

# Town of Belhaven

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## Proposed Zoning Code Development Regulation Ch. 152 Land Use

Presented to Council: November 14, 2022

14 **GENERAL PROVISIONS**

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16 **TITLE**

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18 This chapter shall be known as the Zoning Code of the Town. The map herein referred to, which is  
19 identified by the title "Official Zoning Map of Belhaven, North Carolina," shall be known as the "zoning  
20 map."  
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22 This chapter shall be known as the Zoning Regulations for the Town of Belhaven, North Carolina, and  
23 may be cited as the Zoning Regulations.  
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25 **AUTHORITY AND ENACTMENT CLAUSE**

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27 The Town Board, pursuant to the authority granted by N.C.G.S. Chapter 160D and Chapter 160A, Article  
28 8, does hereby ordain and enact into law these sections. This chapter shall invalidate and/or supersede  
29 all previous chapters pertaining to the matters herein.  
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31 **JURISDICTION**

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33 This chapter shall apply to all lands within the Town's corporate limits and that land located between  
34 those limits and the boundaries established in the municipal chapter establishing extraterritorial  
35 jurisdiction boundaries, as now or hereafter fixed as shown on the official zoning map of the Town, by  
36 the Town Council. The provisions of this chapter shall in no way regulate or prohibit any bona fide farm  
37 and its related issues. Residences for non-farm use or occupancy and other non-farm uses shall be  
38 subject to the provisions of this chapter.  
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40 **PURPOSE**

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42 This chapter is made in accordance with a comprehensive land use plan designed to promote the public  
43 health, safety, and general welfare. To that end, the regulations may address, among other things, the  
44 following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to  
45 avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire,  
46 panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage,  
47 schools, parks, and other public requirements; and to promote the health, safety, morals, or general  
48 welfare of the community. The regulations shall be made with reasonable consideration, among other  
49 things, as to the character of the district and its peculiar suitability for particular uses and with a view to  
50 conserving the value of structures and encouraging the most appropriate use of land throughout the  
51 local government's planning and development regulation jurisdiction. The regulations may not include,  
52 as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or  
53 facilities abutting the school or proximately located to the school.  
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55 **RULES OF INTERPRETATION**

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57 The following rules shall apply for construing or interpreting the terms and provisions of this chapter:  
58 In their application, the provision of this Chapter shall be held to be the minimum requirements for the  
59 promotion and protection of the public health, safety and general welfare, and shall be construed to  
60 achieve the purposes for which this Chapter is adopted.  
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62 In the event of any conflict between the limitations, requirements, or standards contained in difference  
63 provisions of this Chapter and applying to an individual use or structure, the more restrictive provision  
64 shall apply. However, the regulations for overlay districts which are set forth in this chapter shall control  
65 in the event of any conflict between those regulations and the regulations which are set forth for the  
66 underlying zoning district, regardless of whether they are more or less strict than the regulations for the  
67 underlying district.

68  
69 The words shall, must, and will are mandatory in nature, establishing an obligation or duty to comply  
70 with the particular provision. The word may is permissive in nature. Words used in the present tense  
71 include the future tense. Words used in the singular number include the plural number and the plural  
72 number includes the singular number, unless the context of the particular usage clearly indicates  
73 otherwise. Words use in the masculine gender include the feminine gender, and vice versa.

74  
75 Any act authorized by this Chapter to be carried out by a specific official of the Town is implicitly  
76 authorized to be carried out by a designee of such official.

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78 **DEFINITIONS SEE Appendix A.**

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80 **CONFLICT WITH OTHER REGULATIONS**

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82 This Chapter shall not interfere with, abrogate or annul any easements, covenants or other agreements  
83 between any parties, except where this Chapter imposes a greater restriction, the provisions of this  
84 chapter shall govern. Should any provisions of this chapter conflict with the provision of any county,  
85 state or federal regulations, statute or law, the county, state or federal provision shall govern. Where  
86 the provisions of this chapter conflict with the provision of any other chapter of the Town, the Town  
87 Council shall apply and interpret the provision.

88  
89 **SEVERABILITY**

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91 If for any reason one or more parts of this chapter are ruled invalid by the courts, the judgment shall not  
92 affect the remaining portions of this chapter.

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94 **ERRORS AND OMISSIONS**

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96 If a manifest error is discovered, consisting of the misspelling of any words; the omission of any word or  
97 words necessary to express the intention of the provisions affected; the use of a word to which no  
98 meaning can be attached; or the use of a word when another word or words was clearly intended to  
99 express such intent, such spelling shall be corrected and such word or words supplied, omitted, or  
100 substituted as will conform with the manifest intention, and the provisions shall have the same effect as  
101 though the correct words were contained in the text as originally published. No alteration shall be made  
102 or permitted if any question exists regarding the nature or extent of such error.

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104 **EFFECTIVE DATE**

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106 This chapter shall take effect and be in force from and after its passage and adoption.

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110 **ZONING MAP**

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112 **INCORPORATION BY REFERENCE**

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114 The boundaries of the established zoning districts are officially shown upon a map titled "Zoning Map,  
115 Town of Belhaven, North Carolina." The official zoning map and all notations, references and  
116 amendments thereto and other information shown thereon is made a part of this chapter the same as if  
117 such information set forth on the map were fully described and set out in this chapter. The zoning map,  
118 properly attested, shall be kept on file in the office of the Town Clerk and shall be available for  
119 inspection by the public.

120

121 **OFFICIAL MAP ESTABLISHED**

122

123 For the purposes of this chapter, the Town and its extraterritorial jurisdiction are hereby divided into  
124 zones or districts as shown on the official zoning map, which, together with all explanatory matter  
125 thereon, is hereby adopted by reference and declared to be a part of this chapter.

126

127 The official zoning map shall be identified by the signature of the Mayor and attested by the Town Clerk  
128 and bearing the seal of the Town under the following words: "This is to certify that this is the Official  
129 Zoning Map referred to in article II of the Zoning Ordinance of Belhaven, North Carolina," together with  
130 the date of adoption of the ordinance from which this chapter is derived.

131

132 The official zoning map, which shall be located in the municipal building in the office of the Town Clerk,  
133 shall be the final authority as to the current zoning status of land, water areas, and buildings in the Town  
134 and its extraterritorial jurisdiction.

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136 **RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES**

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138 The boundaries of the various zones as shown on the Zoning Map are adopted and the provisions of this  
139 chapter governing the use of land and buildings, the height of buildings, building site areas, the sizes of  
140 yards about buildings and other matters as hereinafter set forth are established and declared to be in  
141 effect upon land included within the boundaries of each and every zone shown upon the Zoning Map.

