The notice shall be mailed at least ten but not more than 25 days prior to the date of the public hearing.

iii. Mailed notice under this section shall not be required if a rezoning (including a planned development rezoning) directly affects more than 50 properties owned by a

total of at least 50 different property owners, and the Town elects to use the following expanded notice requirements:

a) Published notice of the hearing shall be provided as set forth in paragraph a above. The advertisement shall not be less than one-half of a newspaper page in size.

b) Mailed notice of the hearing shall be provided (as set forth in paragraphs i and ii above) to all property owners who reside outside of the newspaper's circulation area.

d. **Content of Notice**

The notice listed above shall contain the following specific information.

i. **Published or Mailed Notice**

A published or mailed notice shall provide at least the following:

a) Parcel Identification Number;

b) The address of the subject property (if available);

c) The general location of the land that is the subject of the application, which may include, a location map;

d) A description of the action requested;

e) Where a rezoning is proposed, the current and proposed districts;

f) The time, date and location of the public hearing;

g) A phone number to contact the Town; and

h) A statement that interested parties may appear at the public hearing.

ii. **Posted Notice**

Required posted notices shall indicate the following:

a) A case number;

b) Type of action; and

c) A phone number to contact the Town.

3. **Constructive Notice**

Minor defects in notice shall not impair the notice or invalidate proceedings pursuant to the notice if a *bona fide* attempt has been made to comply with applicable notice requirements.

E. **Required Hearings**

A public hearing shall be required for development review as shown in the table below.

	Board of Adjustment **BOA**	Town Board of Commissioners **TC**	
Text Amendment		■	§156.703
Rezoning		■	§156.704
Planned Development Review		■	§156.705
Preliminary Plat		■	§156.706
Conditional Use Review	■		§156.710
Special Use Review		■	§156.711
Variance	■		§156.716

F. Decisions

Unless specifically provided elsewhere, all decisions on land use changes, including rezonings, shall require an affirmative vote. Tie votes shall be considered denials of any requested change.

G. Notice of Decision

Within 14 days after a decision is made, a copy of the decision shall be sent to the applicant and filed with the Planning Director, where it shall be available for public inspection during regular office hours.

H. Withdrawal of Application

1. An applicant may withdraw an application at any time, by filing a statement of withdrawal with the Planning Director.
2. The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate's lawful personal representative.
3. If a valid zoning protest petition shall have been filed, the application may be withdrawn only if the statement of withdrawal is filed no later than five days prior to the date of the Town Board of Commissioners hearing date upon which the matter is to be returned for action by the Town Board of Commissioners. Thereafter, the application may be withdrawn only by leave of the Town Board of Commissioners, by majority vote.
4. The Planning Director may withdraw applications due to failure of the applicant to submit required information within 90 days of the initial request.
5. An applicant may postpone a scheduled public hearing once per application for up to 90 days after the date the first public hearing was scheduled to occur, after which the Planning Director may withdraw the application.

156.703 TEXT AMENDMENT

A. **Applicability**

1. Amendments to the text of this chapter shall be made in accordance with the provisions of this section.
2. The Town Board of Commissioners shall consider amendments to the text of this chapter, as may be required from time to time.

B. **Initiation of Amendment**

A request to amend the text of this chapter may be initiated by the Town Board of Commissioners, Board of Adjustment, Planning Board, Planning Director, or the general public.

C. **Application Requirements**

Applications for a text amendment shall be submitted in accordance with §156.702C, Application Requirements.

D. **Notice and Public Hearings**

The Town shall hold all required public hearings and give notice in accordance with §156.702D,Notice and Public Hearings.

E. **Action by Planning Director**

1. The Planning Director shall draft the appropriate amendment and prepare a staff report that reviews the proposed text amendment request.
2. Following completion of technical review by staff, the Planning Director shall forward the completed request and any related materials to the Planning Board for a recommendation.

F. **Action by Planning Board**

1. The Planning Board shall make a recommendation on the application to the Town Board of Commissioners. If the Planning Board fails to make a recommendation, the Town Board of Commissioners may process the request without a recommendation.
2. Following Planning Board review, the Planning Director shall forward the completed request and any related materials, including the Planning Board recommendation (if applicable), to the Town Board of Commissioners for final action.

G. **Action by Town Board of Commissioners**

1. Before taking action on a text amendment, the Town Board of Commissioners shall consider the recommendations of the Planning Board and Planning Director.
2. The Town Board of Commissioners may approve the amendment, deny the amendment, or send the amendment back to the Planning Board for additional consideration.

H. **Approval Criteria**

1. In evaluating any proposed amendment of the text of this chapter, the Planning Board and the Town Board of Commissioners shall consider the following:
   a. The extent to which the proposed text amendment is consistent with the remainder of the chapter, including, specifically, any purpose and intent statements;

b. The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time;

c. Whether or not the proposed text amendment corrects an error in the chapter; and

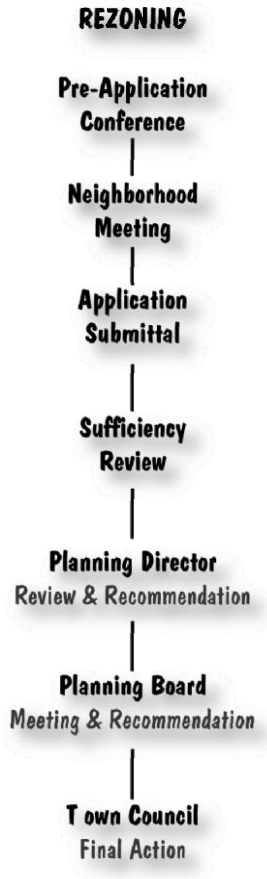
d. Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law.

2. In deciding whether to adopt a proposed text amendment to this chapter, the central issue before the Town Board of Commissioners is whether the proposed amendment advances the public health, safety or welfare and is consistent with the adopted plans and policies of the Town and the specific intent of this chapter.

156.704 REZONING

A. Applicability

1. Amendments to the Zoning Map shall be made in accordance with the provisions of this section.
2. The Town Board of Commissioners shall consider amendments to the Zoning Map, as may be required from time to time.
3. Rezonings should correspond with the boundary lines of existing platted lots or parcels. Where the boundaries of a rezoning request stop short of an exterior property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this chapter.
4. All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.



B. Initiation of Amendment

1. A request for a rezoning may be initiated by the Town Board of Commissioners, the Planning Board, or the Planning Director.
2. An owner of land within the jurisdiction of the Town (or a duly authorized agent or representative) may petition the Town Board of Commissioners for a rezoning.

C. Pre-Application Conference

All applicants petitioning for a rezoning shall schedule a pre-application conference with the Planning Director in accordance with §156.702A.

D. Neighborhood Meeting

All applicants petitioning for a rezoning shall hold a neighborhood meeting in accordance with §156.702B.

E. Application Requirements

All applications for a rezoning shall be submitted in accordance with §156.702C, Application Requirements.

F. Notice and Public Hearings

The Town shall hold all required public hearings and give notice in accordance with §156.702D, Notice and Public Hearings.

G. Action by Planning Director

1. The Planning Director shall prepare a staff report that reviews the rezoning request in light of the adopted plans and policies of the Town and the general requirements of this chapter.
2. Following completion of technical review by staff, the Planning Director shall forward the completed request and any related materials to the Planning Board.

H. Action by Planning Board

1. The Planning Board shall make a recommendation on the application to the Town Board of Commissioners. The Planning Board's recommendation shall include a written statement to the Town Board of Commissioners describing whether its recommendation is consistent with the adopted plans and policies of the Town. If the Planning Board fails to make a recommendation, the Town Board of Commissioners may process the request without a recommendation.
2. Following Planning Board review, the Planning Director shall forward the completed rezoning request and any related materials, including the Planning Board recommendation (if applicable), to the Town Board of Commissioners for final action.

I. Action by Town Board of Commissioners

1. Before taking action on a rezoning, the Town Board of Commissioners shall consider the recommendations of the Planning Board and Planning Director.
2. The Town Board of Commissioners may approve the rezoning, deny the rezoning, or send the rezoning back to the Planning Director for additional consideration.
3. Concurrently with adopting, denying, or remanding any rezoning, the Town Board of Commissioners shall adopt a statement describing whether its action is consistent with the adopted plans and polices of the Town and explaining why the Town Board of Commissioners considers the action taken to be reasonable and in the public interest.

J. Approval Criteria

No rezoning may be approved by the Town Board of Commissioners unless all of the following criteria are satisfied:

1. Consistency with the adopted plans and policies of the Town;
2. Suitability of the subject property for uses permitted by the current versus the proposed district;
3. Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town;
4. The capacity of adequate public facilities and services including schools, roads, recreation facilities wastewater treatment and water supply facilities and stormwater drainage facilities for the proposed use.
5. It has been determined that the legal purposes for which zoning exists are not contravened;
6. It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and
7. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

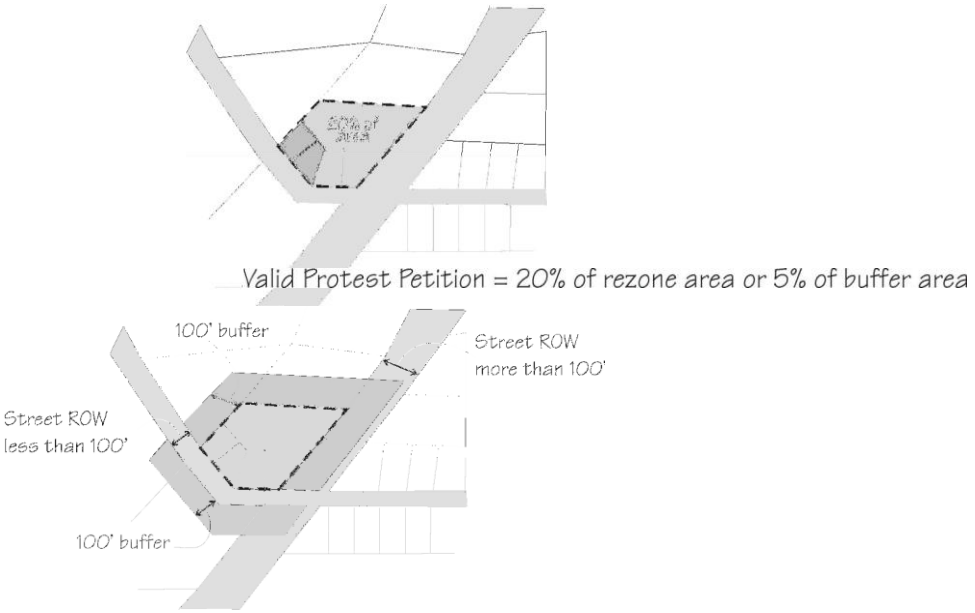
K. Protest to Zoning Change

1. If a petition opposing a change in the rezoning is filed in accordance with the provisions of this section, then the proposed rezoning may be adopted only by a favorable vote of at least three-fourths of the Town Board of Commissioners.
2. To qualify as a protest under this section, the petition must:
   a. Be signed by the owners of either:
      i. Twenty percent or more of the area included in the proposed change; or
      ii. Five percent or more of the area of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned.

iii. Street right-of-way shall not be considered in computing the 100-foot buffer area, except where the street right-of-way is wider than 100 feet. When less than an entire parcel of land is subject to the proposed rezoning, the 100-foot buffer shall be measured from the property line of that parcel. For the purposes of this section, the 'owners' are those listed on the county tax listing.

b. Be a written petition actually bearing the signatures and addresses of the requisite number of property owners and stating that the signers do protest the proposed change.

c. Be received by the Town Clerk at least ten days before the date established for a public hearing on the rezoning to allow the Town Clerk's determination of the sufficiency and accuracy of the petition.



L. Modification of Application

An applicant in a zoning matter may reduce the geographic scope and or propose a district of lower density or intensity from that requested in the application by filing a statement of modification with the Planning Director.

M. Time Lapse Between Similar Applications

1. In the event of a withdrawal of an application during Town Board of Commissioners review on the merits, no application may be filed requesting the rezoning of any parcel contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application. Where the application is withdrawn prior to the required public hearing, no expiration period shall be imposed on a new application.

2. When the Town Board of Commissioners has voted on a zoning application and the proposed rezoning has either been denied or has failed to be adopted by the vote required in the event of a valid protest petition, then the application shall be deemed to have expired.

3. No subsequent application requesting a zoning change for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.

4. No subsequent application requesting the same zoning district for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.

5. The Town Board of Commissioners, by a three-fourths majority vote, may waive the time-lapse requirements of this section if the Town Board of Commissioners deems it to be in the public interest to do so.

156.705 PLANNED DEVELOPMENT REVIEW

A. Applicability

1. Planned development review shall occur in accordance with the provisions of this section.
2. The Town Board of Commissioners shall consider planned development rezonings, as may be required from time to time.
3. All requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.

B. Initiation of Amendment

An owner of land within the jurisdiction of the Town (or a duly authorized agent or representative) may petition the Town Board of Commissioners for planned development rezoning.

C. Pre-Application Conference

All applicants petitioning for planned development rezoning shall schedule a pre-application conference with the Planning Director in accordance with §156.702A.

D. Neighborhood Meeting

All applicants petitioning for planned development rezoning shall hold a neighborhood meeting in accordance with §156.702B.

E. Application Requirements

1. Concurrent with a request for planned development rezoning, an applicant shall submit a master plan to govern the development and maintenance of the land within the planned development. The master plan shall be prepared by a professionally certified landscape architect, engineer or architect.
2. All applications for planned development rezoning shall be submitted in accordance with §156.702C, Application Requirements.
3. A master plan which meets the requirements for submittal of a preliminary plat may be approved as the master plan for the development and the preliminary plat concurrently.
4. A traffic impact analysis may be required if the proposed planned development meets the thresholds established in §156.708,Traffic Impact Analysis.

F. Notice and Public Hearings

The Town shall hold all required public hearings and give notice in accordance with §156.702D, Notice and Public Hearings.

G. Action by Planning Director

1. Upon submission of a completed application, the Planning Director shall schedule the master plan for review by the Technical Review Committee. The Technical Review Committee shall review the master plan for consistency with the requirements of this chapter.

2. Upon completion of the technical review, the Planning Director may meet with the applicant to discuss any changes in development design.

3. The Planning Director shall prepare a staff report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the Town, and the general requirements of this chapter. The report, master plan and any related application materials shall be forwarded to the Planning Board.

H. Action by Planning Board

1. The Planning Board shall make a recommendation on the application to the Town Board of Commissioners. The Planning Board's recommendation shall include a written statement to the Town Board of Commissioners describing whether its recommendation is consistent with the adopted plans and policies of the Town. If the Planning Board fails to make a recommendation, the Town Board of Commissioners may process the request without a recommendation.

2. Following Planning Board review, the Planning Director shall forward the completed planned development request and any related materials, including the Planning Board recommendation (if applicable), to the Town Board of Commissioners for final action.

I. Action by Town Board of Commissioners

1. Before taking action on a planned development rezoning, the Town Board of Commissioners shall consider the recommendations of the Planning Board and Planning Director.

2. The Town Board of Commissioners may approve the rezoning, deny the rezoning, or send the rezoning back to the Planning Director for additional consideration.

3. Concurrently with adopting, denying, or remanding any rezoning, the Town Board of Commissioners shall adopt a statement describing whether its action is consistent with the adopted plans and polices of the Town and explaining why the Town Board of Commissioners considers the action taken to be reasonable and in the public interest.

4. A master plan which meets the requirements for submittal of a preliminary plat may be approved as the master plan for the development and the preliminary plat concurrently.

J. Rezoning Approval Criteria

No rezoning may be approved by the Town Board of Commissioners unless all of the following criteria are satisfied:

1. Consistency with the adopted plans and policies of the Town;

2. Suitability of the subject property for uses permitted by the current versus the proposed district;

3. Whether the proposed change tends to improve the balance of uses, or meets a specific demand in the Town;

4. The capacity of adequate public facilities and services including schools, roads, recreation facilities wastewater treatment and water supply facilities and stormwater drainage facilities for the proposed use.

5. It has been determined that the legal purposes for which zoning exists are not contravened;

6. It has been determined that there will be no adverse effect upon adjoining property owners unless such effect can be justified by the overwhelming public good or welfare; and

7. It has been determined that no one property owner or small group of property owners will benefit materially from the change to the detriment of the general public.

