

ARTICLE III  
PERMITS AND PROCEDURES

3-1 PERMIT REQUIRED

No person shall undertake any development activity subject to this Ordinance without first obtaining a permit from the Enforcement Officer(s).

3-2 PERMIT EXEMPTIONS

3-2.1 Building Permit Exemptions

The following are exempt from building permit requirements:

- (A) Farm buildings (other than residences) for farm use;
- (B) Facilities for storage, handling and utilizing liquefied petroleum gases for fuel and anhydrous ammonia or other liquid fertilizers; but not including tanks and tank farms;
- (C) Facilities of a public utility or an electric or telephone membership corporation (except buildings);
- (D) Accessory buildings, less than one hundred (100) square feet; and
- (E) Federal or State buildings.

3-2.2 Grading Permit Exemptions

The following land-disturbing activities are exempt from grading permit requirements:

- (A) for the purpose of fighting fires;
- (B) for the stock piling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage;
- (C) areas that do not exceed one (1) acre in surface area. In determining the area, contiguous lands under one or diverse lands being developed as a unit will be aggregated;
- (D) those undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to: forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, including the breeding and grazing of any or all such animals; bees and aviary products; fur animals;
- (E) those undertaken on forest land for the production and harvesting of timber and timber products;
- (F) mining activity undertaken by persons as defined in NCGS 113A-52(8), who are otherwise regulated by the provisions of The Mining Act of 1971, NCGS 74-46 through 74-68; and
- (G) land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in NCGS 113A-56(a).

3-2.3 Sign Permit Exemptions

No sign permit shall be required for signs exempted by Section 6-1 (Sign Regulation).

3-3 PERMIT APPLICATIONS

### 3-3.1 General Requirements

- (A) Submission: Unless otherwise specified, all applications for permits under this Ordinance shall be submitted by the owner of the property or the authorized agent of such owner. The Enforcement Officer receiving such application may require reasonable proof of agency from any person submitting an application as agent.
- (B) Form of Submission: An application for any review under this Ordinance shall be submitted in such form, number of copies and format as required by Appendix 3 (Table of Permit Application Requirements), together with such fees as required.
- (C) Waiver of Submission Requirements: The Enforcement Officer may from time to time waive submission of required elements of information when in his opinion such information is otherwise available or is not necessary to allow complete review of the application. The Enforcement Officer may refuse to process an incomplete application.
- (D) Processing: All applications for permits shall be submitted, reviewed, and processed in accordance with the requirements of this Ordinance.
- (E) Approved Plans: A copy of required plans or information submitted with the application shall be returned to the applicant after the Enforcement Officer has marked the copy either approved or disapproved and attested to same. A similarly marked copy shall be retained by the Enforcement Officer.
- (F) Health Permit Required: A permit for any building or use for which a State or County Health Department permit for installation of a well or a sewage disposal system is required or approval by the State or County Health Department of an existing well or sewage disposal system shall not be issued until such permit or approval has been issued by the State or County Health Department.
- (G) Conformance with "Airport Overlay District": The Enforcement Officer shall not issue a building, sign, or use/location permit or Certificate of Occupancy for any building or sign not in conformity with the provisions of the "Airport Zoning Overlay District", except upon written order of the Board of Airport Zoning Appeals.

### 3-3.2 Building, Sign, and Use/Location Permits

Application for a building, sign, and use/location permits shall be made to the Enforcement Officer.

### 3-3.3 Event Permit

- (A) Application: Application for an event permit shall be made to the Enforcement Officer at least three (3) working days prior to the start of the event.
- (B) Permit Required: An event permit shall be obtained for non-permanent facilities and activities which will have a duration more than three (3) days but not more than thirty (30) days shall obtain a Certificate of Occupancy.

Example of this type of event uses are: a carnival, a turkey shoot, a revival or similar activity conducted on a short term basis. Turkey shoots may have a duration not to exceed ninety (90) days. Refer to Section 6-4 (Development Standards) for additional requirements for Turkey Shoots.

- (C) Purpose of Permit: The purpose of this permit will be to authorize a specific use for a defined period of time; and to coordinate health, traffic, and other code specific inspections necessary to the safe and healthful operation of the event.
- (D) Permit Issuance: The event permit shall not be issued until evidence is shown that the following conditions have been or will be complied with:
  - (1) Ample off-street parking shall be provided for the event, in addition to required parking for the use or uses located at the event site.
  - (2) The owner of the property where the event is to be held, or his agent, shall provide to the Enforcement Officer written authorization that the event may take place on the property.
  - (3) An event held outside of a building and within five hundred (500) feet of any residence shall cease operation at 10:00 p.m.
  - (4) Noise shall be controlled so that no adjoining property owner or occupant is unduly disturbed by the event.
  - (5) Licenses and/or permits required by other agencies shall be obtained prior to the issuance of the event permit.
- (E) Maximum Number of Permits: No more than three (3) permits may be issued on the same property for the same event in any one calendar year.

#### 3-3.4 Grading Permit

Application for a grading permit shall be made to the Enforcement Officer, in accordance with provisions of Section 7-4 ( Soil Erosion and Sedimentation Control). A Certificate of Erosion Control Performance is required in accordance with Section 3-8.3.

#### 3-3.5 Floodplain Development Permit

Application for a Certificate of Occupancy and/or building permit shall be made to the Enforcement Officer on appropriate forms prior to any development activities, and shall include, but not limited to the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (A) Lowest Floor Elevation to Sea Level: Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures.
- (B) Flood Proofing Elevation to Sea Level: Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed.
- (C) Certificate Required for Non-residential: A certificate from a registered professional engineer or architect that the non-residential flood-proofed structure meets the flood-proofing criteria in Section 7-5 (Flood Control).
- (D) Base Flood Elevation not Provided: Where the base flood elevation data is not provided, the application for a development permit must show construction of the lowest floor at least two (2) feet above the highest adjacent grade.

- (E) Watercourse Alteration or Relocation: Where any watercourse will be altered or relocated as a result of proposed development, the application for a development permit shall include: a description of the extent of watercourse alteration or relocation; an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation.
- (F) Certificate of Flooding Proofing: When a structure is flood-proofed, the applicant shall provide a certificate from a registered professional engineer or architect that the non-residential flood-proofed structure meets the flood-proofing criteria.
- (G) Certificated Required: A floor elevation or flood-proofing certificate is required in accordance with Section 3-8.4.