142

143 Where uncertainty exists with respect to the boundaries of any of the districts as shown on the official  
144 zoning map, the following rules shall apply:

- 145 (1) Boundaries indicated as approximately following the center lines of streets, highways, alleys, or
- 146 railroads shall be construed to follow such center lines;
- 147 (2) Boundaries indicated as approximately following platted lot lines shall be construed as following
- 148 such lot lines;
- 149 (3) Boundaries indicated as approximately following town limits shall be construed as following
- 150 such town limits;
- 151 (4) Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in
- 152 the event of change in the shoreline shall be construed as moving with the actual shoreline;
- 153 boundaries indicated as approximately following the center lines of streams, rivers, creeks,
- 154 canals, lakes, or other bodies of water shall be construed to follow such center lines;
- 155 (5) Boundaries indicated as parallel to or extensions of features indicated in subsections (1) through
- 156 (4) of this section shall be so construed. Distances not specifically indicated on the official zoning
- 157 map shall be determined by the scale of the map;

- 158 (6) Where physical or cultural features existing on the ground are at variance with those shown on  
159 the official zoning map or in other circumstances not covered by subsections (1) through (5) of  
160 this section, the Board of Adjustment shall interpret the district boundaries.
- 161 (7) If a district boundary divides a lot, the requirements for the district in which the greater portion  
162 of the lot lies shall be extended to the balance of the lot, provided that such extension shall not  
163 include any part of such lot which lies no more than 100 feet beyond the district boundary; and,  
164 further, that the remaining parcel shall not be less than the minimum required for the district in  
165 which it is located.

166 **AMENDMENTS OF THE OFFICIAL ZONING MAP(S)**

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168 Amendment of the official zoning map(s) shall follow the procedures as outlined in N.C. General Statutes  
169 160D-602.

170  
171 If changes are made in zoning districts, the changes shall be made on the official zoning map(s) after  
172 amendment has been approved by the Town Council, together with proper documentation as the  
173 changes on the official zoning map(s). No amendment shall become effective until approved by the  
174 Town Council. Any unauthorized change by any person(s) shall be considered a violation of this chapter.  
175

176 If, in accordance with sections 152.300 through 152.306, changes are made in the zoning district  
177 boundaries or other matter shown on the map, such changes shall be made together with an entry on  
178 the map as follows:

179  
180 *"On (date), by official action of the Board of Aldermen, the following changes were made in the*  
181 *Official Zoning Map: (brief description of change)."*

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183 The entry shall be signed by the Mayor and attested by the Town Clerk. No amendment to this chapter  
184 which involves a matter portrayed on the map shall become effective until after such change and entry  
185 has been made on said map. The Board of Aldermen shall give official notice of the zoning change to the  
186 Zoning Administrator within 24 hours after passage of said change.

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188 **ZONING ADMINISTRATOR RESPONSIBLE FOR MAINTENANCE**

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190 The Zoning Administrator shall be responsible for the maintenance of and revision of the official zoning  
191 map. Upon notification by the Board of Aldermen that a zoning change has been made, the Zoning  
192 Administrator shall make the necessary changes on the official zoning map within 24 hours following  
193 notification.

194  
195 **REPLACEMENT OF OFFICIAL ZONING MAP**

196  
197 In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret, the  
198 Town Council may, by resolution adopt a new official zoning map which shall supersede the prior official  
199 zoning map. The new official zoning map may correct drafting errors or omissions in the prior official  
200 zoning map, but no corrections shall have the effect of amending the original official zoning map, or any  
201 subsequent amendment thereof. Unless the prior official zoning map has been lost or destroyed, the  
202 prior map or any significant parts thereof remaining, shall be preserved and retained by the Town Clerk  
203 as public record. All previous official zoning maps shall be kept on file with the official records of the  
204 Town.

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**ZONING DISTRICTS AND USES ESTABLISHED**

Generally. The following zoning districts include the description, various permitted and special uses, and the dimensional regulations within each district. No land, use, or building shall be used, operated, erected, altered or enlarged unless it is listed specifically among the uses on the charts found in Sections 152.022 through 152.049.

Uses not listed under any district may only be added to this chapter by amendment as defined in Section 152.009.

**USE DESIGNATIONS**

When designated in Sections 152.022-152.049 as a Permitted Use, the use is permissible in the indicated zone with a zoning permit issued by the Zoning Administrator. When designated as Special Use, approval must be obtained from the Town Board of Adjustment prior to a zoning permit being issued by the Zoning Administrator.

**COMMERCIAL OVERLAY DISTRICT (COD)**

(a) *District description. This district is established as a district in which the principal use of land is for small scale commercial, retail, office and service uses to serve the surrounding residential districts and in which traffic and parking congestion can be reduced to a minimum in order to preserve residential values and promote the general welfare of the surrounding residential districts. In promoting the general purposes of this article, the specific intent of this district is:*

*(1)To prohibit heavy commercial use of the land and to prohibit any other business use which would substantially interfere with the development or continuation of the residential structures in the district;*

*(2)To prohibit any use which, because of its characteristics, would interfere with the use of the land in the district as a commercial, office and/or professional center for surrounding residential districts;*

*(3)To prohibit any use which will create unmanageable congestion of adjacent streets, residential and public areas and recreational facilities; and*

*(4) To encourage low intensity local business development which is compatible with and supports the Comprehensive Long Range Plan of the Town and the needs of adjacent residential communities.*

(b) *P—Permitted uses.*

*(1) Accessory uses;*

*(2) Dwellings, single-family.*

(c) *S—Special uses.*

- 251 (1) Barber shops, beauty shops, nail salons and spas;
- 252 (2) Bed and breakfasts, tourist homes or boarding houses;
- 253 (3) Churches and related uses;
- 254 (4) Retail sales;
- 255 (5) Dry cleaning and laundry services;
- 256 (6) Home occupations;
- 257 (7) Public Utility
- 258 (8) Residential family child care homes;
- 259 (9) Youth activities.

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(d) Dimension regulations. The following are the dimension regulations for the COD:

District	Use	Minimum Sq. Ft. Per Bldg. Lot	Minimum Sq. Ft. Width Per Bldg. Lot
R5-M COD	All Uses	5,000	50 ft.