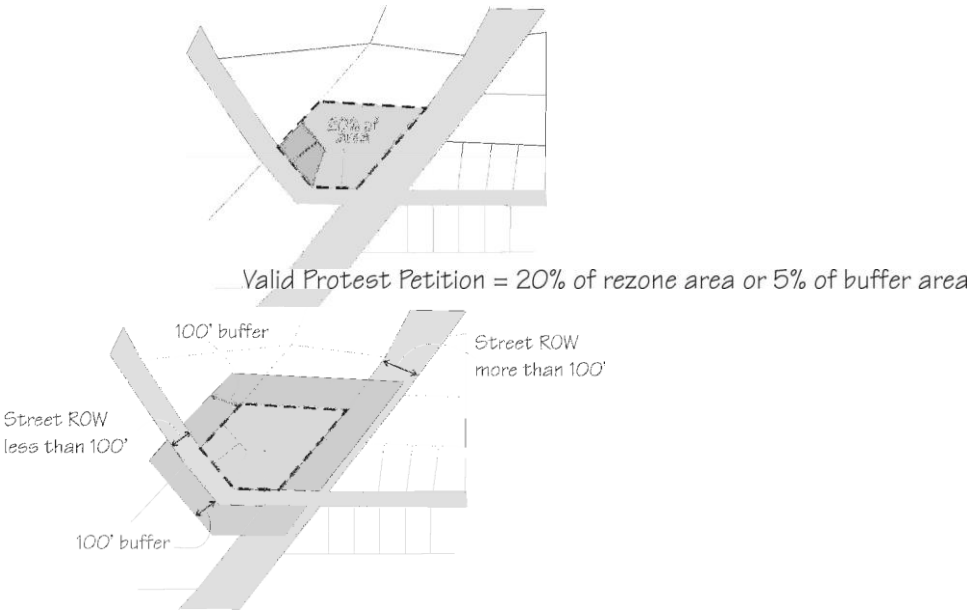
K. Master Plan Approval Criteria

The master plan review shall include and the applicant shall be responsible for successfully addressing the following:

1. Compliance with §156.203K, Planned Development Districts Development Standards, and all other applicable requirements of this chapter;
2. Consistency with the Benson General Design Guidelines;
3. Conformance of the proposal with the stated purpose of the requested planned development district;
4. Compatibility of the proposed development with the adjacent community;
5. The quality of design intended for each component of the project and the ability of the overall development plan to ensure a unified, cohesive environment at full build-out;
6. Compatible relationships between each component of the overall project;
7. Self-sufficiency of each phase of the overall project;
8. Documentation that the proposed infrastructure improvements accommodate the additional impacts caused by the development, or documentation to assure that the development, as proposed, will not overtax the existing public infrastructure systems;
9. The fiscal impact of the proposal and the proposed financing of required improvements;
10. The success of the proposal in providing adequate pedestrian and bicycle links within the development and with the adjacent community; and
11. The effectiveness with which the proposal protects and preserves the ecologically sensitive areas within the development.

L. Protest to Zoning Change

1. If a petition opposing a change in the rezoning is filed in accordance with the provisions of this section, then the proposed rezoning may be adopted only by a favorable vote of at least three-fourths of the Town Board of Commissioners.
2. To qualify as a protest under this section, the petition must:
   a. Be signed by the owners of either:
      i. Twenty percent or more of the area included in the proposed change; or
      ii. Five percent or more of the area of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned.
      iii. Street right-of-way shall not be considered in computing the 100-foot buffer area, except where the street right-of-way is wider than 100 feet. When less than an entire parcel of land is subject to the proposed rezoning, the 100-foot buffer shall be measured from the property line of that parcel. For the purposes of this section, the 'owners' are those listed on the county tax listing.
   b. Be a written petition actually bearing the signatures and addresses of the requisite number of property owners and stating that the signers do protest the proposed change.
   c. Be received by the Town Clerk at least ten days before the date established for a public hearing on the rezoning to allow the Town Clerk’s determination of the sufficiency and accuracy of the petition.



M. Action After Approval

1. Upon approval of a planned development rezoning by the Town Board of Commissioners, and on recordation of the approved the master plan, the district is deemed established. All documents (including the approved master plan) shall be an integral part of the approved proposal.
2. The approved planned development and associated master plan shall run with the land and shall be binding on the original applicant as well as any successors, assigns and heirs. The approved master plan shall be recorded in the Johnston County Register of Deeds office and the Zoning Map amended.
3. Approval of a planned development rezoning and associated master plan does not constitute site plan approval or subdivision approval (if the property is to be further subdivided), except where the master plan meets the requirements for and is approved as a preliminary plat.
4. Property to be further subdivided shall obtain approval in accordance with §156.706, Subdivision Review. Where a preliminary plat has been approved, the applicant may move forward to provide construction plans and a final plat.
5. Property not to be further subdivided shall obtain site plan approval as set forth in §156.707, Site Plan Review.
6. Conditional uses not shown on the approved master plan require approval in accordance with §156.710, Conditional Use Review.
7. Special uses not shown on the approved master plan require approval in accordance §156.711, Special Use Review.

N. Time Lapse Between Similar Applications

1. In the event of a withdrawal of an application prior to action by the Town Board of Commissioners, no application may be filed requesting the same planned development contained in the withdrawn application prior to the expiration of a minimum period of six months from the withdrawal of the application.

2. When the Town Board of Commissioners has voted on a planned development and the proposed rezoning has either been denied or has failed to be adopted by the vote required in the event of a valid protest petition, then the application shall be deemed to have expired.

3. No subsequent application requesting a planned development for any parcel contained in an application which has expired may be made prior to the expiration of a minimum period of six months from the date of expiration.

4. No subsequent application requesting the same zoning category for any parcel contained in an application which has expired may be filed prior to the expiration of a minimum period of one year from the expiration.

5. The Town Board of Commissioners, by a three-fourths majority vote, may waive the time-lapse requirements of this section if the Town Board of Commissioners deems it to be in the public interest to do so.

O. Approved Master Plan Modifications

1. Amendments to an approved master plan t, if minor in scope, may be approved administratively by the Planning Director. Minor changes shall include up to ten percent modifications to the original mixture of uses (so long as the minimum and maximum stated are maintained), minor adjustments to phasing (as long as the quantity of phases remains), and the realignment of internal roadways. Minor changes to the sign, lighting, and landscape requirements may also be approved administratively by the Planning Director.

2. Major modifications shall require resubmittal to the Town Board of Commissioners. These shall include the addition of land modifications to the originally approved mixture of uses in excess of ten percent, a change in the number of phases within the development, and the addition or deletion of main vehicular entrances serving the development or their relocation. Major modifications shall also include any proposed revisions that are deemed by the Planning Director to be inconsistent with the adopted plans and policies of the Town.

156.706 SUBDIVISION REVIEW

A. **Applicability**
Subdivision approval shall be required before the division of land (for any purpose) into two or more parcels, except as expressly exempted below.

B. **Actions Exempt from Subdivision Requirements**
The following shall not be considered "subdivision" subject to review under this section:

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resulting lots are equal to or exceed the standards of this chapter;
2. The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
3. The public acquisition by purchase of strips of land for water or sewer infrastructure or the widening or opening of streets;
4. The division of a site in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this chapter.

C. **No Subdivision Without Plat Approval**

1. No person may subdivide land except in accordance with all of the provisions of this chapter. In particular, no subdivision may occur unless and until a final plat of the subdivision has been approved in accordance with the provisions of this section and recorded in the Johnston County Registry.
2. The Johnston County Register of Deeds shall not record a plat of any subdivision within the Town's planning jurisdiction unless the plat has been approved in accordance with the provisions of this chapter.
3. Not all divisions of land constitute subdivisions that are subject to regulation under this chapter. However, to ensure that such divisions are in fact exempt from the requirements of this chapter, all plats creating a division of land shall be presented to the Planning Director before recordation in the Johnston County Registry and the Planning Director shall indicate on the face of the plat that the division is exempt from the provisions of this chapter if that is the case.

4. No street shall be maintained or accepted by the Town, or shall any street lights, water, or sewer be extended to or connected with any subdivision of land, or shall any permit be issued by any administrative agent or department of the Town for the construction of any building or other improvements requiring permit, upon any land for which a plat is to be approved, unless and until the requirements set forth in this chapter have been complied with.

D. **Delegation of Authority**

The Town Board of Commissioners delegates review and approval authority for all minor plats and final plats to the Planning Director, with review by the Technical Review Committee.

E. **Unlawful to Record Plat Without Final or Minor Plat Approval**

It shall be unlawful to offer and cause to be recorded any final plat within the Town limits of Benson with the Johnston County Register of Deeds unless the plat bears the endorsement and approval of the Planning Director or Town Clerk.

F. **Definitions**

1. **Minor Subdivision**

   a. A minor subdivision is a subdivision that does not involve any of the following:

      i. Creation of a total of more than five lots;

      ii. Creation of any new public streets;

      iii. Extension of any water or sewer lines; or

      iv. Installation of drainage improvements through one or more lots to serve one or more other lots.

      v. A traffic impact analysis as established in §156.708,Traffic Impact Analysis.

   b. Minor subdivisions requires minor plat review and final plat review.

2. **Major Subdivision**

   a. All other divisions of land not exempted in paragraph B above or listed in paragraph F.1 above shall be considered major subdivisions.

   b. Major subdivisions require preliminary plat approval and final plat approval.

G. **Pre-Application Conference and Sketch Plan**

1. All applicants seeking subdivision approval shall schedule a pre-application conference with the Planning Director, in accordance with §156.702A.

2. At the time of the pre-application conference, applicants shall submit a sketch plan for review by the Planning Director. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions (see Planning Department for specific submittal requirements).

3. The Planning Director shall make a determination as to which approval process authorized by this section can be used. The Planning Director may require the applicant to submit whatever supplemental information is necessary to make this determination.

4. When a subdivision is to be developed in stages, a master plan shall be submitted for the entire development and a preliminary plat shall be submitted for each individual stage. A final plat is submitted for individual stages as each stage is developed. Each new stage shall be developed adjacent to an earlier stage.

H. Minor Plat Review

1. Applicability

a. The procedure for approval of a minor subdivision plat is intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. The difference between the minor and major subdivision processes is that minor subdivisions do not require preliminary plat review.

b. There shall be only one minor subdivision approved on any original tax parcel in any three-year period. This division shall not apply to minor subdivisions for which the following conditions are met:

i. The owner and grantee certify that the grantee of each lot is the child or child and spouse, or grandchild and spouse of the owner;

ii. The owner and grantee certify that no consideration shall be paid for any of the lots;

iii. The owner and grantee certify that the purpose of the minor subdivision is not to circumvent the provisions of this chapter, and that none of the lots shall be conveyed to third parties for a period of not less than three years, and that the record plat shall indicate same.

iv. Failure of any person to comply with the provisions of paragraphs i, ii and iii above shall be in violation of this chapter, and all of the remedies available in G.S. § 160A-375 shall apply.

2. Application Requirements

All applications for minor plat review shall be submitted in accordance with §156.702C, Application Requirements.

3. Action by Planning Director

a. Upon submission of a completed application, the Planning Director shall schedule the minor subdivision plat for review by the Technical Review Committee. The Technical Review Committee shall review the plat for consistency with the requirements of this chapter. The Planning Director shall, after review by the Technical Review Committee, determine whether the plat conforms to the standards of a minor subdivision.

b. If the minor subdivision plat is determined not to be in conformance with the requirements for a minor subdivision, the applicant may proceed with preliminary plat approval.

4. Action Following Approval

Upon minor preliminary plat approval, the applicant may begin preliminary site work. All site work shall be performed in compliance with the requirements of this chapter, and other applicable regulations of the Town, Johnston County, and the state. The final plat may be recorded in the Johnston County Record of Deeds.

5. Continuing Validity of Minor Plats

Within 24 months of the date of approval of the minor subdivision plat, the applicant shall submit application for final plat review otherwise the minor subdivision plat shall be null and void.

6. Minor Plat Approval Criteria

Minor subdivision plats shall be approved only when the Planning Director, after Technical Review Committee review, finds that all of the following conditions exist:

a. Consistency with the adopted plans and of polices of the Town;

b. The plat complies with the standards of Article 5, Subdivision Standards, and any other applicable requirements of this chapter;

c. The plat indicates that all subject lots will have frontage on existing approved streets;

d. New or residual parcels conform to the requirements of this chapter and other applicable regulations;

e. No new streets are required or are likely to be required for access to interior property;

f. No drainage or utility easements will be required to serve interior property;

g. No extension of public sewerage or water lines will be required;

h. The proposed subdivision will not adversely effect permissible development of the remainder of the parcel or of adjoining property; and

i. No waivers from Article 5,, Subdivision Standards, have been requested.

I. Preliminary Plat Approval (Major Subdivisions Only)

1. **Applicability**

A preliminary plat shall be required for all subdivisions that do not meet the definition of a minor subdivision as set forth in paragraph F above.

2. **Application Requirements**

a. All applications for preliminary plat review shall be submitted in accordance with §156.702C, Application Requirements.

b. A traffic impact analysis may be required if the proposed subdivision meets the thresholds established in §156.708,Traffic Impact Analysis.

c. An application for a waiver from any of the provisions of Article 5, Subdivision Standards, shall be submitted in writing by the applicant at the time the preliminary plat is filed. The application shall state the grounds for the waiver and all the facts relied upon by the applicant.

3. **Notice and Public Hearings**

The Town shall hold all required public hearings and give notice in accordance with §156.702D, Notice and Public Hearings.

4. **Neighborhood Meeting**

All applicants seeking major subdivision approval (open space subdivision only) shall hold a neighborhood meeting in accordance with §156.702B.

5. **Action by Planning Director**

a. Upon submission of a completed application, the Planning Director shall schedule the preliminary plat for review by the Technical Review Committee. The Technical Review Committee shall review the preliminary plat for consistency with the requirements of this chapter.

b. The following agencies shall be given an opportunity to review the proposed plat as needed:

i. County Superintendent of Schools.

ii. County Health Department.

iii. State Department of Transportation District Engineer.

iv. State Department of Natural Resources and Community Development.

v. Other agencies and officials as the Planning Director or Planning Board may deem necessary or desirable.

c. The Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, and in light of the adopted plans and polices of the Town, and the general requirements of this chapter. The report, preliminary plat and any related application materials shall be forwarded to the Planning Board.

6. **Action by Planning Board**

The Planning Board shall review and make a recommendation to the Town Board of Commissioners on the preliminary plat within 60 days of the required submittal date.

7. **Waivers**

a. Where the Town Board of Commissioners finds that extraordinary hardships or practical difficulties may result from strict compliance with Article 5, Subdivision Standards, and the intent of this chapter may be served to a greater extent by an alternative proposal, a wavier may be granted. A waiver shall not have the effect of nullifying the intent and purpose of this chapter, and the Planning Board shall not grant a waiver unless the Planning Board makes findings based upon the evidence presented in each case that:

i. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located;

ii. The conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought and are not generally applicable to other property;

iii. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of this chapter are enforced; and

iv. The purpose of the wavier is not based primarily upon financial consideration.

b. In granting a waiver, the Town Board of Commissioners may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of this chapter.

8. **Action by Town Board of Commissioners**

a. The preliminary plat shall be referred to the Town Board of Commissioners for final action after action is taken by the Planning Board. The preliminary plat shall be considered by the Town Board of Commissioners in accordance with its rules of procedure and the General Statutes of North Carolina.

b. An evidentiary hearing shall be held after due notice has been given to the applicant and the general public. Sworn parties shall be given the opportunity to present evidence, cross-examine other parties, inspect any documentation, and offer evidence or testimony in rebuttal.

c. Findings of fact shall be made by the Town Board of Commissioners that are based on sworn evidence or testimony presented at the meeting. Such evidence or testimony must be relevant, material, and competent.

d. No final action shall be deemed to have been given by the Town Board of Commissioners on the preliminary plat until the Town Board of Commissioners's written decision on the preliminary plat is delivered to the applicant by the Town.

e. The Town Board of Commissioners may approve the preliminary plat, deny the preliminary plat, or send the preliminary plat back to the Planning Board for additional consideration.

f. If the Town Board of Commissioners should disapprove the preliminary plat, the reasons for such action shall be given to the applicant.

9. **Action Following Approval**

a. Upon preliminary plat approval, the applicant may initiate proceedings to begin site work and installation of improvements. All work shall be performed in compliance with the requirements of Article 5, Subdivision Standards, and other applicable regulations of the Town, Johnston County, and the state.

b. Approval of a preliminary plat does not constitute approval of the final plat. Application for approval of the final (record) plat will be considered only after the requirements for final plat approval as specified in paragraph J below have been fulfilled and after all other specified conditions have been met.

10. **Findings of Fact Required**

No preliminary plat may be approved by the Town Board of Commissioners unless all of the following findings are made concerning the subdivision:

a. Consistency with the adopted plans and of polices of the Town.

b. The subdivision meets all required specifications of this chapter.

c. The subdivision will not be detrimental to the use or orderly development of other properties in the surrounding area and will not violate the character of existing standards for development of properties in the surrounding area.

d. The subdivision design will provide for the distribution of traffic in a manner that will avoid or mitigate congestion within the immediate area, will provide for the unified and orderly use of or extension of public infrastructure, and will not materially endanger the environment, public health, safety, or the general welfare.

11. **Modification of Construction Standards**

Notwithstanding the approval of a preliminary plat, the Town shall have the authority to apply any revised construction standards to future plats at the time of application for final plat approval. The Public Works Director shall determine the maximum extent to which such new standards may feasibly apply.