### 3-4 Permit Issuance

#### 3-4.1 Permit Sequence

- (A) Order of Review and Issuance: The order of permit issuance shall be as follows:
  - (1) A Grading Permit may be issued in advance of issuance of all other permits and plans approvals;
  - (2) If required, a Health Department Improvement Permit for well or septic tank, driveway permit, sewer and water construction plans, site or plot plan, and watershed control plan shall be issued or approved prior to issuance of a building, sign, use, location or occupancy permit.
- (B) Recordation of Final Plats: Recordation of Final Plats may be deferred on group development projects and projects in excess of fifty thousand (50,000) square feet of gross floor area. A Certificate of Occupancy may not be issued until all platting requirements are met.
- (C) Phasing of Projects: Phased projects may be occupied in phases as long as compliance is achieved in each phase, and access and other requirements are met.
- (D) Permits Prior to Final Plan Approval: The Enforcement Officer may issue permits for model homes, temporary construction trailers, safety structures, and other customary construction mobilization structures prior to site plan and final plat approval.
- (E) Concurrent Review: Review of plans may be concurrent.

#### 3-4.2 Fees

The Governing Body may establish a Schedule of Fees, charges and expenses, and a collection procedure, for building permits, sign permits, use/location permits, conditional use and special use permits, grading permits, variances, waivers, appeals and other matters pertaining to this Ordinance. No permit, certificate, variance etc. shall be issued unless or until such costs, charges, fees, or expenses as established, have been paid in full, nor shall any action be taken on proceedings before the administrative board authorized by this Ordinance unless or until charges and fees have been paid in full.

### 3-5 PERMITS APPEAL

#### 3-5.1 Permit Denial

Any owner or occupant who has been denied a permit may appeal the denial by giving notice of appeal in writing to the Enforcement Officer within fifteen (15) days, in accordance with Section 9-7 (Appeals).

#### 3-5.2 Appellant Body

An appeal from permit denial shall be made to the appropriate body in accordance with Section 9-7 (Appeals).

### 3-5 INSPECTIONS AND INVESTIGATIONS

#### 3-6.1 Periodic Inspections

The Enforcement Officer shall have the right, upon presentation of proper credentials, or inspection warrant if necessary, to enter on any premises within the jurisdiction of the Governing Body at any reasonable hour for the purposes of inspection, determination of plan compliance or other enforcement action.

#### 3-6.2 Investigation

The Enforcement Officer shall have the power to conduct such investigation as he may reasonably deem necessary to carry out his duties as prescribed in this Ordinance, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any complaints or alleged violations of this Ordinance.

#### 3-6.3 Written Statements

The Governing Body or its agent shall also have the power to require written statements, certificates and certifications or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of this Ordinance.

### 3-7 PERMIT EXPIRATION

#### 3-7.1 Building, Sign, Use/Location Permit Expiration

(A) Start of Construction: If the work authorized by a building, sign, use, or location permit has not begun within one-hundred and eighty (180) days from the date of issuance thereof, the permit shall be void and a new permit, consistent with all provisions of this Ordinance, shall be required. For purposes of this Section, construction shall be deemed to have begun at the time of completion of an approved foundation inspection.

(B) Permit Continuance: If, after start of construction, the work is discontinued for a period of one (1) year, the permit shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been secured.

(C) Posting: The building sign, use, or location permit must be posted in a prominent place on the site at all times it is in effect.

### 3-7.2 Grading Permit Expiration

- (A) Expiration: A grading permit shall be valid for one (1) year unless it is revoked by the Enforcement Officer or the grading project is completed and a Certificate of Compliance is issued by the Enforcement Officer within the one (1) year period.
- (B) Renewal: The grading permit may be reissued for an additional one Hundred eighty (180) day period, if adequately justified, by making a written request to the Enforcement Officer. No permit fee will be required for reissuance of a grading permit; however, the applicable surety shall remain in effect.
- (C) Eighteen (18) Month Limit: If grading or protection of the site is not completed within eighteen (18) months, the person conducting the land-disturbing activity shall be required to obtain a new grading permit by following the same procedures whereby the original permit was issued.
- (D) Posting: The grading permit must be posted in a prominent place on the site of the land-disturbing activity at all times it is in effect.

## 3-8 CERTIFICATE REQUIREMENTS

### 3-8.1 Certificate of Occupancy and Compliance

- (A) Certificate of Occupancy Required: No land, building, or sign shall be structurally altered, erected, moved, occupied, or its use change until a Certificate of Occupancy is issued by the Enforcement Officer. This certificate shall state that the building and/or proposed use thereof complies with the provisions of this Ordinance. Farm uses and buildings, except residences, are exempt from the provisions of this Ordinance outside the municipality.
- (B) Nonconforming Use: A Certificate of Occupancy shall be required for the purpose of renewing or altering a nonconforming use.
- (C) Certificate of Occupancy Application: A Certificate of Occupancy shall be applied for concurrently with the application for a building, sign, use/location permit.
- (D) Issuance: A Certificate of Occupancy shall be issued as soon as practical after completion of construction or alterations of such building or sign after:
  - (1) Inspection by the Enforcement Officer to determine compliance with all applicable provisions of this Ordinance; and
  - (2) Compliance with all applicable provisions of related health, building, and fire codes.
- (E) Certificate of Occupancy and Compliance: A Certificate of Occupancy may also serve as a Certificate of Compliance under the building code in which case it shall be known as a Certificate of Occupancy and Compliance.

### 3-8.2 Temporary Certificate

A Temporary Certificate of Occupancy may be issued by the Enforcement Officer prior to the completion of all construction, alterations, or changes if such occupancy will not violate any health or safety considerations of applicable codes.

- (A) Time Period: A Temporary Certificate of Occupancy may be for a time period as the Enforcement Officer deems appropriate to complete the work, but not to exceed one hundred eighty (180) days.
- (B) Surety: A surety will be posted in an amount sufficient to insure that the missing elements specified in the plan will be accomplished within the period of the Temporary Certificate of Occupancy.
- (C) Work Incomplete: If the work is not completed within the period of the Temporary Certificate of Occupancy, the Enforcement Officer shall notify the owner. The owner shall cease use of the building and land immediately and shall not resume such use until a Certificate of Occupancy has been issued. Failure to cease use shall subject the owner or operator to civil penalties and other enforcement actions available under this Ordinance.

### 3-8.3 Certificate of Erosion Control Performance

A Certificate of Erosion Control Performance shall be issued after initial erosion control devices have been installed, inspected, and certified to be installed and functioning properly in accordance with an approved grading plan. After issuance of a grading permit, grading on the site shall be limited to that required to install erosion control devices until Certificate of Erosion Control Performance is issued.