263

Minimum Side, Front and Rear Yards						
District	Use	Interior Side	Corner	Front Bldg. Side	Rear Setback	Max Bldg. Height
R5-M COD	All Uses	8'	15'	25'	20'	45'

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(e) Additional requirements. In this district, all provisions of this article, including permitted and special uses, apply with the following additional provisions and conditions:

- 266 (1) Activities that are considered offensive, incompatible, or undesirable within the local residential community may be prohibited, including, but not limited to, the sale of beer, wine, and other alcohol products, drug paraphernalia, and pornographic materials.
- 270 (2) All business operations shall be of a size appropriate for the structure in which the operations shall take place.

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**PROHIBITED USES**

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The following uses are prohibited:

- 277 (1) Street vending;
- 278 (2) Peddling;
- 279 (3) Nightclubs, bars.

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**GENERAL BUSINESS (GB)**

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287 District Description. The purpose of this district shall be to provide for the proper grouping and  
288 development of those uses which are related to central or neighborhood business districts.  
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290 P-Permitted

- 291 (A) Accessory uses;
- 292 (B) Bank, savings and loan, financial activities;
- 293 (C) Barber shops, beauty shops, nail salons and spas;
- 294 (D) Bed and breakfast, tourist homes, or boarding houses;
- 295 (E) Clinics;
- 296 (F) Cultural or Community Facility;
- 297 (G) Dry cleaning and laundry service;
- 298 (H) Dwelling, upper-story, above ground floor non-residential
- 299 (I) Dwelling, multi-family residential;
- 300 (J) Fire stations;
- 301 (K) Food sales, retail;
- 302 (L) Professional offices;
- 303 (M) Public recreational facilities;
- 304 (N) Restaurants;
- 305 (O) Retail Sales;
- 306 (P) Youth activities.

307  
308 S – Special Use

- 309 (A) Churches and related uses;
- 310 (B) Colleges, universities and related facilities;
- 311 (C) Day care centers, kindergartens, and childcare facilities;
- 312 (D) Dwelling, single-family;
- 313 (E) Hospitals;
- 314 (F) Hotels and motels;
- 315 (G) Lodges;
- 316 (H) Nursery (plants);
- 317 (I) Parking lots (commercial);
- 318 (J) Public Utilities;
- 319 (K) School, business or commercial; School, trade or vocational;
- 320 (L) School, elementary or secondary and related uses;
- 321 (M) Shopping centers;
- 322 (N) Temporary storage unit;
- 323 (O) Wholesale operations, not otherwise listed.

324  
325 Dimensional Requirements

326  
327 The following are the dimensional requirements:

- 328 (A) Minimum lot size: business lots created after the date of passage of this chapter shall be of  
329 sufficient size to provide adequate siting for structures and to provide off-street loading and  
330 maneuvering space for vehicles. Where a business lot abuts a residential district or residential  
331 use, the buffer requirements contained in [section 152.120](#) shall apply.
- 332 (B) Minimum front yard: Ten feet, except that if a sidewalk is provided, none is required.

- 333 (C) Minimum side yard: Eight feet, except that if the commercial building is constructed with a
- 334 common wall, no side yard is required.
- 335 (D) Overall roof peak height not to exceed 45 feet and that the maximum height for emergency
- 336 egress window sill shall not exceed 28 feet.

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338 **Prohibited Uses**

- 339 (A) Street vending;
- 340 (B) Peddling;
- 341 (C) Other non-appropriate commercial activities.

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345 **RESIDENTIAL DISTRICT (R-5)**

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347 **DISTRICT DESCRIPTION.**

348  
349 The Single-Family Residential District (R-5) is established as a district in which the principal use of land is  
350 for single-family residence. The regulations of this district are intended to discourage any use which,  
351 because of its character, would interfere with the development of single-family residency in the district  
352 and which would be detrimental to the quiet residential nature of the areas included within this district.

353  
354 **PERMITTED USE.**

- 355
- 356 (1) Accessory use;
- 357 (2) Dwelling, single-family
- 358 (3) Accessory Dwelling Unit (ADU).

359  
360 **SPECIAL USE.**

- 361 (1) Bed and breakfast, tourist homes, or boarding houses;
- 362 (2) Churches and related uses;
- 363 (3) Home occupations;
- 364 (4) Public utility facilities;
- 365 (5) Short Term Rental;
- 366 (6) Lodge.

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368 **DIMENSIONAL REQUIREMENTS.**

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District	Use	Min. Square Ft. Per Building Lot	Min. Width per Building Lot
R5	All Uses	5,000	50 ft.

Minimum Side, Front, and Rear Yards						
District	Use	Interior Side	Corner Side	Front	Rear	Max Height
R5	All Uses	8'	15'	25'	15'	45'

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**RESIDENTIAL MOBILE HOME DISTRICT (R-5M)**

**DISTRICT DESCRIPTION.**

The purposes of the Residential Mobile Home District (R-5M) shall be to allow single-family dwellings, including individual mobile homes, two-family and multifamily dwellings and such other uses that will not interfere with the development of residences in the district and which would not be detrimental to the quiet, residential nature of the areas included within the district and to prevent the development of blight and slum conditions.

**PERMITTED USES.**

- (1) Dwelling, mobile home;
- (2) Dwelling, single-family;
- (3) Dwelling, two-family;
- (4) Dwelling, multi-family;
- (5) Accessory use;
- (6) Home occupations;
- (7) In-home child care;
- (8) Public utility facilities;
- (9) Short term rental;
- (10) Accessory Dwelling Unit (ADU).

**SPECIAL USES.**

- (1) Bed and breakfast;
- (2) Cemeteries;
- (3) Churches and related uses;
- (4) Day care centers, kindergartens, and childcare facilities;
- (5) Funeral homes and mortuaries;
- (6) Public recreational facilities;

**Sec. 152.123. DIMENSIONAL REQUIREMENTS.**

District	Use	Min. Square Ft. Per Building Lot	Min. Width per Building Lot
R5M	All Uses	5,000	50 ft.

Minimum Side, Front, and Rear Yards						
District	Use	Interior Side	Corner Side	Front	Rear	Max Height
R5M	All Uses	8'	15'	25'	20'	45'

408 **MARINE BUSINESS DISTRICT (MB)**

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410 **DISTRICT DESCRIPTION**

411

412 The purpose of this district is to provide for the orderly development of residential and commercial  
413 properties that require a waterfront location or are related to, or serve, marine interests.