12. **Continuing Validity of Preliminary Plats**

a. Within 24 months of the date of approval of the preliminary plat, the applicant shall submit a final plat for at least one section of the subdivision otherwise the preliminary plat shall be null and void.

b. All sections of an approved preliminary plat must be submitted for final plat approval within three years of preliminary plat approval for a preliminary plat containing up to 100 lots, and within five years for a preliminary plat containing 100 lots or more. Otherwise, the preliminary plat shall be null and void.

J. Final Plat Review (Major and Minor Subdivisions)

1. **Applicability**

   A final plat shall be required for all subdivision of land in the Town of Benson and its extraterritorial jurisdiction.

2. **Application Requirements**

   All applications for final plat review shall be submitted in accordance with §156.702C, Application Requirements.

3. **Action by Planning Director**

   a. Upon submission of a completed application, the Planning Director shall within 60 days schedule the final plat for review by the Technical Review Committee. The Technical Review Committee shall review the final plat for consistency with the with the approved minor subdivision plat or approved preliminary plat, as applicable, and the general requirements of this chapter.

   b. Upon completion of the technical review, the Planning Director may approve the final plat, deny the final plat, or send the plat back for additional consideration.

   c. If the final plat is disapproved by the Planning Director, the reasons for such disapproval shall be stated in writing, specifying the provisions of this chapter with which the final plat does not comply.

4. **Final Plat Approval Criteria**

   Final plats shall be approved when the following conditions exist:

   a. Consistency with the adopted plans and of polices of the Town.

   b. The plat substantially complies with the approved minor plat or preliminary plat, as applicable.

   c. The plat complies with the standards of Article 5, Subdivision Standards, and the other applicable requirements of this chapter;

   d. New and residual parcels will conform to the requirements of this chapter and other applicable regulations;

   e. All necessary right-of-way has been offered for reservation or dedication; and

   f. All necessary drainage easements have been provided.

5. **Endorsements on Final Plats**

   a. **Minor Plats**

      All minor subdivision final plats shall contain the following certificates:

      i. Certificate of Ownership;

      ii. Certificate of Survey and Accuracy;

      iii. Certificate of Approval by the Planning Director; and

      iv. Johnston County Plat Review Officer's Certificate.

   b. **Major Plats**

      i. All major subdivision final plats shall contain the following certificates:

         a) Certificate of Ownership and Dedication;

         b) Certificate of Survey and Accuracy;

c) Certificate of Approval of Water Supply and Sewage and Disposal Systems (County);

d) Certificate of Approval of the Design and Installation of Streets, Utilities, and other Required Improvements;

e) Certificate of Approval by the Town Manager, as applicable; and

f) Johnston County Plat Review Officer's Certificate.

ii. All final plats located outside the corporate limits of the Town, but within the planning jurisdiction, shall contain the following certificates:

a) NCDOT Engineer Certificate; and

b) Certificate of Approval of Non-Municipal Water Supply & Sewage Disposal Systems.

iii. When required by the federal government, all final plats shall contain a Certificate for a Federally Funded Project.

6. **Action After Approval**

a. The applicant shall file the approved final plat with the County Register of Deeds for recording within 60 days after the date of approval. The Planning Director, upon receipt of a written request, may extend this date an additional 30 days, if the request is received prior to the original expiration date and the final plat meets all applicable provisions of this chapter.

b. The approval of a final plat shall not be deemed to constitute or affect the acceptance or affect the acceptance by the Town of the dedication of any street or other ground, public utility line, or other public facility shown on the plat. However, the Town may, by resolution, accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its subdivision regulation jurisdiction. Acceptance or dedication of lands or facilities located within the subdivision regulation jurisdiction but outside the corporate limits of the Town shall not place on the Town any duty to open, operate, repair, or maintain any street, utility line, or other land or facility, and the Town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

K. **Dedication and Improvements**

1. In the development of any subdivision, the applicant shall be required to dedicate any additional right-of-way necessary to the width required by the Town for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to Town standards, and to install sidewalks in accordance with the policies and requirements of Article 5, Subdivisions Standards.

2. The applicant shall bear the costs of the installation of all on-site improvements as required by this chapter, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off-site improvements pursuant to this section may, with the approval as a condition of subdivision approval, and upon a determination by the Planning Director that such improvements are not necessary or desirable at the time, but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of any such payment shall be an amount estimated by the Town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements considered,

and will preclude any further assessment of the property in the event that the Town elects to install such improvements at a later date.

3. For all residential developments approved after July 3, 1995, recreation and open space dedication, or payment of fee-in-lieu thereof in accordance with §156.203H shall be required.

L. **Guarantees of Improvements**

Guarantee of improvements shall be made in accordance with §156.607.

M. **Inspections of Required Improvements**

Inspections of improvements shall be made in accordance with §156.607D.

N. **Approved Plat Modifications**

1. **Minor Modifications**

a. **Preliminary Plat**

Minor revisions to an approved preliminary plat may be approved by the Planning Director if the revisions are within the scope and intent of the original approval. Such revisions may include but not be limited to.

i. Reducing the lot count.

ii. Modifying phase lines.

iii. Minor adjustments to lot or street locations.

b. **Final Plat**

A final plat may be rerecorded to:

i. Revise or correct dimensions;

ii. Change street names;

iii. Add, delete or modify easements or private covenants;

iv. Change subdivision name; or

v. Other minor modifications that are within the scope and intent of the original approval subject to approval of the Planning Director.

c. **Procedures**

i. **Preliminary Plat**

a) When minor revisions are proposed to an approved preliminary plat, the applicant shall submit a written request to the Planning Director with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.

b) The Planning Director shall notify the applicant whether the proposed revision qualifies for minor modification and the basis for the determination. If approved, the final plat may be submitted in accordance with the revisions.

c) The Planning Director shall distribute copies of the revised plat to the appropriate agencies.

ii. **Final Plat**

a) When minor revisions are proposed to an approved final plat, the applicant shall submit a written request to the Planning Director with a copy sent to the Technical Review Committee delineating the revisions and requesting authorization for administrative revision.

b) If the plat has been recorded, the applicant shall submit the recorded plat with a statement describing the revisions made and title block for the Planning Director signature, and date of signing.

c) If the ownership of the subdivision has changed or if any lots have been sold since the previous recording, an owner's and notary's certificates shall be provided on the plat for each current owner.

d) In addition to the letter and the revised final plat, the applicant shall submit the required fees to the Planning Director for processing and rerecording the revised plat.

e) The Planning Director shall distribute copies of the recorded final plat to the appropriate agencies.

2. **Major Modifications**

Proposed modifications to an approved preliminary plat or final plat not considered minor revisions shall be submitted and processed as new applications in accordance with the provisions of this section.

O. **Resubdivision and Recombination Procedures**

For any replatting or resubdivision of land, the same procedures, rules, and regulations shall apply as prescribed for an original subdivision. Lot size and configuration may, however, be varied on an approved plat after recording, provided that:

1. No lot or parcel of land shall be created or sold that does not conform to the minimum standards of the applicable zoning district;
2. Easements or rights-of-way shall not be changed;
3. Street alignment and block sizes shall not be changed;
4. The character of the area shall be maintained;
5. A recombination of existing parcels may be approved by the Planning Director, subject to the following:
   a. The resultant lots are equal to the standards of this chapter or more closely conform to the minimum lot size standards in this chapter;
   b. The total number of lots is not increased;
   c. All the metes and bounds boundaries of the affected lots are shown;
   d. All lot boundaries changed or eliminated by requested combination are indicated by dashed lines;
   e. The title block contains the word "recombination";
   f. Structures on the affected lots are shown and the requested recombination does not violate setback requirements of the Article 2 of this chapter;
   g. The recombination plat is signed by all property owners if either the number of lots is reduced or different owners for different lots are involved in the recombination;
   h. The recombination plat is signed and sealed by a registered surveyor;
   i. The recombination plat is certified by the Planning Director; and
   j. The recombination plat conforms to all laws and ordinances for the recordation of maps.

P. Appeal

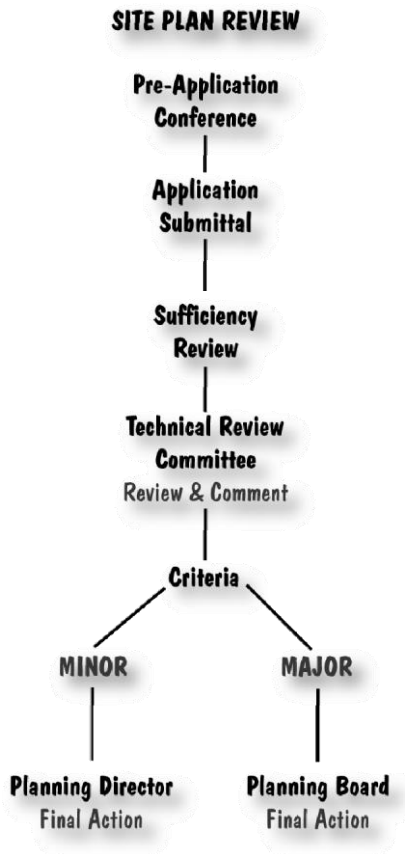
Final action on a final plat may be appealed to the Board of Adjustment in accordance with §156.717, Administrative Appeals.

156.707 SITE PLAN REVIEW

A. **Applicability**

1. All proposed development, except for single-family detached, zero lot line, and alley-loaded dwelling units on individual lots, shall be subject to the site plan review process.

2. Temporary uses may require site plan review (see §156.712, Temporary Use Permit).



B. **Site Plan Types**

There are two types of site plans with differing levels of approval required for each. The criteria for establishing which type of site plan and the corresponding level of approval for each are indicated below.

1. **Minor Site Plans**

a. **Applicability**

i. The following shall be reviewed as a minor site plan:

a) Parking lot expansions where there is no increase in excess of five percent of floor area of the principal structure;

b) Accessory uses in commercial districts involving structures less than 500 square feet; and

c) Amenity facilities, park and open area uses in approved subdivisions.

ii. Projects listed below shall also be reviewed as a minor site plan provided they do not require a traffic impact analysis in accordance with §156.708,Traffic Impact Analysis; do not require modification of the standards established in this chapter other than those which the Planning Director may modify administratively; and do not involve the issuance of a conditional use permit or a special use permit.

a) Developments of up to 2,500 square feet of building for nonresidential uses; and

b) Expansion of an existing conforming structure or expansion of a previously approved site plan by five percent in floor area or number of units.

b. **Approval Authority**

The Planning Director shall be responsible for approving a minor site plan.

2. **Major Site Plans**

a. **Applicability**

Any development requiring site plan review not listed in paragraph 1 above as a minor site plan shall be considered a major site plan.

b. **Approval Authority**

The Planning Board shall be responsible for approving all major site plans, including site plans associated with an approved planned development master plan (see paragraph E below), conditional use permits (see §156.710); and special use permits (see §156.711).

C. Pre-Application Conference

1. All applicants seeking site plan approval shall schedule a pre-application conference with the Planning Director, in accordance with §156.702A.
2. The Planning Director shall make a determination as to which approval process authorized by this section can be used. The Planning Director may require the applicant to submit whatever supplemental information is necessary to make this determination.

D. Minor Site Plan Review

1. **Application Requirements**

   An application for minor site plan approval shall be submitted accordance with §156.702C, Application Requirements.

2. **Action by Planning Director**

   a. Upon submission of a completed application, the Planning Director shall schedule the minor site plan for review by the Technical Review Committee. The Technical Review Committee shall review the minor site plan for consistency with the requirements of this chapter.

   b. After technical review, the Planning Director shall determine whether the minor site plan conforms to the requirements of this chapter.

3. **Modifications to Approved Minor Site Plans**

   The Planning Director shall have authority to grant modifications to approved minor site plans in accordance with the provisions of this section or refer the modification to the Technical Review Committee if deemed necessary.

E. Major Site Plan Review

1. **Application Requirements**

   An application for major site plan approval shall be submitted accordance with §156.702C, Application Requirements.

2. **Neighborhood Meeting**

   All applicants seeking major site plan approval shall hold a neighborhood meeting in accordance with §156.702B.

3. **Action by Planning Director**

   a. Upon submission of a completed application, the Planning Director shall schedule the major site plan for review by the Technical Review Committee. The Technical Review Committee shall review the major site plan for consistency with the requirements of this chapter.

   b. Upon completion of the technical review, the Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, and in light of the adopted plans and policies of the Town and the general requirements of this chapter. The report, site plan and any related application materials shall be forwarded to the Planning Board.

4. **Action by Planning Board**

   a. After considering the Planning Director's comments, the Planning Board shall approve or disapprove the major site plan, or send the site plan back to the Technical Review Committee for additional consideration.

b. Major site plans requiring revisions shall be returned to the Planning Board within 90 days or the application shall be considered withdrawn. One extension period may be granted by the Planning Board.

5. **Modifications to Approved Major Site Plans**

a. **Minor Deviations**

If a proposed amendment to a major site plan represents only a minor deviation from the approved site plan, the applicant shall file a written application for such amendment with the Planning Director who shall act upon such application within ten days of its receipt. Minor deviations shall include, but are not limited to, the following:

i. A less than five percent increase, or any decrease, in the floor area or number of units, provided that the district maximums of the subject property for which an minor site plan has been submitted, is not exceeded.

ii. A less than ten percent decrease in parking spaces, open space or livability space;

iii. The minor relocation of any structure, dedicated street, easement or landscape screen in any direction from the location shown on the site plan unless deemed by the Planning Director to significantly alter the approved plan.

6. **Substantial Deviations**

If a proposed amendment to a site plan deviates substantially from the approved site plan, the approved site plan shall be amended in accordance with the procedure and standards which governed its approval. Such substantial deviations include the following:

a. A five percent or greater increase in floor area or number of units;

b. A ten percent or greater decrease in parking spaces, open space or livability space;

c. The relocation of any structure, dedicated street, easement or landscape screen in any direction from the location shown on the major site plan for the distances specified below based on the size of the development:

i. 25 feet or more for major site plans of two acres or less;

ii. 50 feet or more for major site plans of more than two acres but less than eight acres;

iii. 100 feet or more for major site plans of eight acres but less than 20 acres; and

iv. 150 feet for major site plans of 20 acres or more.

F. **Approval Criteria**

In approving a site plan, the Planning Director and Planning Board shall consider the following:

1. Consistency with the adopted plans and polices of the Town;

2. Compliance with all applicable requirements of this chapter;

3. Site design and development intensity is appropriate for and tailored to the unique natural characteristics of the site, such as significant wooded areas, specimen trees, wetlands, steep slopes, and floodplains;

4. For nonresidential and multifamily projects, the site plan displays the location of trash handling, recycling, grease bins, and other waste-related facilities employed in the normal operation of the use;

5. Adequacy and location of parking areas and pedestrian and vehicular access points;

6. Compliance with site construction specifications;

7. Adequacy of stormwater facilities, water supply, sanitary sewer service, fire protection, street signs, and street lighting as evidenced by conformance with department standards, specifications and guidelines;

8. That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses;

9. Compliance with requirements for easements or dedications;

10. Compliance with any applicable subdivision improvements; and

11. If applicable, compliance with the approved planned development master plan.

12. Building design and materials uphold and promote high quality development in the Town and are compatible with other uses in the surrounding neighborhood.

G. Period of Validity

An approved site plan shall expire two years from the date of approval unless the proposed development is pursued as set forth below:

1. A complete building permit application has been submitted and remains valid;

2. Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within two years from the date that site plan approval is granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or

3. If no building permit is required, a certificate of occupancy has been issued.

H. Building Permit/Certificate of Occupancy

1. No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the appropriate Town officials.

2. In order to secure a vested right for a site plan, the applicant must submit a site-specific development plan in accordance with §156.718.

I. Dedication and Improvements

1. In the development of any property for which a site plan is required in this section, the applicant shall be required to dedicate any additional right-of-way necessary to the width required by the Town for streets adjoining the property, to install curbs and gutters and pave all streets adjoining the property to Town standards, and to install sidewalks in accordance with the policies and requirements of Article 5, Subdivisions Standards.

2. The applicant shall bear the costs of the installation of all on-site improvements as required by this chapter, including provision for surface drainage, pavement, landscaping, and utilities. Any applicant required to install or construct off- site improvements pursuant to this section may, with the approval of the Planning Director as a condition of site plan approval, and upon a determination by the Planning Director that such improvements are not necessary or desirable at the time, but will be needed in the future, make a payment in lieu of such improvements or part thereof. The amount of any such payment shall be an amount estimated by the Town to be the actual and total installation and construction costs of such improvements. The amount paid for a given improvement shall be considered total and complete payment for the improvements considered, and will preclude any further assessment of the property in the event that the town elects to install such improvements at a later date. Full payment shall be made before any building permit or certificate of occupancy is issued for any use shown on the site plan.

3. For all residential and planned developments approved the effective date of this chapter, recreation and open space dedication, or payment of fee-in-lieu thereof in accordance with §156.203H shall be required.