### 3-8.4 Certificate of Floor Elevation/Flood Proofing

If the property is located in a flood hazard area, a Certificate of Flood Elevation or Flood Proofing after the lowest floor is complete shall be provided within twenty-one (21) days of establishment of the flood-proofing by whatever construction means. It shall be the duty of the permit holder to submit to the Enforcement Officer a certificate of the elevation of the lowest floor, flood-proofed elevation, or the elevation of the bottom of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, said certification shall be prepared by or under direct supervision of a professional engineer or architect and certified by same. Any work done within the twenty-one (21) day period and prior to submission of the certification shall be at the permit holder's risk. The Enforcement Officer shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make corrections required hereby shall cause to issue a stop-work order for the project.

### 3-8.5 Certificate of Appropriateness

A Certificate of Appropriateness shall be required for all activities specified in Section 4-7 (Historic District Overlay) whether a building permit is otherwise required or not.

### 3-8.6 Record

A record of all certificates shall be kept on file by the Enforcement Officer.

### 3-8.7 Construction and Use

Construction and use as provided in the Certificate of Occupancy, building permit, use/location permit, sign permit, or grading permit listed on the basis of approved plans or applications authorizes only the use, arrangement, and construction set forth in such approved plans or applications. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation.

## 3-9 DEDICATION OR RESERVATION OF RIGHT-OF-WAY

### 3-9.1 Dedication of Right-of-Way with Density Transfer

Whenever a tract of land located within the Jurisdiction is proposed for subdivision or for use pursuant to a special use permit, and a portion of it is embraced within a corridor for a street or highway on a plan established and adopted pursuant to NCGS 136-66.2, the Jurisdiction may provide for the dedication of right-of-way within that corridor pursuant to any applicable legal authority, or:

- (1) The Jurisdiction may require an applicant for subdivision plat approval or for a special use permit, or for any other permission pursuant to a land use control ordinance authorized by local act to dedicate for street or highway purpose, the right-of-way within such corridor if the Jurisdiction allows the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land by the applicant. No dedication of right-of-way shall be required pursuant to this Section unless the board or agency granting final subdivision plat approval or the special use permit, or permission shall find, prior to the grant, that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided in this Ordinance.
- (2) If the Jurisdiction does not require the dedication of right-of-way within the corridor pursuant to subsection (1) of this Section (3-9.1) or other applicable legal authority, but an applicant for subdivision plat approval or a zoning or building permit, or any other permission pursuant to land use control ordinance authorized by local act elects to dedicate the right-of-way, the Jurisdiction may allow the applicant to transfer density credits attributable to dedicated right-of-way to contiguous land that is part of a common development plan.

### 3-9.2 Reservation of Right-of-Way Through Official Roadway Corridor Maps

(A) Authority: Under the authority granted by NCGS 136-2E, the City Council (**Board of Alderman**) or NC Department of Transportation may from time to time adopt, amend, supplement, or change a roadway corridor official map for any streets or roadways identified on the adopted Thoroughfare Plan.

(B) Procedure:

- (1) No roadway corridor official map shall be adopted, amended, supplemented, or changed unless:
  - (a) Public hearings have been held by both the Planning Board and the Governing Body. Notice of the hearings, to include the scheduled

- dates for both hearings, shall be published once a week for four successive weeks prior to the first hearing in a newspaper of general circulation in the Town. Notice of the hearing before the Governing Body shall be published two additional times, once a week for the two successive weeks preceding the hearing. Written notice shall be provided two weeks prior to the first hearing date to the Secretary of Transportation and the Chairman of the Board of County Commissioners for the county through which the roadway corridor passes. In addition, copies of the proposed roadway corridor map or amendment shall be posted at the courthouse door and available at the Town Hall for at least twenty-one (21) days prior to the public hearing dates. The above referenced notices shall make reference to this posting and the availability of the proposed maps at Town Hall; and
- (b) A permanent certified copy of the roadway corridor official map or amendment has been filed with the Register of Deeds for the county in which the affected property lies. The boundaries may defined by map or by written description, or a combination thereof. (The copy shall measure approximately twenty (20) inches by twelve (12) inches, including no less than one and one-half (1 ½) inches binding space on the left hand side.)
- (2) Roadway corridor official maps and amendments shall be distributed and maintained in the following manner:
    - (a) A copy of the official map and each amendment thereto shall be filed in the Town Hall.
    - (b) A copy of the official map, each amendment thereto, and any variance therefrom shall be furnished to the tax supervisor of any county affected thereby.
    - (c) The certified copy filed with the Register of Deeds shall be placed in a book maintained for the purpose and cross-indexed by number of road, street name, or other appropriate description.
  - (3) No roadway corridor or any portion thereof placed on an official map shall be effective unless:
    - (a) The roadway corridor or a portion thereof appears in the Transportation Improvement Program adopted by the North Carolina Board of Transportation; or
    - (b) The roadway corridor or a portion thereof appears on the adopted Thoroughfare Plan and is included in the Town's adopted capital improvement program, which shows the estimated cost of the acquisition and construction of the designated roadway corridor and the anticipated financing for that project.
  - (4) If not already accomplished, within one (1) year following the establishment of a roadway corridor official map or amendment, work shall begin on an environmental impact statement (EIS) or preliminary engineering for the project. The failure to begin work within the one-year

period shall constitute an abandonment of the corridor, and the provisions of this Section shall no longer apply to properties or portions of properties included within the roadway corridor.

(C) Effect of Roadway Corridor Official Map

- (1) After a roadway corridor official map is filed with the Register of Deeds, no building permit shall be issued for any building or structure or part thereof located within the roadway corridor, nor shall approval of a subdivision, as defined in Section IV (Subdivisions: Procedures and Standards), be granted with respect to property within the roadway corridor. The provision of this Section shall not apply to valid building permits issued prior to the effective date of this Section, or to building permits for buildings and structures which existed prior to the filing of the roadway corridor provided and the type of the building code occupancy as set forth in the NC Building Code is not changed.
- (2) No application for building permit issuance or subdivision plan approval shall be delayed by the provisions of this Section for more than three (3) years from the date of the original building permit or subdivision plan submittal.
- (3) Real property that lies within a roadway corridor marked on an official map is designated a special class of property and is taxable at twenty percent (20%) of the general tax rate levied on real property by the taxing unit in which the property is situated if:
  - a) As of January 1, no building or other structure is located on the property; and
  - b) The property has not been subdivided, as defined in Article V (Subdivisions: Procedures and Standards), since it was included in the corridor.