414

415 **PERMITTED USES**

416

- 417 (1) Accessory uses;
- 418 (2) Marine supply sales;
- 419 (3) Public recreational facilities;
- 420 (4) Public utility facilities;
- 421 (5) Restaurants;
- 422 (6) Wharves, docks, and piers,
- 423 (7) Yacht clubs and marinas.

424

425 **SPECIAL USES**

426

- 427 (1) Bed and breakfast inn or tourist home;
- 428 (2) Boatyards including boat building and repairs;
- 429 (3) Boat and motor display and sales;
- 430 (4) Churches and related uses;
- 431 (5) Colleges, universities and related uses;
- 432 (6) Dwellings, single-family;
- 433 (7) Dwellings, two-family;
- 434 (8) Dwellings, multi-family;
- 435 (9) Retail sales;
- 436 (10) Hotels;
- 437 (11) Marine Fuel storage and sales;
- 438 (12) Cultural or community facility;
- 439 (13) Planned Unit Development (PUD);
- 440 (14) Short Term Rental;
- 441 (15) Youth Activities
- 442 (16) Accessory Dwelling unit (ADU).

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456 **DIMENSIONAL REQUIREMENTS**  
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District	Use	Min. Square Ft. Per Building Lot	Min. Width per Building Lot
MB	All Uses	5,000	50 ft.

Minimum Side, Front, and Rear Yards						
District	Use	Interior Side	Corner Side	Front	Rear	Max Height
MB	All Uses	5'	10'	25'	0' if located on shoreline or bulkhead;  20' if not located on shoreline or bulkhead.	45'

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 460 **ADDITIONAL REQUIREMENTS IN THE MARINE BUSINESS DISTRICT**  
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462 Prior to the use of any lot within the MB district, a site plan shall be reviewed by the Planning Board.  
 463 This review will allow the Planning Board to determine that adequate space is available for the intended  
 464 use and to ensure that the water quality will not be deteriorated. Recommendations of the Planning  
 465 Board shall be forwarded to the Board of Aldermen for final action.

466  
 467 The site plan must include:

- 468 (a) Use of building or lot;
- 469 (b) Location arrangement and dimensions and number of truck loading and unloading spaces and  
 470 docks, including refuse collection container spaces if required;
- 471 (c) Location and dimensions of vehicular entrances, exits, and drives;
- 472 (d) Location, dimensions and materials of walls and fences;
- 473 (e) Location, arrangement and dimensions of automobile parking spaces, width of aisles, width of  
 474 bays, angle of parking and number of spaces;
- 475 (f) Location of buildings and their general exterior dimensions and elevations;
- 476 (g) Adjoining properties and buildings;
- 477 (h) Drainage plan
- 478 (i) Professional scale drawing site plans, stamped by a professional engineer, may be required prior  
 479 to issuance of a permit.

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 482 **SITE PLAN REVIEW**  
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484 The procedure for review shall be as follows:

- 485 (1) The site plan specified in section XXXXXX shall be filed with the Zoning Administrator who shall  
 486 forward a request for site plan review to the Planning Board.
- 487 (2) The Board shall review the site plan and make its recommendation to the Board of Aldermen  
 488 within 30 days of the request for review. Failure to recommend within 30 days shall constitute a  
 489 favorable recommendation.

- 490 (3) The Board of Aldermen shall consider the recommendations of the Planning Board and approve  
491 or reject the site plan as part of the administrative review.  
492 (4) Approved site plans automatically shall qualify for zoning permits specified in section 152.271.  
493 (5) Major alterations in an approved site plan shall require a new review and approval process.  
494 Major alterations shall be changes in section 152.169(a) through (h) (site plan requirements).  
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497 **HIGHWAY BUSINESS DISTRICT (HB)**

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499 **DISTRICT DESCRIPTION**

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501 The purpose of this district shall be to provide for the proper grouping and development of roadside  
502 business uses, and for uses not basically related to central or neighborhood business areas.  
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504 **PERMITTED USES**

- 505  
506 (a) Accessory use;  
507 (b) Ambulance service;  
508 (c) Animal medical care (no kennels);  
509 (d) Banks, savings and loans financial activities;  
510 (e) Barber shops, beauty shops, nail salons and spas;  
511 (f) Bed and breakfast, tourist homes, or boarding houses;  
512 (g) Boat and accessory sales and service;  
513 (h) Building supplies;  
514 (i) Bus terminals;  
515 (j) Professional Services;  
516 (k) Churches and related use;  
517 (l) Clubs or lodges (civic or fraternal)  
518 (m) Clinic;  
519 (n) Cultural or community facility;  
520 (o) Dry cleaning and laundry service;  
521 (p) Fabrication shops;  
522 (q) Farm machinery and supply(sales and service);  
523 (r) Fire stations;  
524 (s) Funeral homes and mortuaries;  
525 (t) Hotels, motels;  
526 (u) Mobile home sales;  
527 (v) Nursery (plants);  
528 (w) Public recreational facilities;  
529 (x) Parking lots;  
530 (y) Private recreation facility;  
531 (z) Restaurants  
532 (aa) Retail Store;  
533 (bb) School, business or commercial;  
534 (cc) School, trade or vocational;  
535 (dd) Shopping centers;

- 536 (ee) Sign, principle use;
- 537 (ff) Storage warehouse;
- 538 (gg) Vehicle services – minor;
- 539 (hh) Youth Activities.

540

541 **SPECIAL USES**

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- 543 (a) Industrial sales and repair of equipment;
- 544 (b) Commercial storage, flammable fluids and gases;
- 545 (c) Convalescent homes;
- 546 (d) Day care centers, kindergartens, and childcare facilities;
- 547 (e) Hospitals;
- 548 (f) Pool halls and sports bars;
- 549 (g) Processing establishments;
- 550 (h) Public utility facilities;
- 551 (i) Retail sales not otherwise listed;
- 552 (j) Vehicle services – major;
- 553 (k) Wholesale operations not otherwise listed.

554 **DIMENSIONAL REQUIREMENTS**

555

District	Use		Min. Square Ft. Per Building Lot	Min. Width per Building Lot
HB	All Uses		8,000	50 ft.

		Minimum Side, Front, and Rear Yards					
District	Use		Interior Side	Corner Side	Front	Rear	Max Height
HB	All Uses		10'	20'	25'	10'	45'

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557

558 **INDUSTRIAL DISTRICT (I)**

559

560 **DISTRICT DESCRIPTION**

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562 The purpose of this district shall be to establish areas for offices, warehousing, mixed industrial,  
 563 industrial/heavy commercial and outlying industrial establishment-type uses. The specific intent of this  
 564 district is to encourage the construction and continued use of land for industrial purposes.