J. Guarantees of Improvements

1. Prior to the approval of any site plan, the applicant shall submit a cost estimate and time schedule for installation of each phase of the site improvements.
2. The Town shall require a bond guaranteeing required on-site and off-site improvements. This bond shall be in the amount determined by the Town Manager. This bond shall be in cash, certified check, or be made by a bonding/insurance company authorized to do business in North Carolina.
3. As each phase of improvements is installed and inspected by the Town, the bond amount shall be reduced by the costs of the installed improvements.
4. In the event that the applicant wishes to occupy any building or any portion of any building prior to the completion of the required site improvements, the bond guaranteeing improvements shall be retained by the Town until the remaining required improvements are completed.

K. Inspections of Required Improvements

Inspections during of site improvements shall be made in accordance with §156.607D.

156.708 TRAFFIC IMPACT ANALYSIS

A. Applicability

1. A traffic impact analysis may be required to be submitted in conjunction with an application for a planned development, preliminary plat, major site plan, or special use permit.
2. Unless exempted in paragraph B below, a traffic impact analysis shall be required for projects, which can be anticipated to generate at least 100 vehicle trips at peak hour from the latest edition of the Institute of Transportation Engineers (ITE) *Trip Generation Manual*.

Commentary: *100 peak hour vehicle trips equates to approximately 100 single-family units or 25,000 square feet of general commercial space.*

B. Exemptions

The following projects shall not be required to submit a traffic impact analysis:

1. Developments approved prior to the effective date of this chapter that have maintained valid planned development master plans, preliminary plats, major site plans or special use permits.
2. Redevelopment of any site on which the additional traffic at peak hour represents an increase of less than 100 trips from the previous development, where the redevelopment is initiated within 12 months of the completion of demolition of the previous project.
3. Minor site plans.

C. Pre-Application Conference

1. All applicants required to submit a traffic impact analysis shall schedule a pre-application conference with the Planning Director, in accordance with §156.702A.
2. The Planning Director and the Town's consultant, if applicable, shall determine the type and scope of the study during the pre-application conference, which may also involve representatives from other agencies or departments.

D. Waiver Authorized

1. The Planning Director may waive the requirement to submit a traffic impact analysis. If the Director waives the requirement to submit a traffic impact analysis, the Director shall include the reason for the waiver in the Director's decision or recommendation on the application.
2. An applicant who obtains a waiver under this section must mitigate adverse effects of the traffic generated from a proposed development.
3. The traffic generated from a proposed development for which the requirement to submit a traffic impact was waived may not:
   a. In combination with existing traffic, exceed the desirable operating level established in paragraph H below; or
   b. Endanger the public safety.

E. Application Requirements

A traffic impact analysis prepared by a professional engineer licensed in the State of North Carolina shall be submitted in accordance with §156.702C, Application Requirements. The traffic impact analysis must conform with the requirements of this section and the Town's Engineering Design Manual. The traffic impact analysis report must describe the study methodology, the data used, and the study findings and provide recommendations based on the results.

F. Definition of Impact Area

The director shall determine the geographic area to be included in a traffic impact analysis. Identification of the points of access and key streets and intersections to be affected by development of the subject parcel shall be required. Traffic recorder and turning movement assessment locations may also have to be determined. The study area shall not extend beyond the point where the project traffic at build-out is less than ten percent of the capacity of the roadway or intersection.

G. Consultants

The Planning Director may require that an independent consultant be hired by the Town to perform the required studies, or to review all or part of a study prepared by the applicant's consultant. The Planning Director is authorized to administer the contract for any such consultant.

1. The Town shall determine the scope of services to be performed by the independent consultant and receive a cost estimate of such services.
2. The applicant shall provide an amount equal to the cost estimate to the Town, which shall deposit the amount in an escrow or other special account set up for this purpose. Any funds not used shall be returned to the applicant in a timely manner, without interest. If the estimated or actual cost increases during the review from the Town's initial cost estimate, the applicant immediately shall provide an amount equal to the increased cost to the Town, which the Town shall deposit in the escrow or special account. The final approval of any application requiring a traffic impact analysis by the Town shall be contingent upon the full payment of all consultant costs incurred for the analysis.
3. The Town may require additional funds for independent review where a decision-making body expands the scope of the required review; the applicant substantially amends the application; additional meetings involving the consultant are requested by the applicant; or the consultant's appearance is requested at public or affected agency meetings beyond those anticipated in the original scope of services.

H. Desirable Operating Levels for Certain Streets

Traffic on a residential local or collector street is operating at a desirable level if it does not exceed the following levels:

Pavement Width	Vehicles Per Day
Less than 30 feet	1,200
30 feet to less than 40 feet	1,800
40 feet or wider	4,000

Editors Note: *Check above numbers with NCDOT*

I. Action on Application

1. The Planning Director may deny an application if the results of a traffic impact analysis demonstrate that a proposed development may overburden the Town's street system.
2. The Planning Director shall deny an application if the traffic impact analysis demonstrates that:
   a. The projected traffic generated by the project, combined with existing traffic, exceeds the desirable operating level established in paragraph H above in the traffic impact analysis study area; or
   b. The project endangers the public safety.

J. Application Modification Based on Traffic Analysis

An applicant may modify an application to minimize the traffic-related effects identified in a traffic impact analysis. Modifications may include:

1. A reduction in the projected vehicle trips per day;
2. The dedication of additional right-of-way;
3. The rerouting of traffic and a proposed access and egress point;
4. Participation in the funding of a traffic signal or intersection improvement; and
5. Other modification determined to be necessary.

K. **Appeal of Planning Director's Action**

1. An applicant may appeal the Planning Director's denial to the Town Board of Commissioners.
2. The Town Board of Commissioners may approve the traffic impact analysis if the Board of Commissioners determines that the:
   a. Applicant has satisfactorily mitigated adverse traffic effects; or
   b. Additional traffic from the project has an insignificant effect on the Town's streets.

L. **Period of Validity**

A traffic impact analysis shall be valid for a specific site for no more than ten years, so long as no significant modifications to the development approved for the site are made.

156.709 ZONING PERMIT

A. **Applicability**

1. It shall be unlawful to begin moving, constructing, altering, or repairing, except ordinary repairs, of any building or other structure on a site including an accessory structure, until the Planning Department has issued a zoning permit for such work.
2. It shall be unlawful to change the type of use of land, or to change the type of use or type of occupancy of any building, or to extend any use or any lot on which there is a nonconforming use, until the Planning Department has issued a zoning permit for such intended use, including a determination that the proposed use, in all respects, conforms to the provisions of this chapter.
3. It shall be unlawful to undertake any land-disturbing activity until the Planning Department has issued a zoning permit for such work.
4. No zoning permit is required for permitted temporary uses (see §156.712).

B. **Timing of Application**

In all cases where a building permit is required, application for a zoning permit shall be made concurrently with the application for a building permit. In all other cases, application shall be made before initiating any of the activities that trigger compliance with this section.

C. **Application Requirements**

All applications for a zoning permit shall be submitted in accordance with §156.702C, Application Requirements.

D. **Action by Planning Director**

1. If the proposed application is in conformity with the provisions of this chapter, the Planning Department shall issue a zoning permit, provided that all of the following conditions shall apply:
   a. Issuance of a zoning permit shall in no case be construed as waiving any provisions of this chapter;
   b. The Planning Director shall not grant any exceptions to the actual meaning of any clause, standards, or regulation contained in this chapter to any person making application to excavate, construct, move, alter or use buildings, structures or land;
   c. The Planning Director shall issue a permit when the imposed conditions of this chapter are complied with by the applicant regardless of whether the use of the permit would violate contractual or other arrangements (including, but not by way of limitation, restrictive covenants) among private parties; and
   d. The zoning permit shall include a determination that plans, specifications and the intended use of such structure and land do, in all respects, conform to the provisions of this chapter. Prior to the issuance of a zoning permit, the Planning Director shall consult with other applicable departments, as necessary.
2. If the proposed application, is not in conformity with the provisions of this chapter, the Planning Director shall not issue the zoning permit and shall provide in writing the cause of such disapproval to the applicant.

E. **Expiration**

Once a zoning permit has been issued, all activities pursuant to such permit shall be commenced within six months. If the proposed moving, constructing, altering, repairing, or use of land, as set

forth in an application for a zoning permit, is discontinued for a period of one year or more, the zoning permit shall lapse and be of no further force and effect.

F. Appeal

Final action on a zoning permit may be appealed to the Board of Adjustment in accordance with §156.717, Administrative Appeals.

156.710 CONDITIONAL USE REVIEW

A. Applicability

1. Conditional uses within a zoning district are considered to be uses that may be appropriate in a particular zoning district, but because of their potential for incompatibility with adjacent uses require individual review by the Board of Adjustment.

2. A conditional use permit shall be required for all conditional uses as set forth in the Permitted Land Use Table (see §156.202B). A development comprised of uses regulated by separate rows on the table shall be reviewed using the most restrictive process from among the proposed uses.

   Commentary: *If a proposed development includes a child care center, library and a restaurant, including outparcels, and one of those uses is only permitted as a conditional use in the district, then the entire development requires conditional use review.*

3. Where a use requiring approval as conditional use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to conditional use review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

   Commentary: *For example, where a use in the B-3 District (requiring a conditional use permit) is an outparcel within a larger retail development, the conditional use review shall apply to the outparcel only – not the entire development. However, where a conditional use is proposed in a building that contains a variety of other uses, the entire building and its associated parcel of land shall require conditional use review.*

B. Pre-Application Conference

All applicants seeking conditional use approval shall schedule a pre-application conference with the Planning Director, in accordance with §156.702A.

C. Application Requirements

1. Concurrent with a request for a conditional use permit, an applicant shall submit a site plan for review and approval.

2. An application for a conditional use permit shall be submitted in accordance with §156.702C, Application Requirements.

3. A traffic impact analysis may be required if the proposed development meets the thresholds established in §156.708, Traffic Impact Analysis.

D. Notice and Public Hearings

The Town shall hold all required public hearings and give notice in accordance with §156.702D, Notice and Public Hearings.

E. Action by Planning Director

1. Upon submission of a completed application, the Planning Director shall schedule the site plan for review by the Technical Review Committee. The Technical Review Committee shall review the site plan for consistency with the requirements of this chapter.
2. Upon completion of the technical review for a site plan, the Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the Town, and the general requirements of this chapter. The report, site plan and any related application materials shall be forwarded to the Board of Adjustment.
3. Where a major site plan is required, approval of the conditional use permit by the Board of Adjustment shall be considered site plan approval.

F. Action by Board of Adjustment

1. After considering the Technical Review Committee's comments, the Board of Adjustment shall approve or disapprove the request, or send the request back to the Technical Review Committee for additional consideration.
2. Site plans requiring revisions shall be returned to the Technical Review Committee's within 90 days or the application shall be considered withdrawn. One extension period may be granted by Board of Adjustment.

G. Findings of Fact Required

No conditional use permit shall be approved by the Board of Adjustment, unless the following findings are made concerning the application:

1. That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved.
2. That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances, or other applicable regulations.
3. That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
4. That the application will not adversely affect the adopted plans and polices of the Town, or violate the character of existing standards for development of the adjacent properties.

H. Additional Conditions

1. In granting approval of a conditional use permit, the Board of Adjustment may impose reasonable conditions which serve to assure that the required findings are upheld. Such conditions may include, but are not limited to, right-of-way or easement dedication; recreation, open space, or buffer provision; limitation in scale, intensity, or hours of operation; and other reasonable restrictions.
2. Any additional condition approved by the Board of Adjustment shall become a part of the permit and be of equal importance in the responsibility of the applicant or subsequent assigns to adhere to its terms.

I. Modifications to Approved Conditional Use Permits

1. **Minor Deviations**

   The Planning Director is authorized to approve minor deviations to a conditional use permit, if such change is not contrary to the approving action of the Board of Adjustment, but shall not have the authority to approve substantial deviations as set forth below.

2. **Substantial Deviations**

   a. Any deviation requiring evidentiary support in addition to that presented at a public hearing on applications for the original permit shall constitute a substantial deviation. Before making a determination as to whether a proposed action is a minor deviation or a substantial deviation, the Planning Director shall review the record of the proceedings on the original application. Substantial deviations shall include the following:

      i. A change in the boundaries of the approved site;

      ii. A change from the approved use;

      iii. An increase of five percent or more in the approved floor area, unless proposed addition is 500 square feet of floor area or less, whether such addition is proposed at one time or over an extended period of time;

      iv. An increase of five percent or more in the number of approved parking spaces, unless the proposed addition is ten or fewer spaces, whether such addition is proposed at one time or over an extended period of time;

      v. Substantial change in the location of principal or accessory structures;

      vi. Structural alterations significantly affecting the basic size, form; style, ornamentation, and appearance of principal or accessory structures as shown on the approved site plan;

      vii. Substantial changes in pedestrian or vehicular access or circulation; and

      viii. Substantial change in the amount or location of landscape screens.

   b. If a proposed amendment deviates substantially from the approved conditional use permit, the approved conditional use permit shall be amended in accordance with the procedure and standards which governed its approval.

J. Effect of Decision

1. If the Board of Adjustment votes to deny an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until 12 months have elapsed from the date of denial. If the Board of Adjustment votes to approve an application, the permit shall be recorded in the County Register of Deeds office.

2. The conditional use permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs. Any decision by the Board of Adjustment, may be appealed within 30 days of the decision in accordance with G.S. § 160A-381.

K. Period of Validity

1. An approved conditional use permit shall expire 12 months from the date of approval unless the proposed development is pursued as set forth below:

   a. A complete building permit application has been submitted and remains valid;

b. Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within 12 months from the date approval was granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or

c. If no building permit is required, a certificate of occupancy has been issued.

2. Once the appropriate permit has been issued, the conditional use permit shall remain in force unless the use, construction, or activity ceases for a period of 12 consecutive months. In such instance the conditional use permit shall become void. If a conditional use is determined by the Planning Director to be void, such determination shall be transmitted in writing to the applicant.

L. Building Permit/Certificate of Occupancy

1. No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the Board of Adjustment.

2. In order to secure a vested right for a site plan, the applicant must submit a site-specific development plan in accordance with §156.718.

M. Revocation of a Conditional Use Permit

1. If any conditions of a conditional use permit, or other requirements of this chapter are violated, the Board of Adjustment may revoke the permit. Revocation may occur after an evidentiary hearing is conducted by the Board of Adjustment.

2. Upon a four-fifths vote, the Board of Adjustment shall revoke the permit, and notice of such revocation shall be recorded in the County Register of Deeds office.

3. Violations of conditions of a conditional use permit shall be considered a violation of this chapter and thereby subject to the provisions of §156.720, Enforcement.

N. Coordination with Variances

Applications for variances may be submitted concurrently with a request for a conditional use permit. However, decisions shall be rendered with separate motions. The conditional use permit request shall be considered first (including any site plan), and where it is denied, the variance request shall be null and void.

O. Coordination with Rezoning

An application for a conditional use permit may be reviewed concurrently with a rezoning application. However, a decision shall be rendered first for any rezoning and then subsequently for any conditional use permit.

156.711 SPECIAL USE REVIEW

A. Applicability

1. Special uses within each general use district are uses that may be appropriate in a particular district, but because of the increased potential for incompatibility with adjacent uses requires individual review by the Town Board of Commissioners.

2. A special use permit shall be required for all special uses as set forth in the Permitted Land Use Table (see §156.202B). A development comprised of uses regulated by separate rows on the table shall be reviewed using the most restrictive process from among the proposed uses.

   Commentary: *If a proposed development includes a gas station, library and a restaurant, including outparcels, and one of those uses is only permitted as a special use in the district, then the entire development requires special use review.*

3. Where a use requiring a approval as a special use lies on a separate legal parcel, only the building containing the use and its separate parcel shall be subject to special use review, not the entire project. However, where the separate legal parcel is an outparcel, the application shall describe the relationship of the outparcel to the remaining site.

   Commentary: *For example, where a use in the B-3 District (requiring a special use permit) is an outparcel within a larger retail development, the special use review shall apply to the outparcel only – not the entire development. However, where a special use is proposed in a building that contains a variety of other uses, the entire building and its associated parcel of land shall require special use review.*

B. Pre-Application Conference

All applicants seeking special use approval shall schedule a pre-application conference with the Planning Director, in accordance with §156.702A.

C. Neighborhood Meeting

All applicants seeking special use approval shall hold a neighborhood meeting in accordance with §156.702B.

D. Application Requirements

1. Concurrent with a request for a special use permit, an applicant shall submit a site plan for review and approval.

2. An application for a special use permit shall be submitted in accordance with §156.702C, Application Requirements.

3. A traffic impact analysis may be required if the proposed development meets the thresholds established in §156.708, Traffic Impact Analysis.

E. Notice and Public Hearings

The Town shall hold all required public hearings and give notice in accordance with §156.702D, Notice and Public Hearings.