(D) Variance Procedures

- (1) The Board of Adjustment shall hear and decide requests for variances from the requirements of this Section. A variance may be granted by the Board with a majority vote upon a showing that:
  - a) Even with the tax benefits provided, no reasonable return may be earned from the land; and
  - b) The requirements of this Section result in practical hardships.
- (2) If a variance is granted by the Board, the Governing Body may make, or, if appropriate, request the North Carolina Department of Transportation to make an advance acquisition of the specific parcels of property. The Town shall have sixty (60) days from the date of the granting the variance to initiate the acquisition.

(E) Advance Acquisition of Right-of-Way

- (1) After a roadway corridor official map is filed with the Register of Deeds in the County in which the corridor is located, the Town may, at its discretion, make advanced acquisition of specific parcels of property, or it may request that the North Carolina Department of Transportation consider advanced acquisition when such acquisition is determined by the Town to be in the best public interest to protect the roadway corridor from

development or when the roadway corridor official map creates an undue hardship on the affected property owner. All advance acquisitions shall be in accordance with adopted policies and procedures for such instances to assure the advanced purchase is in the best overall public interest.

- (2) The Town may be eligible for reimbursement from the North Carolina Department of Transportation for advanced right-of-way acquisition on state system streets. In all such cases, the Town shall obtain concurrence from the North Carolina Department of Transportation prior to advance acquisition.
- (3) In exercising the authority granted by this Section, the Town is authorized to expend municipal funds for the protection of rights-of-way shown on a duly adopted road corridor official map, regardless of whether the right-of-way to be acquired is located inside or outside the municipal corporate limits.

### 3-10 SURTIES OR IMPROVEMENT GUARANTEES

#### 3-10.1 Agreement and Security

##### (A) Financial Guarantee in Lieu of Immediate Installation for Approval

- (1) In lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval or issuance of the Certificate of Occupancy, the Jurisdiction may enter into an agreement with the developer whereby the developer shall complete all required improvements. Once said agreement is signed by the developer and the security required herein is provided, the final plat may be approved or the Certificate of Occupancy may be issued, if all other requirements of this Ordinance are met. To secure this agreement, the developer shall provide, any or a combination of the following guarantees to cover one hundred and twenty-five percent (125%) of the costs;

##### a) Surety Performance Bond(s)

- (i) The developer shall obtain a performance bond from a surety bonding company authorized to issue said bonds in North Carolina.

- (ii) The bond shall be payable to the Jurisdiction and shall be in an amount equal to the entire estimated cost as approved by the Jurisdiction, of installing all required improvements.

##### b) Cash or Equivalent Security

- i) The developer shall deposit cash, an irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the Jurisdiction or in escrow with a financial institution. The use of any instrument other than cash shall be subject to the approval of the Jurisdiction. The amount of deposit shall be equal to the entire estimated cost, as approved by the Jurisdiction, of installing all required improvements.

- ii) If cash or other instrument is deposited in escrow with a financial institution as provided above, then the developer shall file with the

Jurisdiction an agreement between the financial institution and himself guaranteeing the following:

- 1) That said escrow account shall be held in trust until released by the Jurisdiction and may not be used or pledged by the developer in any other matter during the term of the escrow: and
- 2) That in the case of a failure on the part of the developer to complete said improvements, the financial institution shall, upon notification by the Jurisdiction and submission by the Jurisdiction to the financial institution of an estimate of the amount needed to complete the improvements, immediately either pay to the Jurisdiction the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the Jurisdiction any other instruments fully endorsed or otherwise made payable in full to the Jurisdiction.

(B) Duration of Financial Guarantees

- 1) The duration of a financial guarantee shall be of a reasonable period to allow for completion and acceptance of improvements. In no case shall the duration of the financial guarantee for improvements exceed eighteen (18) months.
- 2) All developments whose public improvements are not completed and accepted at the expiration of the financial guarantee shall be considered to be in default, unless said guarantee is extend with the consent of the Jurisdiction.

(C) Default

- 1) Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as specified out in the bond or escrow agreement, the surety or the financial institution holding the escrow account shall, if requested by the Jurisdiction pay all or any portion of the bond or escrow fund to the Jurisdiction up to the amount needed to complete the improvements based on an estimate by the Jurisdiction. Upon payment, the Jurisdiction at its discretion, may expend such portion of said funds as deemed necessary to complete all or any portion of the required improvements. The Jurisdiction shall return to the developer any funds not spent in completing the improvements. Default on a project does not release the developer from liability/responsibility for the completion of the improvements.
- 2) Release of Guarantee Security: The Jurisdiction may release a portion or all of any security posted as the improvements are completed and approved by the Jurisdiction.

### 3-10.2 Oversized Improvements

The Jurisdiction may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the Jurisdiction requires the installation of oversized improvements, the Jurisdiction shall reimburse the developer for the over-sizing based on the rates set in the Jurisdiction, a copy of which shall be filled with the Jurisdiction.

## 3-11 SITE PLAN AND PLOT PLAN PROCEDURES

### 3-11.1 Applicability

(A) Plot Plan Required:

No building permit for a single-family or two-family dwelling and their accessory(s) on a single lot shall be issued until a Plot Plan, prepared in accordance with the Map Standards, Appendix 2, has been approved.

(B) Site Plan Required:

No other building permit shall be issued on a lot until a Site Plan, prepared in accordance with the Map Standards, Appendix 2, has been approved for the development. Except that no new or amended Site Plan shall be required if an adequate Site Plan is already on file, no change in the parking requirements is required, and no increase in impervious surface is proposed or required.

### 3-11.2 Submission of Site Plans

(A) Timing:

Site plans for review by the Technical Review Committee shall be submitted to the Planning Department at least seven (7) days prior to the next scheduled meeting

(B) Site Plan Compliance:

Site plans shall contain all applicable information listed in the Appendix 2 (Map Standards). The Site Plan shall consist of four sheets: a site layout, a water and sewer utility plan, a conceptual landscaping plan showing planting yard areas, types of plantings (ie. Canopy trees, understory trees, shrubs), and number of plantings, and a grading, erosion control and watershed plan, if required. Depending on the scale or complexity of the development, any or all of the sheets may be combined. The site layout meeting the requirements of Article V (Subdivision: Procedures and Standards) of this Ordinance may serve as the preliminary subdivision plat.

(C) Fees:

All fees shall be due and payable when the Site Plan is submitted according to the Schedule of Fees.