565

566 **Permitted Uses**

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- 568 (a) Accessory uses;
- 569 (b) Ambulance service;
- 570 (c) Animal medical care (no kennels);
- 571 (d) Bank, savings and loan financial institutions;
- 572 (e) Barber shops, beauty shops, nail salons and spas;

- 573 (f) Boat and accessories (retail sales and service);
- 574 (g) Boat ramp;
- 575 (h) Building supplies;
- 576 (i) Bus terminals;
- 577 (j) Churches and related uses;
- 578 (k) Clinic;
- 579 (l) Convenience stores;
- 580 (m) Fabrication shops (wood, metal, upholstery, boats, and the like);
- 581 (n) Farm machinery and supply (sales and service);
- 582 (o) Fire stations;
- 583 (p) Fishing piers and fish houses;
- 584 (q) Greenhouse operations;
- 585 (r) Hotels, motels;
- 586 (s) Industrial sales and repair of equipment;
- 587 (t) Laboratory (research);
- 588 (u) Mobile home sales;
- 589 (v) Professional Offices;
- 590 (w) Public recreational facilities;
- 591 (x) Parking lots;
- 592 (y) Public utility facilities;
- 593 (z) School, trade or vocational;
- 594 (aa) Sign, outdoor advertising;
- 595 (bb) Sign, principle use;
- 596 (cc) Storage warehouse;
- 597 (dd) Wholesale operations not otherwise listed;

598 **Special uses**

- 599
- 600 (a) Bona fide Farm Purposes;
- 601 (b) Commercial storage-flammable fluids and gases;
- 602 (c) Cemeteries;
- 603 (d) Colleges, universities and related facilities;
- 604 (e) Communication towers;
- 605 (f) Funeral homes and mortuaries;
- 606 (g) Kennels;
- 607 (h) Retail sales or services, not otherwise listed.

608 **DIMENSIONAL REQUIREMENTS**

610

District	Use	Min. Square Ft. Per Building Lot	Min. Width per Building Lot
I	All Uses	20,000	100'

Minimum Side, Front, and Rear Yards						
District	Use	Interior Side	Corner Side	Front	Rear	*Between other zoning district
I	All Uses	20'	20'	20'	20'	50'

611 **RESIDENTIAL-AGRICULTURAL WATERFRONT DISTRICT (RAW)**

612 **DISTRICT DESCRIPTION**

613 The purpose of this district shall be to set aside and protect those lands that are primarily suited for  
614 larger single family lots and agricultural related uses of lands that have waterfront exposure.

615  
616 **PERMITTED**

- 617
- 618 (a) Accessory uses;
- 619 (b) Bona fide farm purposes;
- 620 (c) Dwelling, single family;
- 621 (d) Accessory Dwelling Unit (ADU).

622  
623 **SPECIAL USE**

- 624
- 625 (a) Bed and breakfast, tourist homes, or boarding houses;
- 626 (b) Fishing piers;
- 627 (c) Home occupations;
- 628 (d) Public recreational facilities;
- 629 (e) Private recreation facilities;
- 630 (f) Restaurant;
- 631 (g) Yacht clubs and marinas;
- 632 (h) Youth Activities.

633  
634 **DIMENSIONAL REQUIREMENTS**

635

District	Use	Min. Square Ft. Per Building Lot	Min. Width per Building Lot
RAW	Residential	20,000 Sq. Ft.	100'
AW	Non-Residential	1 acre	200'

Minimum Side, Front, and Rear Yards						
District	Use	Interior Side	Corner Side	Front	Rear	Max Height
RAW	All Uses	20'	35'	40'	30'	45'

636

637

638 **RESIDENTIAL-AGRICULTURAL DISTRICT (RA)**

639 **DISTRICT DESCRIPTION**

640 The purpose of this district shall be to set aside and protect those lands that are primarily suited for  
641 larger single family lots and agricultural related uses of lands.

642

643

644 **PERMITTED**

- 645
- 646 (a) Accessory uses;
- 647 (b) Bona fide farm purpose;
- 648 (c) Dwelling, mobile homes;
- 649 (d) Dwelling, single-family.
- 650 (e) Accessory dwelling unit (ADU).

651

652 **SPECIAL USE**

- 653
- 654 (a) Airports;
- 655 (b) Ambulance service;
- 656 (c) Animal medical care; Kennels;
- 657 (d) Bed and breakfast, tourist homes, or boarding houses;
- 658 (e) Cemeteries;
- 659 (f) Communication towers;
- 660 (g) Dairy products (sales and processing);
- 661 (h) Fire stations;
- 662 (i) Fishing piers and fish houses;
- 663 (j) Home occupations;
- 664 (k) Nursery and Greenhouse operations;
- 665 (l) Public recreational facilities;
- 666 (m) Parking lots;
- 667 (n) Private recreation facilities;
- 668 (o) Public utility facilities;
- 669 (p) School, elementary or secondary and related uses;
- 670 (q) Signs, outdoor advertising;

671

672 **DIMENSION REQUIREMENTS**

District	Use	Min. Square Ft. Per Building Lot	Min. Width per Building Lot
RA	All Uses	20,000	100'

Minimum Side, Front, and Rear Yards						
District	Use	Interior Side	Corner Side	Front	Rear	Max Height
RA	All Uses	20'	35'	40'	30'	45'

674

675 **WATER USE DISTRICT (W-1)**

676

677 **DISTRICT DESCRIPTION**

678

679 The Water Use District (W-1) is established to provide for the safe and orderly use of public trust waters

680 within the zoning jurisdiction of the Town. The Water Use District (W-1) is intended to provide for a

681 wide range of activities and uses while protecting the public rights of access, health and safety.

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**PERMITTED USES**

- (a) Private bulkheads and piers which have received a permit under the North Carolina Coastal Area Management Act.
- (a) Traditional water activities, such as bathing, fishing and boating.

**SPECIAL USES**

- (a) Special events, such as boat races, regattas, water ski shows, boat parades, and historic reenactments.
- (b) Commercial marinas only in the Marine Business District as regulated by sections 152.165 through 152.171.

**MOORING OF BOATS**

- (a) The unattended mooring of vessels within the zoning jurisdiction of the Town for periods longer than seven days is prohibited subject to those allowed in section 152.233. The occupancy of vessels within the zoning jurisdiction of the Town for longer than seven days is prohibited.