F. Action by Planning Director

1. Upon submission of a completed application, the Planning Director shall schedule the site plan for review by the Technical Review Committee. The Technical Review Committee shall review the site plan for consistency with the requirements of this chapter.
2. Upon completion of the technical review, the Planning Director shall prepare a report that reviews the application in light of comments provided by the Technical Review Committee, in light of the adopted plans and policies of the Town, and the general requirements of this chapter. The report, site plan and any related application materials shall be forwarded to the Planning Board.

G. Action by Planning Board

1. After considering the Technical Review Committee's comments, the Planning Board shall approve or disapprove the site plan, or send the site plan back to the Technical Review Committee for additional consideration.
2. Site plans requiring revisions shall be returned to the Planning Board within 90 days or the application shall be considered withdrawn. One extension period may be granted by the Planning Board.

H. Action by Town Board of Commissioners

1. Before taking action on the special use request, the Town Board of Commissioners shall consider the recommendations of the Planning Board.
2. The Town Board of Commissioners may approve the request, deny the request, or send the request back to the Planning Board for additional consideration.

I. Findings of Fact Required

No special use permit shall be approved unless the following findings are made concerning the application:

1. That the application will not materially endanger the public health or safety if located where proposed, and developed according to the plans as submitted and approved.
2. That the application meets all required specifications and conforms to the standards and practices of sound land use planning and the Town Code of Ordinances or other applicable regulations.
3. That the application will not substantially injure the value of adjoining or abutting property, and will not be detrimental to the use or development of adjacent properties or other neighborhood uses.
4. That the application will not adversely affect the adopted plans and policies of the Town, or violate the character of existing standards for development of the adjacent properties.

J. Additional Conditions

1. In granting approval of a special use permit, the Town Board of Commissioners may impose reasonable conditions which serve to assure that the required findings are upheld. Such conditions may include, but are not limited to, right-of-way or easement dedication; recreation, open space, or buffer provision; limitation in scale, intensity, or hours of operation; and other reasonable restrictions.

2. Any additional condition approved by the Town Board of Commissioners shall become a part of the permit and be of equal importance in the responsibility of the applicant or subsequent assigns to adhere to its terms.

K. Modifications to Approved Special Use Permits

1. **Minor Deviations**

   The Planning Director is authorized to approve minor deviations to a special use permit, if such change is not contrary to the approving action of the Town Board of Commissioners, but shall not have the authority to approve substantial deviations as set forth below.

2. **Substantial Deviations**

   a. Any deviation requiring evidentiary support in addition to that presented at a public hearing on applications for the original permit shall constitute a substantial deviation. Before making a determination as to whether a proposed action is a minor deviation or a substantial deviation, the Planning Director shall review the record of the proceedings on the original application. Substantial deviations shall include the following:

      i. A change in the boundaries of the approved site;

      ii. A change from the approved use;

      iii. An increase of five percent or more in the approved floor area, unless proposed addition is 500 square feet of floor area or less, whether such addition is proposed at one time or over an extended period of time;

      iv. An increase of five percent or more in the number of approved parking spaces, unless the proposed addition is ten or fewer spaces, whether such addition is proposed at one time or over an extended period of time;

      v. Substantial change in the location of principal or accessory structures;

      vi. Structural alterations significantly affecting the basic size, form; style, ornamentation, and appearance of principal or accessory structures as shown on the approved site plan;

      vii. Substantial changes in pedestrian or vehicular access or circulation; and

      viii. Substantial change in the amount or location of landscape screens.

   b. If a proposed amendment deviates substantially from the approved special use permit, the approved special use permit shall be amended in accordance with the procedure and standards which governed its approval.

L. Effect of Decision

1. If the Town Board of Commissioners votes to deny an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until 12 months have elapsed from the date of denial. If the Town Board of Commissioners votes to approve an application, the permit shall be recorded in the County Register of Deeds office.

2. The special use permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs. Any decision by the Town Board of Commissioners may be appealed within 30 days of the decision in accordance with G.S. § 160A-381.

M. Period of Validity

1. An approved special use permit shall expire 12 months from the date of approval unless the proposed development is pursued as set forth below:
   a. A complete building permit application has been submitted and remains valid;
   b. Where more than one building is to be built, the applicant may submit a series of building permit applications. The first application shall be submitted within 12 months from the date approval was granted. Each subsequent application shall be submitted within 180 days from the date of issuance of a certificate of occupancy for the previous building; or
   c. If no building permit is required, a certificate of occupancy has been issued.
2. Once the appropriate permit has been issued, the special use permit shall remain in force unless the use, construction, or activity ceases for a period of 12 consecutive months. In such instance the special use permit shall become void. If a special use is determined by the Planning Director to be void, such determination shall be transmitted in writing to the applicant.

N. Building Permit/Certificate of Occupancy

1. No building permit or certificate of occupancy shall be issued until the required site plan of the proposed use or development has been approved by the Town Board of Commissioners.
2. In order to secure a vested right for a site plan, the applicant must submit a site-specific development plan in accordance with §156.718.

O. Revocation of a Special Use Permit

1. If any conditions of a special use permit, or other requirements of this chapter are violated, the Town may revoke the permit.
2. Revocation may occur after an evidentiary hearing is conducted by the Town Board of Commissioners.
3. Upon a four-fifths vote, the Town Board of Commissioners shall revoke the permit, and notice of such revocation shall be recorded in the County Register of Deeds office.
4. Violations of conditions of a special use permit shall be considered a violation of the this chapter and thereby subject to the provisions of §156.720, Enforcement.

P. Coordination with Variances

Applications for variances may be submitted concurrently with a request for a special use permit. The special use permit request shall be considered first (including any site plan), and where it is denied, the variance request shall be null and void.

Q. Coordination with Rezoning

An application for a special use permit may be reviewed concurrently with a rezoning application. However, a decision shall be rendered first for any rezoning and then subsequently for any special use permit.

156.712 TEMPORARY USE PERMIT

Commentary: *Temporary outdoor uses should not be confused with permanent outdoor activities (for example, a car sales lot) that are only allowed in certain districts and require site plan approval, nor should they be confused with an outdoor display area (for example, a garden center that is part of a building supply store) that may be a part of a retail store and require site plan approval.*

A. **Applicability**

1. Temporary uses occurring on property outside of the public right-of-way, including those operating for less than 30 days within a one-year time period, shall obtain a temporary use permit from the Planning Department that outlines conditions of operations to protect the public, health, safety and welfare subject to the standards of §156.306,Temporary Use Standards.
2. Temporary uses occurring within the public right-of-way require approval by the Town Board of Commissioners.

B. **Application Requirements**

An application for a temporary use permit shall be submitted in accordance with §156.702C, Application Requirements.

C. **Action by Planning Department**

1. After receiving a complete application, the Planning Department shall have up to 30 days to review the application.
2. Following completion of the technical review period, the Planning Department shall approve the issuance of a temporary use permit subject to the following:
   a. No lighting or electrical service shall be provided without an electrical permit;
   b. No temporary use structure shall be erected without a building permit;
   c. No temporary use structure shall block fire lanes or pedestrian or vehicular access;
   d. The site of the temporary use shall be cleared of all debris at the end of the temporary use. All temporary structures shall be cleared from the site within five days after the use is terminated;
   e. Written permission of the property owner for the temporary use shall be provided;
   f. Adequate parking shall be provided;
   g. Required parking for other uses shall remain available;
   h. Adequate traffic control measures shall be provided;
   i. Adequate provisions for trash disposal and sanitary facilities shall be provided; and
   j. When appropriate, adequate provisions for crowd control shall be provided.

D. **Revocation of a Temporary Use Permit**

A temporary use permit shall be revoked if the Planning Director finds that the terms of the permit have been violated or that there is a hazard to the public health, safety and welfare.

E. **Exceptions**

Temporary uses conducted by bona fide nonprofit organizations, as defined by and registered with the North Carolina Office of the Secretary of State, shall be exempt from this section, except that a temporary use permit must be obtained prior to any scheduled event.

F. Appeal

Final action on a temporary use permit may be appealed to the Board of Adjustment in accordance with §156.717, Administrative Appeals.

156.713 SIGN PERMIT

A. **Applicability**

1. Except as otherwise provided in §156.403F, no sign may be erected, located, or altered in any manner until a sign permit, and building permit if necessary, has been secured from the Planning Department. The change of copy on a legally constructed sign shall not require a permit unless it is included as part of an approved common signage plan (see §156.714).

2. After January 19, 1999, all signs erected in conformance with these regulations shall display a sticker which is issued by the Planning Department. Any sign which does not display this sticker shall be considered a zoning violation or nonconforming sign, and subject to the relative provisions of this chapter.

Commentary: *A common signage plan may be required before a sign permit can be issued (see §156.714).*

B. **Application Requirements**

An application for sign permit shall be submitted in accordance with §156.702C, Application Requirements.

C. **Action by Planning Director**

Following completion of the technical review period, the Planning Director shall approve the sign permit for any sign less than eight feet tall, provided the sign meets all requirements of this chapter, and all other applicable electrical and North Carolina Building Code requirements.

D. **Action by Planning Board**

Following completion of the technical review period, the Planning Board shall approve the sign permit for any sign eight feet in height or taller, provided the sign meets all requirements of this chapter, and all other applicable electrical and North Carolina Building Code requirements.

E. **Inspection of Permanent Signs**

1. The applicant shall request an inspection by the appropriate inspector after installation of the signs.

2. If the signs are found to be in compliance, the applicant shall receive a permanent seal which identifies the sign. The applicant shall attach the identification in a conspicuous location which is accessible to the Planning Director. It is recommended that businesses place the permit in a lower corner of the front door of the business in those cases where the seal is not affixed to the sign.

3. The sign permit shall be null and void if sign installation is not completed within six months or the signs are not in conformance with the approved application.

4. Valid sign permits may be assigned to a successor as holder of a business license for the same premises.

F. **Temporary Sign Permit**

A temporary sign permit shall be issued in accordance with §156.403, Signs. A common signage plan shall not be required for applications for temporary sign permits.

G. **Revocation of a Sign Permit**

The sign permit shall be revoked if a sign is found to be in violation of the requirements of this chapter, or other applicable electrical and North Carolina State Building Code requirements.

H. Appeal

Final action on a sign permit may be appealed to the Board of Adjustment in accordance with §156.717, Administrative Appeals.

156.714 COMMON SIGNAGE PLAN

A. **Applicability**

1. Except as listed in below, the owners or developers of two or more contiguous lots, or any multi-tenant use shall submit a common signage plan for approval as part of the site plan application. Other applicants may voluntarily submit a common signage plan in accordance with the standards of this section. Such developments may increase the amount of signage otherwise permitted by a maximum amount of 25 percent subsequent to approval of the common signage plan.
2. Applications for temporary sign permits shall not be required to submit an approved common signage plan.

B. **Application Requirements**

1. An application for a common signage plan shall be submitted in accordance with §156.702C, Application Requirements.
2. The elements of a common signage plan shall be in accordance with §156.403, Signs.
3. Where an application for site plan review is also required, the common signage plan shall be submitted concurrently with the site plan (see §156.707, Site Plan Review).

C. **Action by Planning Director**

1. Following completion of the technical review , the Planning Director shall approve the common signage plan provided the plan meets all requirements of this section.
2. The Planning Director may allow modifications to the lettering style to accommodate state and federally registered trademarks (logos) if the Planning Director feels that the intent of the common signage plan requirements is maintained. In allowing modifications, the Planning Director may limit the logo size. The requirements of a common signage plan shall apply to all tenants within a related project, even if the properties have been subdivided.

D. **Revisions and Amendments**

1. Revisions or amendments to the common signage plan shall require documentation from all tenants on the property prior to approval.
2. It shall be the responsibility of the applicant and/or property owner to enforce the terms of the common signage plan, and a current copy of such plan, including any amendments, must be kept on file in the Planning Department.

E. **Existing Signs Not Conforming to Common Signage Plan**

If any new or amended common signage plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within three years, all signs not conforming to the proposed amended plan or to the requirements of this chapter in effect on the date of submission.

F. **Binding Effect**

After approval of a common signage plan, no sign shall be erected, placed, painted, or maintained, except in conformance with such plan, and such plan may be enforced in the same way as any provisions of this chapter. In case of any conflict between the provisions of such a plan and any other provision of this chapter, this chapter shall control.

G. Appeal

Final action on a common signage plan may be appealed to the Board of Adjustment in accordance with §156.717, Administrative Appeals.

156.715 WRITTEN INTERPRETATION

A. Applicability

When uncertainty exists, the Planning Director, after consultation with other involved staff and Town Attorney, shall be authorized to make all interpretations concerning the provisions of this chapter.

B. Application Requirements

An application for a written interpretation shall be submitted in accordance with §156.702C, Application Requirements.

C. Action by Planning Director

1. The Planning Director shall review and evaluate the request in light of the text of this chapter, the Zoning Map, the adopted plans and policies of the Town and any other relevant information;
2. Following completion of the technical review period, the Planning Director shall render an opinion.
3. The interpretation shall be provided to the applicant in writing.

D. Official Record

The Planning Director shall maintain an official record of all interpretations. The record of interpretations shall be available for public inspection during normal business hours.

E. Appeal

Final action on a written interpretation may be appealed to the Board of Adjustment in accordance with §156.717, Administrative Appeals.

156.716 VARIANCE

A. **Applicability**

1. The Board of Adjustment may vary certain requirements of this chapter that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter, will, in an individual case, result in practical difficulty or unnecessary hardship. The Board of Adjustment shall ensure that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.

2. The existence of a nonconforming use of neighboring land, building, or structure in the same district, or of permitted or nonconforming uses in other districts, shall not constitute a reason for the requested variance.

B. **Application Requirements**

An application for a variance shall be submitted in accordance with §156.702C, Application Requirements.

C. **Notice and Public Hearings**

The Town shall hold all required public hearings and give notice in accordance with §156.702D, Notice and Public Hearings.

D. **Burden of Proof**

The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth below as well as the burden of persuasion on those issues.

E. **Action by Planning Director**

The Planning Director shall provide the Board of Adjustment with a copy of the application and all relevant materials pertaining to the request.

F. **Action by Board of Adjustment**

1. **Procedure**

a. The Board of Adjustment may approve the request, deny the request, or continue the request.

b. Each decision shall be accompanied by a finding of fact that specifies the reason for the decision.

c. In approving the variance, the Board of Adjustment may prescribe reasonable and appropriate conditions which will ensure that the use will be compatible with adjacent properties and will not alter the character of the neighborhood.

d. Conditions may be imposed by the Board of Adjustment regarding the location, character, and other features of the proposed building or use as may be deemed by the Board of Adjustment to protect property values and general welfare of the neighborhood. Nonconformance with such conditions and safeguards, when part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

2. **Findings of Fact**

No variance shall be approved by the Board of Adjustment unless all of the following findings are made.

a. There are exceptional conditions pertaining to the particular piece of property in question because of its shape, size, or topography, that are not applicable to other lands or structures

in the same district, or there is a peculiar characteristic of an establishment which makes the parking and/or loading requirements of this chapter unrealistic.

b. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located.

c. A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

d. The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare.

e. The special circumstances are not the result of the actions of the applicant.

f. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.

g. The variance is not a request to permit a use which is not a permitted or conditional use in the district involved.

h. The variance is not granted simply because by the granting the variance, the property could be utilized more profitably or that the developer/owner would save money.

G. Watershed Protection

1. An appeal to reverse or modify the order, decision, determination, or interpretation of the Planning Director shall comply with §156.717, Administrative Appeals.

2. A petition for variance to the standards of Watershed Protection, shall comply with the following::

a. **Minor Variances**

Minor variances shall include petitions for the reduction of any standard of Watershed Protection, by a factor of less than ten percent, except residential density or impervious surface area.

b. **Major Variances**

i. Petitions for the reduction of any standard of the Watershed Protection, by a factor of ten percent or more; and

ii. Petitions to increase residential density or impervious surface area.

c. **Approval Procedures**

i. Prior to the Board of Adjustment meeting, the Planning Director shall notify in writing the Towns of Smithfield, Selma and Wilsons Mill, and Johnston County of the variance being requested. Written responses from any of these local governments using the Neuse River as a water supply shall become a permanent part of the records.

ii. Minor variances shall be approved by the Board of Adjustment in accordance with paragraphs B through F above.

iii. Major variances shall comply with paragraphs B through F above except that:

a) A decision by the Board of Adjustment to approve a major variance shall be advisory only. The Planning Director shall, within 30 days, forward a record of the Board of Adjustment hearing, findings, and conclusions to the appropriate state agency for final decision.

b) The Board of Adjustment may advise approval of a major variance petition upon satisfying the findings of paragraph F.2 above, or upon the finding that

significant community economic or social benefit would be derived from the granting of the variance.

156.717 ADMINISTRATIVE APPEALS

A. Applicability

An appeal by any person aggrieved by a final order, interpretation or decision of the Planning Director or other administrator of this chapter in regard to the provisions of this chapter may be taken to the Board of Adjustment.