### 3-11.3 Coordination with Other Procedures

To lessen the time required to attain all necessary approvals, the site plan approval process may run concurrently with building plan review; applications for Certificates of Appropriateness for Historic Districts; applications for grading permits or other applications for approvals required for the particular project.

### 3-11.4 Site Plan and Plot Plan Approval

(A) Approval of Site/Plot Plan:

The Site Plan or Plot Plan shall be approved when it meets all requirements of the Ordinance or proper waivers and/or variances are obtained.

(B) Approval Authority:

- 1) Site Plans submitted for development, or additions to existing developments, of less than fifteen thousand square feet ( $15,000 \text{ ft}^2$ ) of gross floor area, but not more than eight (8) dwelling units in a single building, or for open uses of land, or expansions of open uses of land, involving less than forty thousand square feet ( $40,000 \text{ ft}^2$ ) may be approved by the Planning Department.
- 2) Site plans submitted for developments, or additions to existing developments, with fifteen thousand square feet ( $15,000 \text{ ft}^2$ ) or more of gross floor area or for open uses of land, or expansions of open uses of land involving forty thousand square feet ( $40,000 \text{ ft}^2$ ) or more may be approved by the Technical Review Committee.

(C) Action by Technical Review committee:

If the Site Plan is approved, the applicant may proceed with other requirements necessary to obtain a Building Permit. If the Technical Review Committee denies the Site Plan, reasons for denial shall be stated in writing and the Site Plan may be revised and resubmitted. The Technical Review Committee shall take action within thirty (30) days of reviewing the Site Plan. If the Site Plan is denied, granted conditional approval, or no action is taken within thirty (30) days by the Technical Review Committee, the applicant may appeal the Site Plan to the Planning Board. The appeal may be made within fifteen (15) days after denial, conditional approval, or lack of action by the Technical Review Committee.

(D) Action by Planning Board:

If a Site Plan is appealed to the Planning Board, it shall be scheduled, subject to published filing dates, to be reviewed at the next regularly scheduled meeting. If the Site Plan is denied, or granted conditional approval, or if no action is taken by the Planning Board, the applicant may appeal the Site Plan to the Governing Body within fifteen (15) days after the Planning Board meeting.

(E) Conditional Approvals:

If the Site Plan is granted conditional approval by the Planning Department, Technical Review Committee, Planning Board, or Governing Body, the applicant shall revise and resubmit the Site Plan. The Planning Department shall review the revised Site Plan and, if it meets all the approval conditions and is otherwise substantially unaltered, shall signify on the plan the change from conditional approval to approval. If the Site Plan is not revised within sixty (60) days to meet the approval conditions, or the applicant notifies the Planning Department that he is unwilling to revise the Site Plan, it shall be deemed denied.

(F) Expiration of Site Plan Approval:

If construction or development does not begin within eighteen (18) months following Site Plan approval; or is begun and then discontinued for a period greater than one hundred and eighty (180) days; such approval shall expire, and a new Site Plan must be submitted in accordance with the procedures in this Section.

### 3-11.5 Street and Utility Construction

(A) Plans:

Street and utility construction plans for all public or private street, water, sanitary sewer, and storm sewer facilities shall be submitted to the Jurisdiction following conditional approval or approval of the Site Plan. For each phase of the Site Plan, these street and utility construction plans shall include all improvements lying within or adjacent to that section as well as all water and sanitary sewer lines lying outside that section and being required to serve that section.

(B) No Construction Without Plan Approval:

None of the improvements listed above shall be constructed until the street and utility construction plans for such improvements have been reviewed and approved by Town Engineer.

(C) Inspections:

Work Performed pursuant to approval street and utility construction plans shall be inspected and approved by the Town Engineer. Such inspections shall be paid for by the developer.

### 3-11.6 Watershed Control Ponds and Soil & Erosion Control Devices

Any approved watershed control pond(s) and soil and erosion control device(s) may be installed prior to approval of street and utility construction plans.

### 3-11.7 Permits

Upon approval of the Site Plan, the developer shall be eligible to apply for building and any other permits required by this Ordinance or other laws, unless otherwise provided in this Ordinance.

## 3-12 ZONING MAP AND TEXT AMENDMENTS

### 3-12.1 General Requirements

(A) Amendments and Modifications:

Zoning regulations, restrictions, and zone boundaries as shown on the Official Zoning Map may from time to time be amended, supplemented, changed, modified or repealed according to the provisions of this Ordinance. Amendments and modifications shall be acted upon by the Governing Body, after recommendation from the Planning Board. Refer to Section 3-12.2(J) for voting procedures.

(B) Prior Building Permit Approval:

Amendments, modifications, supplements, repeal or other changes in zoning regulations and zone boundaries shall not be applicable or enforceable without the consent of the owner with regard to lots for which building permits have been issued, pursuant to state law, prior to the enactment of the ordinance making the change or changes, so long as the permits remain valid and unexpired or revoked.

(C) Authorized Submission:

The Governing Body, any Local Board, Commission, Department or property owner(s) of the property requested for rezoning may petition for an amendment to this Ordinance.

### 3-12.3 Requirements for Zoning Map Amendments

(A) Application Form:

Any person authorized to seek an ordinance amendment shall submit an application according to a form provided by the Planning Department, along with other required information pursuant to Appendix 3 (Table of Permit Application Requirements).

(B) Fee:

All fees shall be due and payable when the application is made according to the Schedule of Fees.

(C) Filing of Application:

- 1) No application for rezoning to the same district shall be filed within one (1) year period from the date of final action on the previous rezoning request (other than a withdrawal prior to the public hearing) on a given parcel of land or portion thereof unless the Planning Board determines that evidence submitted to them merits consideration for a public hearing at their next meeting.
- 2) A second request for the same parcel of land or portion thereof for a different zoning district may occur within a one (1) year period from final action on the initial request.

- 3) Under no circumstances may more than two (2) zoning map amendments be filed for rezoning a given parcel of land or any portion thereof within any one (1) year period.

(D) Notification:

The posting of signs, publishing of legal notices and other procedures as provided in Article IX (Administration) shall be followed.

(E) Public Hearing:

The Planning Board shall hold a public hearing on the application. The Planning Department shall present the application to the Planning Board, together with the Planning Department's recommendations, at the first regularly scheduled meeting following proper filing and notice of the application.