The mooring of boats within public trust waters creates safety hazards for boat traffic and can interfere with public rights access to, and use of, navigable waters and public resources. The long-term occupancy of moored vessels within the public trust waters is a hazard to water quality and public health. All temporarily moored boats must be lighted between sunset and sunrise.

- (b) Permanent, privately owned moorings are hazardous to navigation, increase congestion of the public trust waters, and create potential water quality degradation. Therefore, no privately owned permanent mooring shall be allowed.

**REGULATIONS**

**APPLICATION OF REGULATIONS**

The regulations set forth in this chapter affect all land, every building or structure and every use of the land and/or building within all the areas that are zoned by the Town.

**NEW USES OR CONSTRUCTION**

After the effective date of this chapter, all new construction and use of land shall conform to the use and dimensional requirements for the district in which it is to be located.

**CONFORMING USES**

After the effective date of this chapter, land or structures, and uses of land or structures which conform to the regulations for the district which it is located may be continued, provided that any structural alteration or change in use shall conform to the regulations herein specified.

729 **SUBSTANDARD LOTS OF RECORD**

730

731 Any lot of record as of January 1, 1989, which has an area or width, or both, which is less than required  
732 by this chapter shall be subject to the following exceptions and modifications:

733

734 (a) Adjoining lots. Where two or more adjoining lots with continuous frontage are in one ownership  
735 at any time on or after January 1, 1989, and such lots individually are less than the minimum  
736 square footage or have less than the minimum width required in the district in which they are  
737 located, then such group of lots shall be considered as a single lot or several lots of minimum  
738 permitted area and width for the district in which located.

739 (b) Lot not meeting minimum lot size requirements. Except as set forth in the subsection (1) of this  
740 section, in any district in which single-family dwellings are permitted, any lot of record existing  
741 on XXXXX which has an area or width which is less than required by these regulations may be  
742 used as a building site for a single-family dwelling in an R District.

743 (c) Side yard requirements. Except as set forth in subsection (1) of this section, where a lot has a  
744 width less than that required in the district in which it is located, then the Building Inspector  
745 shall be authorized to reduce the side yard requirements for such lot, provided that no side yard  
746 shall be less than six feet wide.

747

748 **REDUCTION OF LOT AND YARD AREAS**

749

750 No yard or lot existing at the time of the passage of this chapter shall be reduced in size or area below  
751 the minimum requirements set forth in the chapter, unless otherwise stated.

752

753 **STRUCTURES IN PUBLIC RIGHT-OF-WAY PROHIBITED**

754

755 No building, fence, or other structure, or part thereof, shall be erected or installed in any public road,  
756 street, lane, alley, or other public right-of-way.

757

758 **LOT COVERAGE**

759

760 No building or structure, group of building or structures and other impervious surfaces shall cover more  
761 than 50% of any lot. However, the maximum impervious cover shall not exceed state and federal  
762 guidelines on any lot.

763

764 **VISION CLEARANCE AT INTERSECTIONS**

765

766 On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to  
767 materially impede vision between a height of 2 ½ feet and ten (10) feet in a triangular area formed by  
768 the intersection of the right-of-way of two streets or a street and railroad, and a diagonal line which  
769 intersects the right-of-way lines at two points 25 feet from the point at which the rights-of-way  
770 intersect.

771

772 **FENCES AND WALLS IN RESIDENTIAL DISTRICTS**

773

774 An open fence or wall shall be defined as one through which clear vision is possible from one side to the  
775 other on a horizontal plane occupying 75% or more of the side area of the wall.

776

777 Open or solid fences or walls shall be limited to six feet in height. In the General Business, Highway  
778 Business, or Industrial districts, no fence shall exceed 10 feet in height.

779  
780 No fence shall be built nor shall any vegetation be grown that significantly impairs vision within ten feet  
781 of a street or highway right-of-way.

782  
783 **SCREENING AND BUFFER REQUIREMENTS**

784  
785 Multi-family, commercial, and industrial uses may be required by the Planning Board to provide a buffer  
786 and/or screening as defined in this chapter. If existing vegetation is equal to or above the requirements  
787 of this chapter, additional vegetation may not be required.

788  
789 Buffers shall be required for solid waste collection dumpsters, which are (i) located on sites used for  
790 multi-family residential, commercial, or industrial purposes and (ii) abutting a residence, residentially  
791 zoned lot, or street right-of-way shall be screened from the view of adjoining residences, residentially  
792 zoned lots, or street rights-of-way. Such screening may consist of natural vegetation, fences, walls, or  
793 berms and shall be installed, located, or constructed so as to create an effective screen.

794  
795 Buffers shall be required for multi-family residential uses when three (3) or more multi- family  
796 residential dwelling units are proposed to be located directly abutting a property which is used for  
797 single-family residential purposes.

798  
799 **FRONT YARD SETBACKS FOR DWELLINGS**

800  
801 If the average setback of existing dwellings on lots located immediately adjacent to and on both sides of  
802 the vacant lot, or within 100 feet, whichever is closer, is less than the minimum required front yard  
803 depth, then the Zoning Administrator or his/her designee may grant an exception to the front yard  
804 setback requirement. In no manner shall the vacant lot owner's front yard be less than 50% its original  
805 required front yard depth setback according to its zoning classification. In the event that the vacant lot  
806 owner desires a greater reduction in the front yard setback than the exception allows, the owner may  
807 request a variance from the Board of Adjustment.

808  
809 **MINIMUM LOT SIZE**

810  
811 No yard or lot existing at the time of passage of this chapter shall be reduced in dimension or area below  
812 the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter  
813 shall meet at least the minimum requirements established by this chapter, unless otherwise stated.

814  
815 **NUMBER OF PRINCIPAL BUILDINGS PER LOCATION**

816  
817 Every principal building hereafter erected, established or moved shall be located on a separate lot and in  
818 no case shall there be more than one principal building on a lot. Every principal building erected or  
819 moved shall be on a lot adjacent to a dedicated street right- of-way.

820  
821 **CAMPERS, MOTOR HOMES AND OTHER NONPRINCIPAL STRUCTURES**

822  
823 Campers, tents, travel trailers and motor homes are not principal structures and therefore cannot be  
824 used as permanent housing. All such housing shall be permitted only as disaster related emergency

825 housing and shall be utilized for a period not to exceed 180 days. It shall be unlawful to camp on any  
826 rights-of-way, environmental sensitive areas, beaches, or government property.