B. Application Requirements

1. An appeal of an administrative decision shall be taken by filing a written notice of appeal specifying the grounds for the appeal with the Planning Director and the Board of Adjustment.
2. An application for appeal of an administrative decision shall be submitted in accordance with §156.702C, Application Requirements.
3. A notice of appeal of an administrative decision shall be considered filed when a complete application is delivered to the Planning Director. The date and time of filing shall be entered on the notice.

C. Deadline for Submission of Application

An appeal of an administrative decision shall be filed with the Board of Adjustment within 30 days of receipt of the decision.

D. Notice and Public Hearings

The Town shall hold all required public hearings and give notice in accordance with §156.702D, Notice and Public Hearings.

E. Action by Planning Director

The Planning Director or designee shall transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

F. Action by Board of Adjustment

1. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the Board of Adjustment shall have all the powers of the officer from whom the appeal is taken.
2. A motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.
3. If a motion to reverse or modify is not made, or fails to receive the four-fifths of members eligible to vote then appeal shall be denied.
4. Any motion to overturn a decision shall state the reasons or findings of fact that support the motion.

G. Effect of Appeal

1. An appeal shall stay all proceedings in furtherance of the action appealed, unless the administrative official from who the appeal is taken certifies to the Board of Adjustment that, because of facts stated in the certificate, a stay would, in their opinion, cause imminent peril to life or property or that because the violation is transitory in nature a stay would seriously interfere with the effective enforcement of this chapter. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the administrative official.

2. An appeal shall not stop action lawfully approved (including construction activities authorized by a building permit); only actions presumed in violation of this chapter are stayed.

156.718 ZONING VESTED RIGHT

A. **Applicability**

The purpose of this section is to implement the provisions of G.S. § 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.

B. **Establishment**

1. A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Town Board of Commissioners, of a site specific development plan.
2. The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.
3. Notwithstanding paragraphs 1 and 2 above, approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.
4. A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
5. The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements, but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical and mechanical codes. Otherwise applicable, new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this chapter.
6. A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

C. **Approval Procedures**

1. Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.
2. Notwithstanding the provisions of paragraph 1 above, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a board, committee or administrative official other than the Town Board of Commissioners or Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Town Board of Commissioners or Board of Adjustment, following notice and a public hearing as provided in G.S. § 160A-364.
3. In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the Town, that a zoning vested right is being sought.
4. Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan established a zoning vested right under G.S. § 160A-3 85.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."

5. Following approval or conditional approval of a site specific development plan, nothing in this chapter shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

6. Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this chapter.

D. **Duration**

1. A zoning right that has been vested as provided in this chapter shall remain vested for a period of two years unless specifically and unambiguously provided otherwise pursuant to paragraph 2 below. This vesting shall not be extended to any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

2. Notwithstanding the provisions of paragraph 1 above, the approval authority may provide that rights shall be vested for a period exceeding two years by not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific development plan is approved.

3. Upon issuance of a building permit, the expiration provisions of G.S. § 160A-418 and the revocation provisions of G.S. § 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

E. **Termination**

A zoning right that has been vested as provided in this chapter shall terminate:

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

2. With the written consent of the affected landowner;

3. Upon findings by the Town Board of Commissioners, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed was contemplated in the site specific development plan;

4. Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the city, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is cause by such action;

5. Upon findings by the Town Board of Commissioners, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or

6. Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and a hearing.

F. Voluntary Annexation

A petition for annexation filed with the Town under G.S. § 160A-31 or G.S. § 160A-58.1 shall contain a singed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. § 160A-3 85.1 or G.S. §1 53A-344. 1. A statement that declares that no zoning vested right has been established under G.S. § 160A-385.1 or G.S. § 153A-344.1, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

G. Limitations

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160A-385.1.

H. Repealer

In the event that G.S. § 160A-385.1 is repealed, this chapter shall be deemed repealed and the provisions hereof no longer effective.

I. Effective Date

This chapter shall be effective and shall only apply to site specific development plans approved on or after November 18, 1991.

156.719 NONCONFORMITIES

A lawful preexisting use, structure, or lot that does not meet the requirements of this chapter is called a nonconformity. Special provisions apply to nonconformities, as set forth in this section.

A. **Existing Substandard Structures**

1. The conforming use of a structure, as explained in §156.109A, existing at the time of the adoption of this chapter, may be continued, although the structure's size or location does not conform with the yard, dimensional, height, parking, loading, access, lot area, and lot coverage provisions of this chapter. Such structures are called substandard structures.
2. Substandard structures which are damaged or destroyed by fire, explosion, flood, or other calamity to the extent of more than 50 percent of the value of the structure, as determined by the Town, may be reconstructed and shall comply with the applicable provisions of this chapter for the district in which such structure is located, unless the structure is situated on a substandard lot of record, in which case the provisions concerning substandard lots of record shall apply.
3. A substandard structure, including a mobile home, may not be moved off the lot or lots on which it is located, unless when relocated within the jurisdiction of the Town, it complies with the regulations for the district in which it is located. Further, any subsequent reuse of the lot or lots from which the substandard structure has been moved must comply with the regulations for the district in which it is located.
4. A substandard structure may be enlarged or expanded, provided that any expansion meets all of the requirements for the zoning district, including, but not limited to the yard, dimensional, height, parking, loading, access, lot area, and lot coverage provisions of this chapter,

B. **Existing Nonconforming Uses**

The nonconforming use of a structure or land at the time of the adoption of this chapter may be continued, except that:

1. Only that portion of the land in actual use may be so continued, and the nonconforming use may not be enlarged or extended, nor may any additional structures be added to be occupied by the nonconforming use, unless by special use permit, except that existing cemeteries can expand to the boundaries of the property which they owned at the time they became nonconforming.
2. Normal maintenance, repair, and incidental alteration of a building occupied by a nonconforming use is permitted, provided it does not extend the nonconforming use. A structure occupied by a nonconforming use may be changed to make the structure more in character with the uses permitted in the district in which it is located.
3. If such nonconforming use is damaged by fire, explosion, flood, or other calamity to the extent of more than 50 percent of its current equalized value, it shall not be restored unless it will comply with the use provisions of this chapter, except that nonconforming owner-occupied single-family dwellings may be restored. Multifamily development approved prior to June 4, 1996 may be restored in a manner which does not increase any nonconforming density, setback, or spacing of building standards approved in the original site plan, upon granting of a special use permit by the Town Board of Commissioners in accordance with §156.711.
4. If such nonconforming use is discontinued or terminated, as evidenced by the disconnection of electrical service to such nonconforming use for a period of 180 days, any future use of the structure or land shall comply with the provisions of this chapter.
5. A nonconforming use, such as, but not limited to mobile homes, may not be moved off the lot or lots on which it is located, unless, when relocated within the jurisdiction of the Town, it

complies with the regulations for the district in which it is located. Further, any subsequent reuse of the lot or lots from which the nonconforming use has been moved must comply with the regulations for the district in which it is located.

6. The Town Board of Commissioners may permit as a special use a change in nonconforming use, provided that the requirements of paragraphs 1 through 5 above are met, and the Town Board of Commissioners finds that such new use would be more in character with the uses permitted in the district than the previous use. In permitting such change, the Town Board of Commissioners may require appropriate conditions and safeguards in accordance with the provisions of this chapter.

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

C. **Existing Vacant Substandard Lots**

1. Where the owner of a lot at the time of the original passage of this chapter, or any successor in title does not own sufficient land to conform to the lot area or lot width requirements of this chapter, such a lot may be used as a building site for a single-family residence in a district in which residences are permitted, provided that the lot width and lot area are not more than 20 percent below the minimum specified in this chapter, and further provided that the County Health Department approves the reduction if on-site water or wastewater facilities are involved. In cases where the lot area and lot width are more than 20 percent below the minimum specified in this chapter, or other requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions specified in this chapter. In addition, nonresidential uses of land permitted in the applicable nonresidential zoning district may be granted a variance for development on a substandard lot, subject to approval by the Board of Adjustment and the required findings set forth in paragraph 2 below.

2. If two or more adjoining and vacant lots are in one ownership when this chapter is adopted, or at any time after the adoption of this chapter, and such lots individually do not meet the dimensional requirements of this chapter for the district in which such lots are located, then such group of lots shall be considered as a single lot and therefore, the provisions of paragraph B.1 above do not apply.

D. **Nonconforming Signs**

1. **Amortization of Nonconforming Signs**

   Any sign existing prior to April 7, 1986 which does not conform to the requirements of this chapter may be continued with the following exceptions; however, all nonconforming signs shall be brought into compliance or removed within the time limits specified in paragraph 3 below.

   a. Portable and windblown signs as defined in §156.403, Signs, shall be removed by January 1, 1987.

   b. All moving signs shall cease movement by July 7, 1986.

   c. All non-governmental flashing signs shall stop flashing by July 7, 1986.

2. **Enlargement and Revision of Nonconforming Signs**

No nonconforming sign shall be erected, replaced, or otherwise modified in such a way as to increase its nonconformity. Reasonable repair and maintenance of nonconforming signs, including the change of an advertising message, is permitted, provided that a nonconforming sign which is damaged or deteriorated to the extent of 50 percent or more of its value shall not be replaced unless it conforms to all provisions of this subchapter.

3. **Removal of Nonconforming Signs**

a. Nonconforming signs, when removed for other than normal maintenance, may not be erected again, nor may any such sign be replaced with another nonconforming sign.

b. All nonconforming signs erected before the date of adoption of this chapter shall be removed or modified so as to conform to this chapter by February 1, 2002.

E. **Nonconformities in the Water Protection Overlay (-WP)**

Nonconforming lots, buildings and structures may be continued and maintained subject to the provisions as set forth below. Impervious surface area is not required to be included in the density calculations.

1. **Vacant Lots**

This category consists of vacant lots for which plats or deeds have been recorded in the office of the County Register of Deeds. Lots may be used for any of the uses allowed in the -WP Overlay in which it is located, provided the following:

a. Where the lot area is below the minimum specified and no other standard needs to be modified to use the lot for residential purposes.

b. Notwithstanding paragraph a above, whenever two or more adjoining residential vacant lots of record are in single ownership at any time after the adoption of this chapter, and such lots individually have less area than the minimum requirements for residential purposes for the -WP Overlay such lots shall be combined to create a single lot or lots which meet or minimize the degree of nonconformity.

2. **Occupied Lots**

This category consists of lots occupied for residential purposes at the time of the adoption of this chapter. These lots may continue to be used, provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this chapter, and such lots individually or together have less area than the minimum requirements for residential purposes specified, such lots shall be combined to create lots which meet the minimum size requirements, or which minimize the degree of nonconformity.

3. **Buildings and Impervious Surfaces**

This category includes any buildings or impervious surface area existing at the time of adoption of this chapter not in conformance with the restrictions of this chapter. Such buildings and imperious surface areas shall be allowed to remain.

4. **Reconstruction of Damaged Buildings or Impervious Surfaces**

Any existing building or impervious surface area not in conformance with the restriction of this chapter that has been damaged by fire, wind, flood or other causes, may be repaired and used as before. The total amount of space devoted to impervious surface area may not be increased unless stormwater controls that equals or exceeds the previous development is provided.

156.720 ENFORCEMENT

A. **Enforcement of Provisions**

The Planning Director and Code Enforcement Officer shall be charged with the enforcement of the provisions of this chapter. If the Planning Director or Code Enforcement Officer find that any of the provisions of this chapter are being violated, he shall notify in writing the persons responsible for such violations, indicating the nature of violation and ordering the actions necessary to correct it. They shall also take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

B. **Penalty**

1. In accordance with G.S. § 160-A-175, any person violating any provisions of this chapter shall be guilty of a misdemeanor, and upon conviction shall be punished for each offense by a fine by imprisonment. Each day a violation continues shall be deemed a separate offense.

2. In case any building or structure is erected, constructed, reconstructed, repaired, converted, or maintained, or any building, structure, or land is used in violation of this chapter, the Planning Director, Code Enforcement Officer, or any other appropriate Town authority, in addition to other remedies, may institute injunction, mandamus, or other appropriate action in proceeding to prevent the violation.

3. The following penalties as set forth in the General Statutes shall also prevail: G.S. § 160A-375, "Penalties for Transferring Lots in Unapproved Subdivisions; ....any person who, being the owner or agent of the owner of any land located within the jurisdiction of that city, thereafter subdivides his land in violation of the ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such ordinance and recorded in the office of the appropriate register of deeds, shall be guilty of a Class 1 misdemeanor. 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 city may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision ordinance."

ARTICLE 8. DEFINITIONS

156.800 GENERAL....8-2
156.801 ABBREVIATIONS....8-3
156.802 DEFINED TERMS....8-4

156.800 GENERAL

1. Words used in the present tense include the future tense.
2. Words used in the singular number include the plural, and words used in the plural include the singular.
3. The word "person" or "applicant" includes firms, associations, organizations, partnerships, corporations, trusts, trustees, estates, individuals, companies, and other similar entities.
4. The word "structure" includes the word "building".
5. The word "shall" is always mandatory and not merely directory.
6. The word "used", as applied to any land or building, shall be construed to include the words "intended", "arranged", or "designed to be used".
7. "Zoning map" shall mean the official Zoning Map of the Town of Benson, North Carolina.
8. The words "Town Board of Commissioners", shall refer to the Town Board of Commissioners of the Town of Benson, North Carolina.
9. The words "Planning Board" shall refer to the Planning Board of the Town of Benson, North Carolina.
10. The words "Board of Adjustment" shall refer to the Board of Adjustment of the Town of Benson, North Carolina.
11. The words "day" or "days" shall refer to calendar days and shall be computed by excluding the first day and including the last day, unless the last day is a Saturday or Sunday or a holiday declared by the United States Congress or the State of North Carolina, in which event it shall also be excluded.
12. Any term not herein defined shall be as defined elsewhere in the Town Code of Ordinances or, if not defined elsewhere in the Town Code of Ordinances, as defined in Webster's New International Dictionary, most recent edition.
13. In case of any difference of meaning or implication between the text of this chapter and any caption, illustration or table, the text shall control.

156.801 ABBREVIATIONS

BMP: Best Management Practices.

BOA: Board of Adjustment.

dbh. Diameter at Breast Height.

GFA. Gross Floor Area.

FAA: Federal Aviation Administration.

FCC: Federal Communications Commission.

NCDOT: North Carolina Department of Transportation.

NIER: Non-Ionizing Electromagnetic Radiation.

PB: Planning Board.

PD: Planning Director.

PW: Public Works Director.

TIA. Traffic Impact Analysis.

TC: Town Board of Commissioners.

TRC: Technical Review Committee.

UDC: Unified Development Code.

USGS. United States Geologic Survey.

156.802 DEFINED TERMS

ABUTTING. The property directly touches another piece of property.

ACCESSORY BUILDING, STRUCTURE, OR USE. A detached building, structure, or use on the same lot with, or of a nature customarily incidental or subordinate to, and of a character related to the principal use or structure (see §156.305).

ACCESSORY DWELLING UNIT. A dwelling that exists as part of a principal dwelling or on the same lot as the principal dwelling and is subordinate in size to the principal dwelling (see §156.305C.1).

ADJACENT. Property abutting directly on the boundary of, touching, or sharing a common point.

ADULT CABARET. Any place featuring topless dancers, go-go dancers, strippers, male or female impersonators, or entertainers displaying "specified anatomical areas" as defined by G.S. § 14-202.10, as such statute may be amended from time to time, or other similar entertainers.

ADULT CARE HOME. An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services to residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some licensed adult care homes provide supervision to persons with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision.

ADULT-ORIENTED BUSINESS. Any place defined as an "adult establishment" as defined by G.S. § 14-202.10, as such statute may be amended from time to time, including adult cabarets, and except 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-Oriented Business specifically includes, however, 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 G.S. § 14-202.10. as such statute may be amended from time to time.

ALTERATION. Any change, addition, or modification in construction or occupancy of an existing structure.

AMUSEMENT CENTER. Any indoor place that contains three or more amusement devices of any description, including but not limited to pinball games, billiards, computer amusement (video games), and/or games of chance for the public amusement, patronage and recreation.

ANTENNA. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal telecommunications services (PCS), microwave telecommunications and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority.

APPROVAL AUTHORITY. The Town Board of Commissioners, Board of Adjustment or other board or official designated by ordinance or this chapter as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

ARTIST STUDIO, GALLERY. A building used for the preparation and display of individually crafted artwork, jewelry, furniture, sculpture, pottery, leathercraft, hand-woven articles , and related items.

ASSISTED LIVING RESIDENCE. Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies.

BED AND BREAKFAST. A building containing one or more guest rooms for an overnight stay which are rented at a daily rate and where breakfast is the only meal served to guests.

BEST MANAGEMENT PRACTICES (BMPS). 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.

BOARDING HOUSE: A building, other than a hotel/motel or bed and breakfast, containing not more than nine guest rooms. At least one meal is provided to guests. Individual guest rooms may not contain kitchens.