(F) Application Withdrawal:

- 1) An application for amendment may be withdrawn by the applicant anytime before submission of the public notice to the newspaper announcing the public hearing.
- 2) After submission of such notice, an application may be withdrawn at the discretion of the Planning Board or Governing Body.
- 3) No more than two (2) withdrawals may occur on the same parcel of land or portion thereof within a one (1) year period.
- 4) No application shall be filed on the same parcel of land or portion thereof within one (1) year period after the date of the second withdrawal.

(G) Continuance:

The Planning Board may continue a rezoning request for up to two (2) months provided the reason for said continuance is stated in the motion to continue. Nothing in this Section shall prohibit a continuance being granted for a greater period of time provided it is mutually agreed upon by all parties concerned. Upon failure of the Planning Board to act on a request immediately following all proper continuances, or in the event that no action is taken, the petitioner may take the proposal to the Governing Body without a recommendation from the Planning Board.

(H) Left Blank

(I) Protest Petition:

A valid Protest Petition requiring a three-Fourths (3/4) vote for approval by the Planning Board, or Governing Body by appeal, shall meet the following requirements:

- 1) The Protest Petition shall be signed by;
  - a) The owners of twenty percent (20%) or more of the area of the lots included in a proposed change; or
  - b) The owners of twenty percent (20%) or more of the lots immediately adjacent to the lots included in the proposed change, either in the rear thereof or on either side there-from, extending one hundred (100) feet there-from, or of those directly opposite thereto

extending one hundred (100) feet from the street frontage of the opposite lots.

- 2) Protest petitions must be filed with the Clerk in sufficient time to allow the Local Government at least two (2) normal work days, excluding Saturdays, Sundays and legal holidays, before the date established for public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition.
- 3) The Governing Body may, by ordinance, require that all protest petitions be on a form prescribed and furnished by the Local Government, and such form may prescribe any reasonable information deemed necessary to permit the Clerk to determine the sufficiency and accuracy of the petition.
- 4) Protest petitions shall not be appealed to any amendment which initially zones properly added to the territorial coverage of the Ordinance as a result of annexation or otherwise.

(J) Voting:

- 1) A favorable majority vote from the Planning Board shall constitute a favorable recommendation forwarded to the Governing Body.
- 2) An unfavorable majority vote from the Planning Board shall constitute a recommendation of denial forwarded to the Governing Body.
- 3) Applications that receive a valid Protest Petition shall require a three-fourths (3/4) majority vote of the Governing Body to be approved.
- 4) Applications receiving a favorable majority vote from the Governing Body shall constitute approval of the application.
- 5) Applications receiving a unfavorable majority vote from the Governing Body shall constitute denial of the application.

(K) Appeals:

- 1) Any decision of the Planning Board may be appealed to the Governing Body.
- 2) Such Appeals shall be made within fifteen (15) days of the decision by filling with the Clerk to the Governing Body a written notice of appeal.

### 3-12.3 Amendments to the Flood Zoning Map

(A) Authorization to Amend:

The location of any floodway zone or floodway fringe zone may be amended in cases where:

- 1) A flood control project of the federal, state, county, or city government has substantially altered the flood hazard; or

- 2) Flood data indicates that the boundaries or either of the zones as shown on the official flood zoning map are no longer correct; or
- 3) A private individual, corporation, firm or governmental agency has submitted plans to the appropriate local authority, state agencies, and the Federal Emergency Management Agency for a channel improvement or relocation or a street or bridge which would affect the location of the existing zone boundaries as shown on the Official Flood Zoning Map. Any development activity requiring as a prerequisite an amendment to the Official Flood Zoning Map shall not be allowed until the amendment to the Official Flood Zoning Map is approved.
- 4) Amendment approval is a prerequisite whenever the proposed development or proposed use combined with the allowable encroachment of the floodway fringe and with any previously placed or previously approved encroachment in the floodway will increase the base flood elevation by more than one (1) foot. The increase in base flood elevation due to the allowable encroachment of the floodway fringe is listed in the Floodway Data Table in the Flood Insurance Study prepared by the Federal Emergency Management Agency (FEMA).

(B) Application Process:

Application for an amendment to the Official Flood Zoning Map shall be processed in the same manner as an amendment to the official zoning map. The applicant shall be responsible for submitting the proposed amendment and supporting documentation to the Federal Emergency Management Agency (FEMA) for its approval. The application for flood zone map amendments shall be deemed incomplete if not accompanied by a letter of approval from FEMA.

(C) Conformance to State Statutes:

The Official Flood Zoning Map and all amendments thereto shall be filed in accordance with NCGS 143-215.56(c).

### 3-12.4 Requirements for Text Amendments

(A) Submission of Application:

Applications to amend the text of this Ordinance shall be submitted to the Planning Department.

(B) Planning Board and MDOC Recommendations:

The Planning Department shall refer such applications to the Multi-jurisdictional Development Ordinance Committee (MDOC) for recommendation. The MDOC shall make its recommendation to the Planning Board within sixty (60) days of said referral.

(C) Planning Board Recommendation:

The Planning Board shall make a recommendation to the Governing Body concerning the proposed text amendment after receipt of the recommendation from MDOC.

(D) Application Approval:

The Governing Body shall approve or disapprove the text amendment after receipt of the recommendation from the MDOC and Planning Board.

### 3-13 SPECIAL USE PERMITS

#### 3-13.1 Approval Procedure

Applications for Special Use Permits shall be considered and decided by the Planning Board in accordance with the procedure used by the Planning Board for the review of applications for zoning map amendments.

#### 3-13.2 Conditions for Approval

An application for a Special Use Permit shall be approved by the Planning Board if and only if the Planning Board finds that:

- 1) The proposed use is represented by an “S” in the column for the district in which it is located on the Permitted Use Schedule in this Ordinance.
- 2) The proposed conditions meet or exceed the development standards found in Article VI (Development Standards).
- 3) Either the use as proposed or the use as proposed subject to such additional conditions as the owner may propose or the Planning Board may impose is consistent with the purposes of the District and compatible with surrounding uses.
- 4) The Special Use Permit shall be granted when each of the following Findings of Fact have been made by the Planning Board:
  - a) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved;
  - b) That the use meets all required conditions and specifications;
  - c) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
  - d) That the location and character of the use, if developed according to the plan submitted and approved, will be in harmony with the area in which is **is** to be located and in general conformity with the plan of development of the Jurisdiction and its environs.

#### 3-13.3 Greater Restrictions

In granting a Special Use Permit, the Planning Board may impose more restrictive requirements upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served.

### 3-13.4 Permit Denial

If the Planning Board fails to make the findings required by Section 3-13.2 or makes other findings inconsistent with the required findings, then such proposed permit shall be denied.