827

828 **SETBACK REQUIREMENTS EXCLUDE FENCES AND RETAINING WALLS**

829

830 The setback requirements of these regulations shall not prohibit any necessary retaining wall or prohibit  
831 any wall or fence. However, within or abutting the residential district, no wall or fence shall exceed six  
832 feet in height within a front or side yard and in the general business, highway business or industrial  
833 districts, no fence shall exceed ten feet in height.

834

835 **ACCESSORY BUILDINGS**

836

837 (a) No accessory building or use shall be erected in any required front or side yard within five feet  
838 of the rear lot line or within eight feet of any side lot line, and not separate accessory building or  
839 use shall be erected within ten feet of any other accessory building or use.

840

841 (b) No lot shall have in excess of two accessory buildings.

842

843 (c) Carports of any type shall not encroach into the required side yard setback.

844

845 (d) Accessory buildings may be erected in any side or rear yards provided that no separate  
846 accessory building.

847

848 (e) No accessory building shall be located on the side yard required on a street side of a corner.

849

850 **Accessory Uses and Structures**

851

852 **Permitted Accessory Uses**

853

854 The uses listed in Column A, below, shall be permitted by right (unless noted otherwise) in any of the  
855 zoning districts set forth in Column B, below:

856

(A) Accessory Use	(B) Zoning Districts
Accessory Dwellings	R5, R5-M, RA, RAW
Garages or carports (non-commercial)	R5, R5-M, RA, RAW
Greenhouses (non-commercial)	R5, R5-M, RA, RAW
Off-Street parking and driveways	R5, R5-M, RA, RAW
Satellite Dishes	R5, R5-M, RA, RAW
Storage Buildings (residential)	R5, R5-M, RA, RAW
Swimming Pools	R5, R5-M, RA, RAW
Any other building or use customarily incidental to the permitted primary use or building (subject to the location standards of this section)	R5, R5-M, RA, RAW

857

858 Accessory buildings or uses shall not be constructed or established on a lot until construction of the  
859 principal building has commenced or the primary use is established, except as provided in section  
860 XXXXXX. Accessory buildings shall not be used for dwelling purposes, except as provided in section  
861 XXXXXX.

862  
863 Location. Accessory structures shall be required to meet the setback standards for accessory structures  
864 as set forth in XXXXXXX. Accessory structures may be located within a setback yard for principal  
865 structures and shall be regulated in accordance with the standards below. No accessory structure shall  
866 be located less than 36 inches from the exterior wall of the principal structure. Structures that are  
867 located closer than 36 inches shall be considered as additions to the principal structure and shall  
868 conform to all applicable setbacks for the principal structure.

869  
870 Residential Lots Below Two Acres. For residential lots not exceeding two acres, detached accessory  
871 buildings shall not be located in the front yard and shall not occupy more than 30 percent of the  
872 required rear yard. Residential Lots Two Acres or More. For residential lots that are two acres or more,  
873 detached accessory buildings may be located in the front yard but not closer than 75 feet from the front  
874 property line/street right-of-way. Detached accessory buildings may be closer than the distance  
875 specified above if they are not visible from a public street.

876  
877 Non-residential Accessory Structures. The location of permitted accessory structures associated with a  
878 non-residential use shall be governed by the same dimensional regulations as set forth for the principal  
879 use structure(s). Double Frontage Lots. Accessory buildings on double frontage lots shall not be closer to  
880 either street than the required front yard setback.

881  
882 Size. An accessory building shall not exceed the ground floor area of the principal building.

883  
884 Materials. No accessory use of a structure shall be permitted that involves or requires any construction  
885 features or materials, which are not primarily residential in nature or character.

886  
887 **Accessory Dwelling Units (ADUs)**

- 888 a) Zoning Districts. ADUs are allowed in accordance with the use tables in § 140.02, Zoning Districts  
889 and Standards.
- 890 b) Housing Standards. ADUs shall comply with all applicable local, State, and Federal housing  
891 codes. Number. Only one ADU shall be permitted per lot.
- 892 c) Size of Unit. The ADU shall not exceed 50 percent of the square footage of the livable area of the  
893 primary structure or 1,200 square foot of gross floor area, whichever is less.
- 894 d) Location of the ADU on the Lot. A detached ADU shall be sited to the rear of the principal  
895 building.
- 896 e) ADU Location. The Accessory Dwelling unit may be sited to the side of the principal building only  
897 if the lot exceeds 10 acres in size. The ADU shall meet all setback requirements as established  
898 for a principal use within the zoning district within which it is located.
- 899 f) Manufactured Homes. A manufactured home shall not be pulled up to or attached to a primary  
900 residence and considered an ADU. A manufactured home, as a principal or accessory dwelling  
901 unit, shall be permitted only in the MH Manufactured Home Overlay District.
- 902 g) Parking. Adequate off-street parking shall be provided for any vehicles owned by occupants of  
903 the ADU. The ADU shall not be served by a driveway separate from that serving the principal  
904 dwelling.
- 905 h) Owner-Occupied Restriction. ADUs shall only be allowed on parcels that contain owner-  
906 occupied single-family dwelling units that are allowed as a principal permitted use.

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910 **LOTS WITH MULTIPLE FRONTAGE**

911  
912 In the case of a corner lot having frontage on two or more streets, all buildings shall be set back from  
913 each street a distance equal to the minimum for the front yard requirement for the district. If a building  
914 is constructed on a lot having frontage on two roads but not at an intersection, a setback from each road  
915 shall be provided equal to the front yard requirement for the district in which the lot is located.

916  
917 **PROHIBITED USES**

918  
919 If either a use or class of use is not specifically indicated as being permitted in a district, either as a  
920 matter of right or as a conditional use, then such use or class of use shall be prohibited in such district.  
921 (Code 1979, § 152.046; Ord. of 6-26-1989)

922  
923 **STATE GUIDELINES FOR AREAS OF ENVIRONMENTAL CONCERN (AEC)**

924 Prior to the issuance of any zoning permit or conditional use permit, the Zoning Administrator shall  
925 determine whether the proposed use or structure is located within an Area of Environmental Concern as  
926 indicated on North Carolina Zoological Resources Overlay (I-63) -Belhaven Quadrangle, provided by the  
927 state department of natural resources and community development. If the proposed use or structure is  
928 located in an Area of Environmental Concern, the Zoning Administrator shall certify that the proposed  
929 use or structure is in accordance with the state Guidelines for Areas of Environmental Concern prior to  
930 issuing the zoning permit.