BUFFER. See §156.402E.

BUFFER, PARKING. See §156.402E.

BUFFER, PERIMETER. See §156.402E.

BUFFER, STREET. See §156.402E.

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

BUILDING COVERAGE. See §156.201.

BUILDING SEPARATION. See §156.201.

CALIPER. The diameter of plant material, measured at six inches above grade for calipers of up to four inches, and 12 inches above grade for larger calipers.

CEMETERY. A place used or to be used and dedicated or designated for interments of human remains or pet animal remains.

CHILD CARE. A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption.

CHILD CARE HOME. A child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care.

CHILD CARE CENTER. A child care center is an arrangement where, at any one time, there are nine or more preschool-age children or nine or more school-age children receiving child care.

CLUB, CIVIC. An organization of persons for specific purposes or for the promulgation of sports, arts, literature, politics, or the like, but not operated for profit, excluding churches, synagogues, or other houses of worship.

CLUB, PRIVATE. Any establishment that is organized and operated solely for a social, recreational, patriotic or fraternal purpose that is not open to the general public, but is open only to the members of the organization and their bona fide guests. The definition of Private Clubs does not include Adult Oriented Businesses as defined in this section.

CO-LOCATION. The use of a tower or structure to support antennae for the provision of wireless services without increasing the height of the tower or structure.

COLLEGE. An educational institution authorized by the state to award associate, baccalaureate, or higher degrees.

COMMERCIAL IMPRACTICABILITY or COMMERCIALLY IMPRACTICABLE. The inability to perform an act on terms that are reasonable in commerce, the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be commercially impracticable and shall not render an act or the terms of an agreement commercially impracticable.

COMMON SIGNAGE PLAN. See §156.714.

COMPLEX. See §156.301.

CONDITIONAL USE. See §156.710.

CONDITIONAL USE PERMIT. See §156.710.

CONSTRUCTION. On-site erection, fabrication, installation, alteration, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not restricted to, clearing of land, earthmoving, blasting and landscaping.

CONTRACTOR'S OFFICE: A facility for a building, heating, plumbing, electrical, landscape, janitorial or similar contractor. May include overnight storage of fleet vehicles in some districts.

CONVENTIONAL RESIDENTIAL SUBDIVISION. See §156.203E.

COUNTY HEALTH DEPARTMENT. The Johnston County Health Department.

CREMATORIUM. A building used for the cremation of human remains.

CROSSWALK. A public pedestrian right-of-way which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

DEDICATION. The transfer without payment of ownership or other interest in real property from a private entity to a public agency.

DENSITY. See §156.201.

DEVELOPMENT. The subdivision of land into two or more parcels, the construction or reconstruction, conversion, structural alteration, relocation, or enlargement of any structure, any mining excavation, landfill, land disturbance; and any use or extension of the use of land.

DEVELOPMENT, EXISTING. Those developments as of the effective date of this subchapter that are built, or those developments having an outstanding valid building permit or a site-specific development plan as authorized by G. S. § 1 60A-3 85.1, or having an approved site-specific or phased development plan in compliance with G.S. § 153A-344 or G.S. § 160A-385, and having expended substantial resources (time, labor, money), or meeting the court-created common law or constitutional standards of a substantial expenditure of resources (time, labor, or money) based on a good faith reliance upon having received a valid local government approval to proceed with the project.

DISH ANTENNA OR EARTH STATION. An accessory structure with a combination of (1) antenna or dish antenna, whose purpose is to receive communication or other signals from a transmitter or transmitter relay located in planetary orbit; (2) a low noise amplifier which is situated at a focal

point of the receiving component, and whose purpose is to magnify and transfer signals; and (3) a coaxial cable whose purpose is to carry the signals into the interior of the building.

DISTRICT, GENERAL USE. See §156.200A.

DISTRICT, OVERLAY. See §156.200C.

DISTRICT, SPECIAL USE. See §156.200B.

DRIVEWAY. A private roadway located on a parcel or lot used for vehicle access.

DWELLING UNIT. A building, or portion thereof, providing complete and permanent living facilities for one household and includes the following (see also §156.202A).

ALLEY-LOADED HOUSE.

APARTMENT.

SINGLE FAMILY DETACHED.

TOWNHOUSE.

TWO-FAMILY HOUSE.

UPPER-STORY RESIDENTIAL.

ZERO LOT LINE HOUSE.

EASEMENT. A grant of one or more of the property rights by the owner to, or for the use by, the public, a corporation, or another person or entity.

ELECTRONIC GAMING OPERATIONS. Any business enterprise, whether as a principal or accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, whether connected to the internet or not, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds, which have a finite pool of winners. Electronic gaming operations including, but not limited to, internet cafes, internet sweepstakes, business centers, electronic gaming machines/operations, video sweepstakes, cybercafes, or by whatever other terminology such establishment might be known. This does not include any lottery approved by the State of North Carolina

EXTRATERRITORIAL JURISDICTION. That portion of the Town's planning area located outside the corporate boundaries of the Town.

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

FENCE. Any artificially constructed barrier of any material or combination of materials erected to enclose or screen areas of land.

FLOOR AREA, GROSS. See §156.201.

FLOOD FRINGE AREA. That area of the floodplain lying outside the floodway but still lying within the area of special flood hazard, that is, within the 100-year floodplain.

FLOODPLAIN. Any normally dry land area that is susceptible to being inundated by waters of the 1% annual chance flood, that is the 100-year flood.

FLOODWAY. The channel of a river or other watercourse and the adjacent land area that must be

reserved in order to discharge the velocity waters of the regulatory flood.

FRONTAGE. The dimension of a property that is adjacent to a street.

FUNERAL HOME. A building used for the preparation of the deceased for burial and display of the deceased before burial or cremation. A funeral home, as defined in this chapter, includes a funeral chapel.

GAS STATION WITH CONVENIENCE RETAIL. A building used for the sale of gasoline products that also offers for sales prepackaged food items and tangible consumer goods, primarily for self-service by the consumer. Hot beverages, fountain-type beverage, and pastries may be included in the food items offered sale, but food items that are prepared or individually proportioned on the premises shall be prohibited.

GROUND COVER. Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.

GUEST ROOM. A room or suite used as living accommodations for one or more paying visitors.

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).

HEIGHT. See §156.201.

HOME OCCUPATION. See §156.305C.2.

HOSPITAL. An institution providing human health services primarily for in-patient medical and surgical care for the physically or mentally sick and injured and including related support facilities such as laboratories, out-patient departments, staff offices, food services, and gift shop.

HOTEL/MOTEL. A building containing one or more guest rooms, for overnight guests, and containing registration facilities, on-site management, cleaning services and combined utilities.

HOUSEHOLD. One or more persons occupying a single dwelling unit.

IMPERVIOUS SURFACE. See §156.201.

JUNK. A dilapidated scrap or abandoned metal, paper, building materials and equipment, bottles, glass, appliances, furniture, beds and bedding, rags, rubber, motor vehicles, or parts thereof.

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

KENNEL. An establishment for the keeping or breeding of dogs for profit, or having four dogs or more on any premises.

LAND DISTURBING ACTIVITY. Any use of land in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation. Sedimentation occurs whenever solid particulate matter, mineral or organic, is transported by water, air, gravity, or ice from the site of its origin, and is deposited elsewhere.

LANDFILL. A disposal facility or part of a disposal facility where solid waste is placed in or on land in accordance with G.S. § 130A, Article 9. For the purpose of this subchapter, this term does not include composting facilities.

LANDSCAPE PLAN. §156.402.

LANDSCAPING. Any live plant material such as trees, shrubs, ground cover, and grass used in spaces void of any impervious material or building structures, areas left in their natural state or areas where mulch is used as a ground cover.

LIVESTOCK. All animals kept or raised on a farm, except however, that necessary working animals and

pets are not included.

LOADING AND UNLOADING AREA. A completely off-street space on the same lot for the loading or unloading of freight carriers with ingress and egress to a street or alley (see §156.401).

LOCAL STREET NETWORK. System of local streets that include Commercial Streets, Collector Streets, Residential Collectors, Cul-de-sacs, and alleys (see §156.602D).

LOT. See §156.201.

LOT AREA. See §156.201.

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

LOT, DOUBLE FRONTAGE. A continuous or through lot of the same depth as the width of a block, and which is accessible from both of the streets upon which it fronts.

LOT, FLAG. An irregularly shaped lot which has an appendage or extension which does not meet lot width requirements of the district at the street.

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

LOT WIDTH. See §156.201.

MANUFACTURED HOME. A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Manufactured Home Act.

MANUFACTURED HOME PARK. Any plat of ground upon which two or more manufactured homes, occupied for dwelling purposes, are located, regardless of whether a charge is made for such accommodations. Includes a recreation vehicle park.

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

MOBILE HOME PARK. Any plat of ground upon which two or more mobile homes, occupied for dwelling purposes, are located, regardless of whether a charge is made for such accommodations.

MULTIFAMILY DWELLING. A building arranged to be occupied two or more families This term shall include apartments, townhouses, and upper-story residential dwelling units.

MUSEUM. Establishment for the display of art or historic or science objects.

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

NEWSPAPER PUBLISHER. A building used for the production and distribution of newspapers, magazines and other related materials.

NONCONFORMITY. See §156.719.

NONCONFORMING LOT OF RECORD. A lot described by a plat or a deed that was recorded prior to the effective date of these watershed protection regulations (or their amendments) that does not meet the minimum lot size or other development requirements of the statewide watershed protection rules (See §156.719).

NURSING HOME. A facility, however named, which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not usually require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision.

OFFICE. A room, group of rooms, or building whose primary use is the conduct of a business, professional service, or governmental activity of a non-retail nature; including administration, record keeping, clerical work, and similar functions. This definition is not meant to include manufacturing, processing, repair, or storage of materials or products.

OPEN SPACE RESIDENTIAL SUBDIVISION. See §156.203E.

OUTDOOR DISPLAY. See §156.405.

OUTDOOR STORAGE. See §156.405.

OUTPARCEL. Individual retail sites in a retail center that, when combined, are less than the square footage of the attached retail spaces which form the majority of the square footage of the center.

OWNER. Any person having charge of any real property according to the records held by the Register of Deeds.

PARCEL. See §156.201.

PARCEL AREA. See §156.201.

PARK. An area open to the general public and reserved for recreational, education or scenic purposes (see §156.300A).

PARKING AREA. An area not within a building, where motor vehicles may be stored for the purpose of temporary, daily, or overnight off-street parking (see §156.401).

PARKING LOT. An area not within a building, where motor vehicles may be stored for the purpose of temporary, daily, or overnight off-street parking (see §156.401).

PARKING SPACE. A designated off-street area designed to accommodate the parking of one vehicle.

PERSONAL WIRELESS FACILITY. See for Wireless Telecommunications Facilities.

PERSONAL WIRELESS SERVICES (PWS) or PERSONAL TELECOMMUNICATIONS SERVICE (PCS). Shall have the same meaning as defined and used in the 1996 Telecommunications Act.

PERVIOUS SURFACE. Ground treatments which will allow the infiltration of water, air and nutrients to root systems of adjacent plant material which lie directly under the ground treatment.

PLANNING AREA. The land located within the corporate limits of the Town and the land located within the territorial jurisdiction established by the Town Board of Commissioners.

PILOT PLANT. A building or operation in which processes planned for use in production elsewhere can be developed and/or tested, but not including the production of any goods on the premises primarily for sale or for use in production operations.

PLACE OF WORSHIP. A building primarily used by a non-profit organization for organized religious services and supporting uses.

PLANTING AREA. Areas of a site where groupings (more than one) of trees, shrubs and/or ground cover are proposed and are defined within a bed of mulch.

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

PLAT, FINAL. §156.706.

PLAT, MINOR. See §156.706.

PLAT, PRELIMINARY. See §156.706.

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

PROHIBITED SIGN. see §156.403G.

PROTECTED AREA. The area adjoining and upstream of the critical area in which protection measures are required. The boundaries of the protected area are defined as extending ten miles upstream and draining to water supply or to the ridge line of the watershed, whichever comes first.

PUBLIC FACILITY A building or area owned or used by any department or branch of the Town of Benson, the State of North Carolina, or the Federal Government.

PUBLIC STREET. A dedicated and accepted public right-of-way for vehicular traffic.

PUBLIC SEWER. Any sewerage system serving ten or more customers.

PUBLIC WATER SUPPLY. Any water supply furnishing potable water to ten or more customers.

RECREATIONAL CLUB, PRIVATE. Any indoor recreational establishment that is not open to the general public, but is open only to the members of the organization and their bona fide guests, including but not limited to a country club, golf, swimming or tennis club.

RECREATIONAL VEHICLE (RV) PARK. Land used or intended to be used, let, or rented for occupancy by vacationing transient campers traveling by automobile or otherwise, or for occupancy by tents, or other movable or temporary sleeping quarters of any kind, together with automobile parking spaces and incidental utility structures and facilities required and provided in connection with the use. This definition shall not include trailer sales lots where unoccupied trailers are parked for inspection and sale.

RECREATION AND OPEN SPACE. See §156.203H.

RADIO OR TELEVISION STUDIO. A building used for radio (audio) or television (visual) recording and production.

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

RIGHT-OF-WAY. An area or strip of land, either public or private, on which an irrevocable right-of-passage has been recorded for the use of vehicles or pedestrians or both.

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

SCHOOL, PUBLIC OR PRIVATE. A public or private institution offering a curriculum of education authorized by the State of North Carolina giving regular instruction at the primary, secondary level, or a school for the mentally or physically handicapped. Included in this definition are preschool programs. However, this definition does not include day care facilities, individual instruction, or classes in a specialized subject.

SCHOOL, TRADE, OR BUSINESS. An institution offering instruction beyond high school level with a course of study in vocational, technical or other special subjects.

SCREENING. The method by which a view of one site from another abutting site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features.

SELF-STORAGE FACILITY. A building or group of buildings consisting of individual , self-contained units leased to individuals, organizations, or businesses for self-service storage of personal property.

SIGN. Any device or visual communicator that is used for the purpose of bringing the subject thereof to the attention of the public (see §156.403 for individual sign types).

SINGLE-FAMILY DWELLING. A building arranged to be occupied by no more than one family. This term shall include single-family detached, zero-lot line and alley-loaded dwelling units.

SITE. See §156.201.

SITE AREA. See §156.201.

SITE AREA, NET. See §156.201.

SITE PLAN. A plan prepared to scale, showing accurately and with complete dimensions, the boundaries of the site and the location of all buildings, streets, uses, and principal site development features proposed for a specific parcel of land (see §156.706).

SITE PLAN, MAJOR. (see §156.706).

SITE PLAN, MINOR. (see §156.706).

SITE SPECIFIC DEVELOPMENT PLAN. A plan of land development submitted to the Town for purpose of obtaining one of the following zoning or land use permits or approvals: subdivision plat, site permit, conditional use permit, special use permit, special use zoning district or variance; provided, notwithstanding the foregoing that neither a variance, a plat nor any other document that fails to describe with reasonable certainty that type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

SPECIAL USE. See §156.711.

SPECIAL USE PERMIT. See §156.711.

STATE. The State of North Carolina.

STEALTH or STEALTH TECHNOLOGY. Minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

STREAM, INTERMITTENT. A watercourse that collects surface runoff and is shown as a dashed blue line on the most recent United States Geologic Survey (USGS) 7½-minute quadrangle topographic maps, is shown as an intermittent stream on the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as an intermittent stream on the Natural Resource Conservation Service (NRCS) maps;

STREAM, PERENNIAL. A watercourse that collects surface runoff and is shown as a solid blue line on the most recent USGS 7½-minute quadrangle topographic maps, is shown as a perennial stream on maps in the most recent US Department of Agriculture (USDA) Soil Survey, or is shown as a perennial stream on the Natural Resource Conservation Service (NRCS) maps.

STREET. A dedicated and accepted public right-of-way for vehicular traffic. Includes the following (see also §156.602D).

MAJOR THOROUGHFARE.

MINOR THOROUGHFARE.

COLLECTOR STREET.

RESIDENTIAL COLLECTOR STREET.

COMMERCIAL STREET.

RESIDENTIAL STREET.

CUL-DE-SAC .

ALLEY.

FRONTAGE ROAD.

SUBDIVISION. See §156.706.

SUBDIVISION, MAJOR. See §156.706.

SUBDIVISION, MINOR. See §156.706.

TELECOMMUNICATIONS. The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

TELECOMMUNICATION SITE. See definition for wireless telecommunications facilities.

TELECOMMUNICATIONS STRUCTURE. A structure used in the provision of services described in the definition of wireless telecommunications facilities.

THOROUGHFARE. A major or minor thoroughfare (see 156.602D).

TOWN. The Town of Benson, North Carolina.

TRANSPORTATION PLAN. The most recent map approved by the Town Board of Commissioners that indicates the system of roads expected to serve major access and travel needs with regard to auto, truck and transit transportation.