### 3-13.5 Permit Applicability

Any Special Use Permit so authorized shall be perpetually binding upon the property included in such permit unless subsequently changed or amended through application for a new or amended Special Use Permit or until a use otherwise permitted in the district is established.

### 3-13.6 Compliance with Approved Permit

No building or other subsequent permit or approval shall be issued for any development on property subject to a Special Use Permit except in accordance with the terms of the permit and the district.

### 3-13.7 Submission of Site Plans

Site plans for any development made pursuant to any Special Use Permit shall be submitted for review in the same manner as other development plans required by this Ordinance.

### 3-13.8 Minor Modification(s)

In approving such Site Plans, the Technical Review Committee may make minor modifications to the requirements of such Special Use Permit where such modification will result in equal or better performance and provide that the objective and purpose of the requirements and conditions of the Special Use Permit are maintained.

### 3-13.9 Amendment of Permit

The Planning Board may change or amend any Special Use Permit subject to the same consideration as provided for in this Ordinance for the original issuance of a Special Use Permit.

### 3-13.10 Timing of Amendment Proposal

No proposal to change or amend any Special Use Permit shall be considered within a one (1) year period after the date of the original authorization of such permit or within a one (1) year period after the hearing of any previous proposal to change or amend any such permit.

### 3-13.11 Effect of Invalidity

If for any reason any condition imposed ???????????????????????????????? regulations is found to be illegal or invalid, such Special Use Permit shall be null and void and of no effect.

### 3-12.12 Non-compliance with Permit Conditions

If after receiving a Notice of Violation for violation of the terms or conditions of a Special Use Permit, the owner fails to correct such violations within a reasonable time, then the Special Use Permit may, after a hearing, be revoked by the Planning Board. The Planning Board shall revoke such permit on all or part of a development if it finds that there has been a violation that: was intentional: or continued for an unreasonable time after the owner had notice thereof; or was substantially inconsistent with the purposes of the district and continued for any time after the owner had notice thereof and the opportunity to cure. All of the other remedies of this ordinance for zoning violation shall apply to a violation of the terms of a Special Use Permit. Civil and/or criminal penalties may accrue pending the correction of a violation of a Special Use Permit, notwithstanding the fact that the owner may correct the violation within a reasonable time for purposes of the revocation provisions of this paragraph.

## 3-14 NONCONFORMING LOTS, USES AND STRUCTURES

### 3-14.1 Nonconforming Lots of Record

#### (A) Single Lot of Record

- 1) When a lot has an area or width which does not conform to the dimensional requirements of the district where located, but such lot was of record at the time of adoption of this Ordinance or any subsequent amendment which renders such lot nonconforming, then such lot may be used for a use permitted in the district where located, provided the setback dimensions and other requirements, except area or width, are complied with.
- 2) In residential zones, only a single family dwelling shall be permitted on the nonconforming lot.
- 3) Nothing contained herein exempts a lot from meeting the applicable provisions of the Board of Health, of the County in which the lot is located.

#### (B) Lots with Contiguous Frontage in One Ownership;

- 1) When two (2) or more adjoining and vacant lots with contiguous frontage are in one ownership and said lots individually have area or width which does not conform to the dimensional requirements of the district where located, but such lots were of record at the time of adoption of this Ordinance or any subsequent amendment which renders such lot nonconforming, such lot or several buildable lots for any use permitted in the district where located provided the setback and all other requirements, ???? involving area are complied with.

- 2) Nothing contained herein exempts the contiguous lots considered as a single buildable lot or lots from meeting the applicable provisions of the Board of Health, of the County in which the lot or lots are located.
- (C) Reduction of a Lot of Record: A lot of record reduced to less than the required area, width, or setback dimension as the result of a condemnation or purchase by a local or state government agency shall become a nonconforming lot of record.

### 3-14.2 Nonconforming Uses of Land

- (A) Continuance of Nonconforming Use of Land; Any nonconforming use legally existing at the time of adoption or amendment of this Ordinance, or any nonconforming use created by the extension of the jurisdiction, may be continued so long as it remains otherwise lawful.
- (B) Conditions for Continuance: Such nonconforming use of land shall be subject to the following conditions:
- 1) No nonconforming use shall be changed to another nonconforming use unless such use is determined to be of equal or less intensity. In determining whether a nonconforming use is of equal or less intensity, the Board of Adjustment shall consider:
    - a) probable traffic of each use;
    - b) parking requirements of each use;
    - c) probable number of persons on the premises of each use at a time of peak demand;
    - d) off-site impacts of each use, such as noise, glare, dust, vibration or smoke.
  2. No such nonconforming use shall be enlarged, increased, or to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Ordinance. The number of dwelling units in a nonconforming residential use shall not be increased.
  3. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Ordinance.
  4. If any nonconforming use of land ceases for any reason, a continuous period of more than one (1) year, any subsequent use of such land shall be a permitted use in the district in which such land is located.
  5. The resumption of a nonconforming use of land shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.
  6. No additional structure(s) not conforming to the requirements of this Ordinance shall be erected in connection with such nonconforming use of land.

### 3-14.3 Nonconforming Structures

- (A) Continuation of Nonconforming Structure: Any nonconforming structure legally existing at the time of adoption or amendment of this Ordinance or any nonconforming structure created by extension of jurisdiction may be continued so long as it remains otherwise lawful.
- (B) Conditions for Continuation: Such nonconforming structures shall be subject to the following conditions:
- 1) No nonconforming structure may be enlarged or altered in any way which increases its dimensional deficiencies; however any nonconforming structure or portion thereof may be altered to decrease its dimensional deficiencies. Any enlargement of the structure shall conform to the current dimensional requirement.
  - 2) In the event of damage by fire or other causes to the extent exceeding fifty percent (50%) of its tax value prior to such damage as established by the County Tax Department, reconstruction of a nonconforming structure shall be permitted only in compliance with the dimensional provisions of this Ordinance.
  - 3) In the event of damage by fire or other causes to the extent causing less than fifty percent (50%) of its tax value prior to such damage as established by the County Tax Department, reconstruction of a nonconforming structure shall be permitted provided it is constructed:
    - a) In the same manner in which it originally existed; or
    - b) In compliance with the dimensional requirements.
  - 4) No nonconforming structure shall be moved or relocated unless it is made to comply with the dimensional and use requirements of the district in which it is located.
- (C) Preservation of Safe or Lawful Conditions: Nothing in this Ordinance shall prevent the strengthening or restoration to a safe or lawful condition any part of any building declared unsafe or unlawful, by the Building Inspector or other duly authorized official.

### 3-15 ANNEXATION AND ORIGINAL ZONING

#### 3-15.1 Submission of petition

Petitions for annexation and original zoning shall be submitted to the Planning Department with other information as required by Appendices 2 and 3 and shall be forwarded to the Planning Board for recommendation of original zoning to the Governing Body.

#### 3-15.2 Initiation by Governing Body

Where the Governing Body initiates the annexation, it shall not be necessary to provide a metes and bounds description provided that local government planning maps are utilized which clearly delineate the area involved and the proposed zoning classification.

### 3-15.3 Filing of Maps

The maps shall be duly filed with the Clerk upon adoption.

## 3-16 HISTORIC DISTRICTS

Request for change in the zoning classification of property within a historic district shall be processed and considered in the same manner and procedure as set forth in this Ordinance for rezoning requests, except that the Historic Preservation Commission shall forward a recommendation to the Planning Board prior to Planning Board taking action on any such request.

## 3-17 CONDITIONAL USE DISTRICT

### 3-17.1 Purpose of Conditional Use District

If the regulations and restrictions of a zoning district permitting a proposed use are inadequate to ensure the compatibility of the proposed development with the immediately surrounding neighborhood in accordance to the principles of this Ordinance and applicable adopted plans, the property owner may apply for rezoning to a Conditional Use District bearing the designation as a standard zoning district but subject to additional conditions. The owner shall in such application specify the nature of the proposed development and shall propose conditions to ensure compatibility between the development and the surrounding neighborhood.

### 3-17.2 General Requirements

- (A) Conditional Use District Application: The Conditional Use District application shall be considered only upon request by the property owner(s).
- (B) Other Regulations Apply: Within a Conditional Use District, all standards and requirements of the corresponding zoning district shall be met, except to the extent that the conditions imposed are more restrictive than those standards.
- (C) Uses Within District: Within an approved Conditional Use District, use shall be permitted except pursuant to the conditions imposed on Conditional Use District in the approval of the rezoning.
- (D) Conditions: The conditions imposed may limit the uses which are permitted on the property to some one or more use(s) otherwise permitted in the zone. Such conditions may further specify the location on the property of the proposed use, the number of dwelling units, location and

extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the location and extent of right-of-ways and other areas to be dedicated for public propose as conditions upon request.

- (E) Non-compliance to District Conditions: Any violation of a condition included in the approval of a Conditional Use District shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. Any violation of such a condition shall be deemed to be the same type of violation as the use of a property for a use not permitted under the district regulations, for the reason that any use permitted in a Non-Conditional Use District is permitted only subject to the specific conditions.
- (F) District Established: A Conditional Use District, prefixed by CU, is hereby established as a companion district for every district established in Section 4-2: CU-AG, CU-RS-40, CU-RS-30, CU-RS-20, CU-RS-15, CU-RS-12, CU-RM-5, CU-RM-8, CU-LO, CU-GO-M, CU-GO-H, CU-NB, CU-LB, CU-GB, CU-HB, CU-CB, CU-SC, CU-CP, CU-LI, CU-HI, CU-PL. All regulations which apply to a general use district also apply to the companion conditional use district. All other regulation which ??????????

### 3-17.3 Procedure

Applications for Conditional Use Districts shall be processed, considered, and voted upon in the same procedure as that required for other zoning maps and amendments.

### 3-18 ZONING VESTED RIGHTS

#### 3-18.1 Establishment of a Zoning Vested Right

- (A) Establishment of Vested Right: A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the appropriate approval authority as specified in Section 3-17.2 of a site specific development plan, following notice and public hearing by a Planning Board.
- (B) Approval of Site Specific Development Plan:
  - 1) 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.
  - 2) Notwithstanding Subsections (A) and (B) 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.

- (C) Effective Date of Approval: A site specific development plan shall be deemed approved upon the effective date of the approval authority's action or ordinance relating thereto.
- (D) Effect of Additional New or Amended Regulations: 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 are applicable to all property subject to land use regulation by the Jurisdiction including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, the application of 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 Ordinance.
- (E) Vested Right Runs with Property: 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.

### 3-18.2 Approval Procedures

- (A) Notice and Public Hearing: Notice of any proposed approval for a zoning vested right shall be as provided in Section 9-1.2 (A)(4). The Planning Board shall hold a public hearing on the matter in accordance with Section 9-2.3(A).
- (B) Approval by Enforcement Officer: The following plans shall be vested for two (2) years from the date of approval by the Enforcement Officer following notice and public hearing by the Planning Board:
  - 1) A preliminary plat for a minor subdivision;
  - 2) A plot plan;
  - 3) Minor site plans in accordance with Section 3-11.4(B)(1);
  - 4) A master or common sign plan;
  - 5) A watershed control plan; or
  - 6) A landscaping plan.
- (C) Approval by Technical Review Committee: The following plans shall be vested for two (2) years from the approval or conditional approval by the Technical Review Committee following notice and public hearing by the Planning Board:
  - 1) A preliminary plan for a major subdivision; or
  - 2) A major site plan approved in accordance with Section 3-11.4(B)(2) but not including master or common sign plans, watershed control plans, or landscaping plans.
- (D) Approval by Planning Board: The following plans shall be vested for two (2) years from the date of approval by the planning Board or Governing Body, whichever is appropriate, following notice and public hearing:

- 1) A Special Use Permit; or
- 2) A Planned Development- Residential or Planned Development- Mixed unified development plan.

### 3-18.3 Plans Not Vested

- (A) Conceptual Plans: Because the following plans frequently lack sufficient detail, they are not vested under this Ordinance:
- 1) A Planned Development- Residential or Planned Development- Mixed Sketch plan; or
  - 2) A subdivision master plan or sketch plan.
- (B) Plans Not Relating to Type and Intensity of Use: The following types of plans are reviewed and approved under statutes not related to the type and intensity of use in the context of NCGS 153A-334.1 and, therefore, are not considered vested in the meaning of this Ordinance:
- 1) Soil erosion and sedimentation control plans;
  - 2) Utility and street construction plans; or
  - 3) Building and other construction plans.

### 3-18.4 Compliance

- (A) Conformance Review: Following approval or conditional approval of a site specific development plan, nothing in this Ordinance 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 review and approvals are not inconsistent with the original approval.
- (B) Noncompliance: Nothing in this Ordinance shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the zoning Ordinance.
- (C) Life of Building Permit: 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.

Adopted this the 2<sup>nd</sup> day of December, 1991.