VARIANCE. See §156.716.

VARIANCE, MAJOR WATERSHED. See §156.716.

VARIANCE, MINOR WATERSHED. See §156.716.

VEHICULAR USE AREA. All open areas and open spaces on the land which are designated, used, required or intended to be used for storage, parking, maintenance, service, repair, display, circulation, or operation of vehicles, including automobiles, buses, trailers, trucks, boats, and

motorcycles. This definition is intended to include areas used or intended to be used for driveways to such vehicular use areas but does not include improvements to public roads, streets, highways, and alleys.

VETERINARIAN, ANIMAL HOSPITAL. A building used for the care and treatment of small animals, including household pets.

WAIVER. See §156.706I.7.

WATERSHED. The entire land area contributing surface drainage to a specific point (i.e., the water supply intake).

WIRELESS TELECOMMUNICATIONS FACILITY. Includes a "telecommunications tower" and "tower" and "telecommunications site" and "personal wireless facility." A structure, facility or location designed, or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes without limit, towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an antenna or the functional equivalent of such, including all related facilities such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority, excluding those used exclusively for the Town's fire, police or exclusively for private, non-commercial radio and television reception and private citizen's bands, amateur radio and other similar non-commercial telecommunications where the height of the facility is below the height limits set forth in this subchapter.

YARD, STREET See §156.201.

YARD, REAR. See §156.201.

YARD. SIDE (STREET). See §156.201.

YARD, SIDE (INTERIOR). See §156.201.

ZONING VESTED RIGHT. A right pursuant to G.S. § 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

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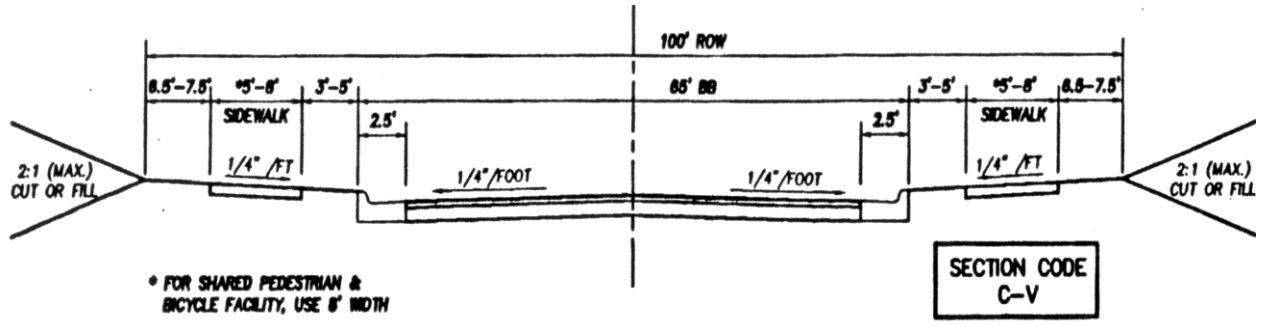
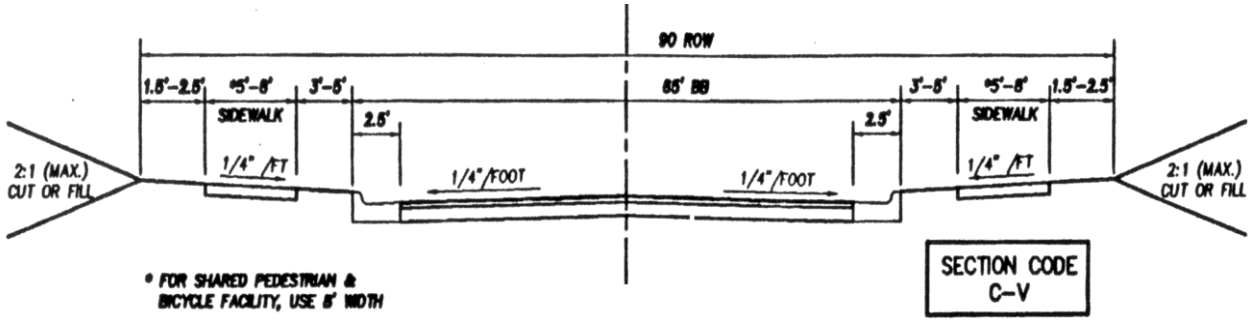
APPENDIX A: TECHNICAL DRAWINGS

TYPICAL STREET CROSS-SECTIONS

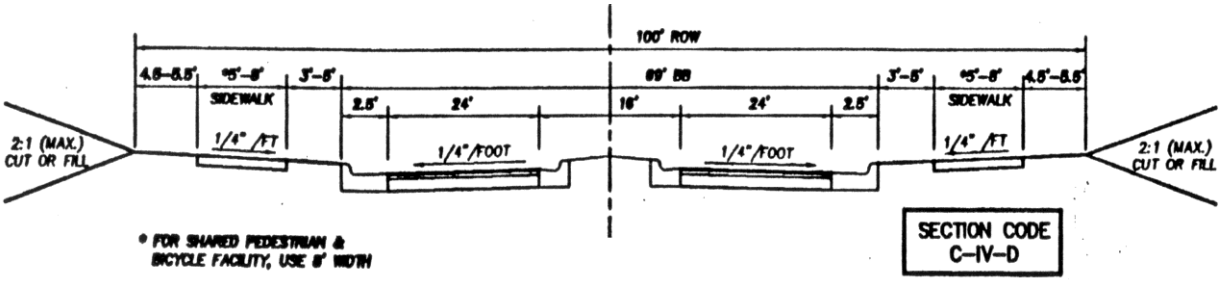
Major Thoroughfare – Five Lane



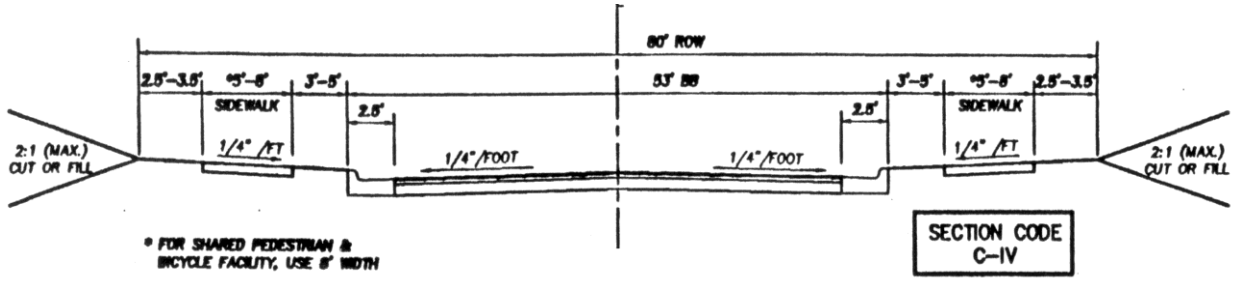
Major Thoroughfare – Five Lane



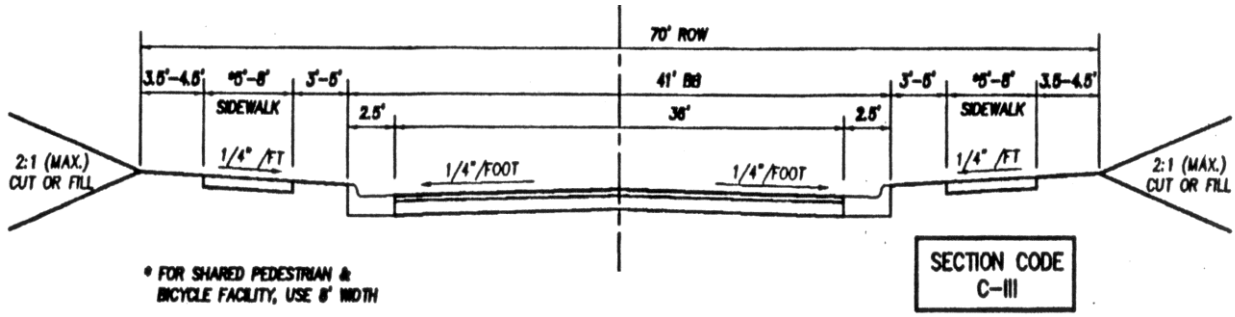
Major Thoroughfare – Four Lane Divided



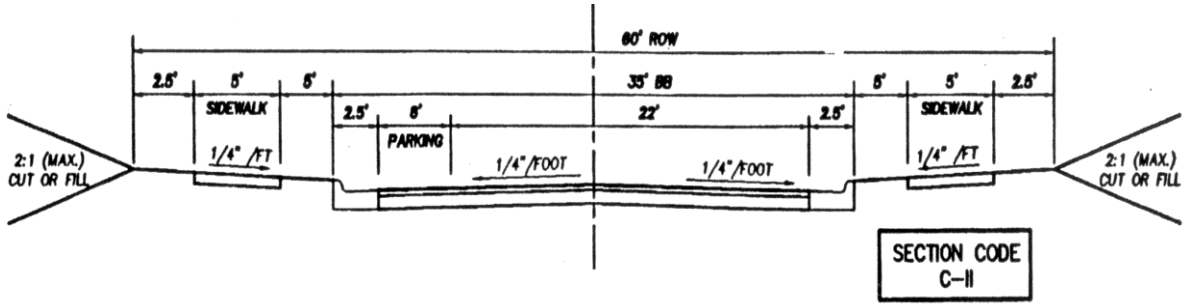
Major Thoroughfare – Four Lane



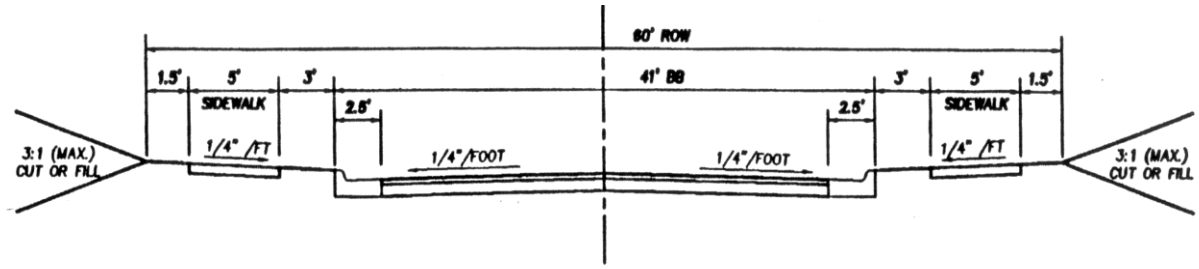
Minor Thoroughfare – Three Lane



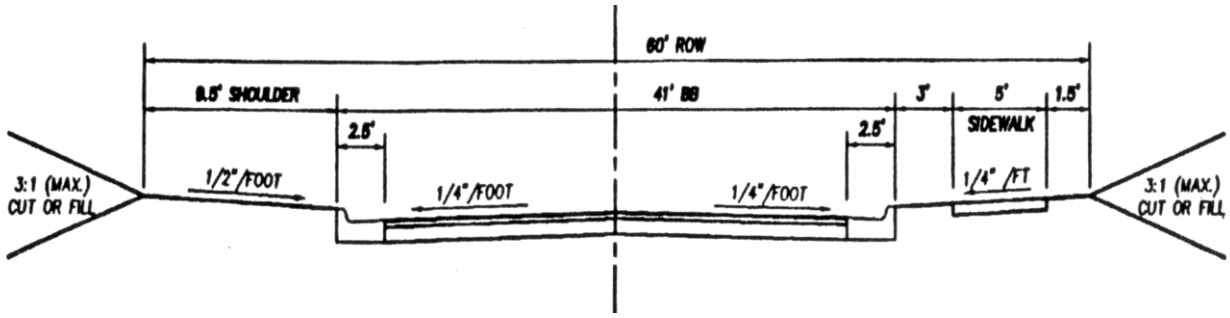
Minor Thoroughfare – Two Lane



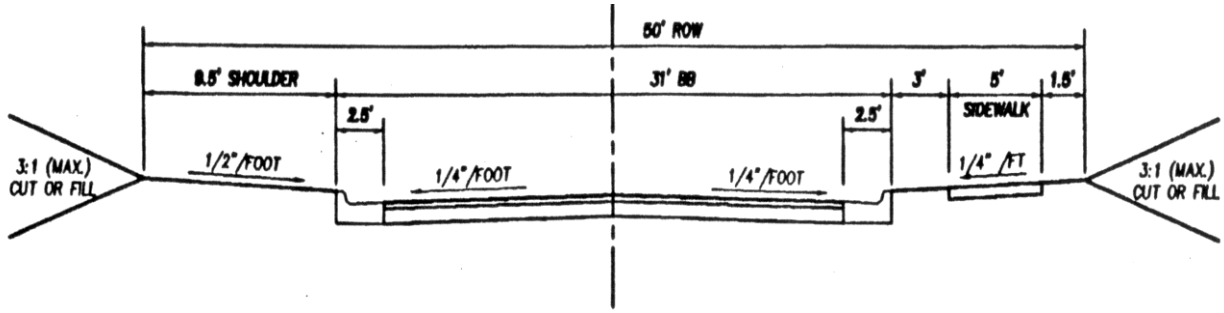
Commercial Street



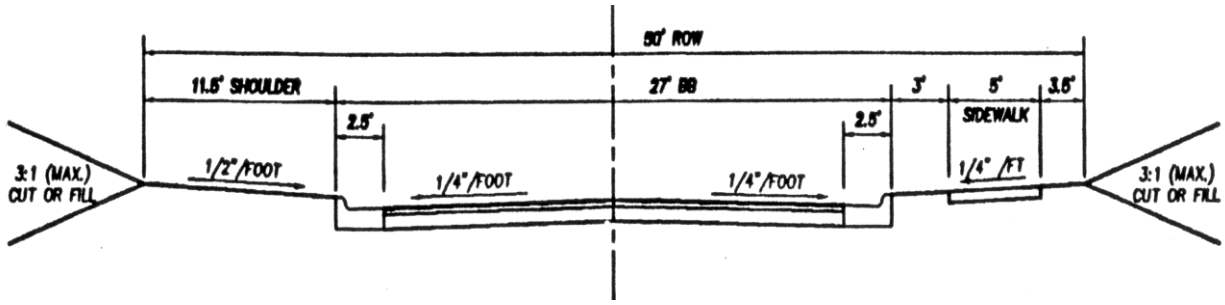
Collector Street



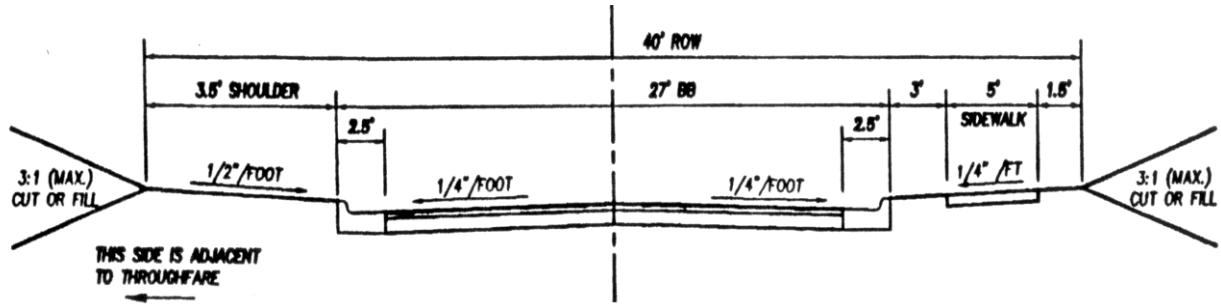
Residential Collector Street



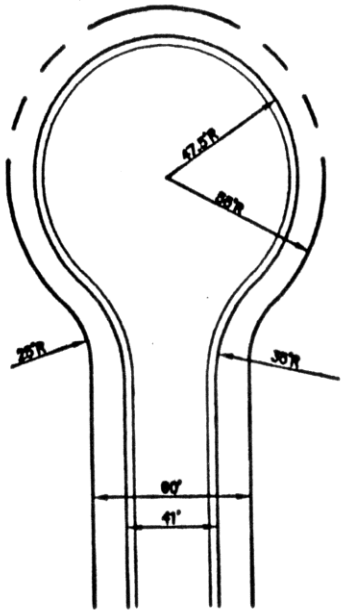
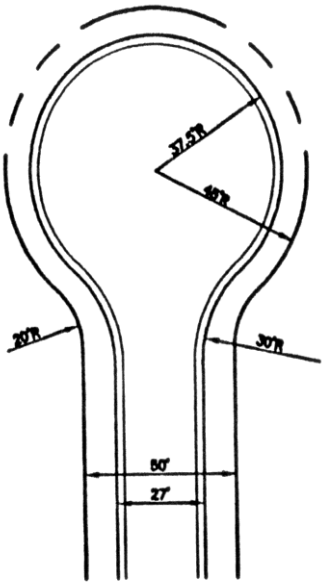
Residential Street



Frontage Road



Cul-de-Sac, Commercial



Cul-de-Sac, Residential