931  
932  
933 **WATER SUPPLY AND SEWAGE DISPOSAL REQUIREMENTS**

934  
935 **APPROVAL**

936  
937 Unless the lot is served by a public water and sewer system, each application for a zoning permit or a  
938 conditional use permit or a certificate of occupancy shall be accompanied with plans of the proposed  
939 methods of water supply and sewage disposal in a form acceptable to the appropriate authorizing  
940 agency. No excavation or construction for any building or use of land shall be commenced until  
941 subsequent approval is noted on the plan of proposed development and a zoning permit is issued

942  
943 **APPLICATION TO SPECIFY METHOD**

944  
945 Any such application shall specify the method to be used and shall describe any special conditions to be  
946 met. Such method, and the approval required, includes the following:

- 947  
948 (1) Connection to public sewerage or water systems operated by a municipality, sanitary district, or  
949 other governmental agency: connection approval by an authorized officer of such systems.  
950 (2) Connection to community sewerage or water systems operated by a responsible person, firm or  
951 corporation other than a governmental agency: connection approval by an authorized officer of  
952 such system.  
953 (3) Installation of other than public or community sewerage systems: design approval by the County  
954 Health

955  
956

957 **PROCEDURES FOR SYSTEM APPROVAL**

958

959 The sewerage and water systems to which connections are to be made shall be authorized as follows:

960

961 (1) Water supply.

962 a. Individual supply approval by the County Health Department.

963 b. For ten to 25 dwelling units, approval by the state Board of health.

964 c. For 25 or more dwelling units, approval by the state Board of health and the state  
965 utilities commission.

966

967 (1) Sewage collection and treatment.

968 a. For a septic tank, approval by the County Health Department,

969 b. For a sewerage system serving facilities regulated by the state Board of health (i.e.,  
970 institutions, restaurants, motels, and the like), approval by the County Health  
971 Department.

972 c. For a sewerage system serving all other uses (i.e., industry, commerce, communities,  
973 and the like), approval by the state department of natural resources and community  
974 development, division of environmental management, water quality section, when  
975 applicable.

976

977

978 **OFF-STREET PARKING AND LOADING STANDARDS**

979

980 **PURPOSE**

981

982 The purpose of these off-street parking and loading requirements is to relieve traffic congestion in the  
983 streets; to minimize any detrimental effects of off-street parking and loading areas on adjacent  
984 properties; and to assure a proper and adequate development of off-street parking and loading areas  
985 throughout the area. The standards contained in this subchapter are minimum standards and should not  
986 be regarded as optimum standards.

987

988 **OFF-STREET PARKING REQUIREMENTS**

989

990 (1) Permanent off-street parking spaces shall be provided as specified by this Section:

991 (a) at the time a building is erected;

992 (b) at the time any principal building is enlarged or increased in capacity, such as by adding dwelling  
993 units, guest rooms, seats, floor area, or other units of measurement used in this chapter;

994 (c) before conversion from one type of use or occupancy to another if the new use requires  
995 additional parking space.

996

997 (2) Such parking spaces may be provided in a parking garage or in an improved open area.

998

999 (3) Each site plan that is submitted shall include information as to the number, location, and dimensions  
1000 of all off-street parking and loading spaces and the means of ingress and egress to such spaces. This  
1001 information shall be in sufficient detail to indicate whether or not the requirements of this Section  
1002 are met.

1003

- 1004 (4) The required number of parking spaces shall be calculated based on the Use(s) of the site. If a  
1005 property is used for several uses, all uses shall be taken into account. The required parking shall be  
1006 calculated separately for each use and then added to determine the total required parking.  
1007
- 1008 (5) All parking areas required under this Section shall be completed prior to the issuance of a Certificate  
1009 of Occupancy for the use or uses which they serve.  
1010
- 1011 (6) Parking spaces for the handicapped shall be provided in conformance with the State of North  
1012 Carolina Accessibility Code.  
1013
- 1014 (7) Each parking space, exclusive of access and circulation aisles, shall be at least 10 feet by 18 feet in  
1015 dimension, and shall be hard-surfaced, gravel or grassed.  
1016
- 1017 (8) All parking areas shall be separated at least ten (10) feet from buildings and all associated driveways  
1018 and aisles shall be separated at least five (5) feet from buildings in order to allow room for  
1019 sidewalks, landscaping, and other plantings between the building and the parking area.  
1020
- 1021 (9) All stacking lanes for Day care centers, kindergartens, and childcare facilities, schools, etc. shall be  
1022 located at least ten (10) feet from the principal building with separate points of ingress and egress.  
1023
- 1024 (10)The parking area may be used only for parking and not for any type of loading, sales, dead storage,  
1025 repair work, dismantling, or servicing of vehicles;  
1026
- 1027 (11)All entrances, exits, and drainage plans shall be reviewed and approved by the Town Building  
1028 Inspector and shall be constructed before issuance of a Certificate of Occupancy.  
1029
- 1030 (12)All parking spaces, aisles between parking spaces, and parking space modules, shall meet the  
1031 minimum dimensional requirements and design standards set forth in this chapter. ·  
1032
- 1033 (13)Any off-street parking space required by any use permitted in any residential district shall be  
1034 provided on the same lot with the use by which it is required. Off-street parking space in  
1035 conjunction with commercial and industrial uses in other districts shall not be permitted in a  
1036 residential district.  
1037
- 1038 (14)Each parking space shall be permanently marked and maintained so as to be distinguishable.  
1039
- 1040 (15)The required parking space for any number of separate uses may be combined in one lot, but the  
1041 required space assigned to one use may not be assigned to another use; except, that one- half of the  
1042 parking space required for churches, theaters or assembly halls whose peak attendance will be at  
1043 night or on Sundays may be assigned to other uses at non-peak times.  
1044
- 1045 (16)Any off-street parking space required by any use permitted in any residential district shall be  
1046 provided on the same lot with the use by which it is required. Off-street parking space in  
1047 conjunction with commercial and industrial uses in other districts shall not be permitted in a  
1048 residential district  
1049  
1050  
1051

1052 (17)If the off-street parking space required by this article in any district except a residential district  
1053 cannot be reasonably provided on the same lot on which the principal use is located, such space  
1054 may be provided on any land within four hundred feet of the main entrance to such principal use.  
1055

1056 (18)Each principal and accessory use of land shall be provided with the number of off-street parking  
1057 spaces indicated for that use in the Table below. For uses not specifically mentioned, the Building  
1058 Inspector based upon requirements for similar uses established herein shall apply off- street parking

USE	REQUIRED PARKING
<b>RESIDENTIAL RELATED USES</b>	
Dwellings: single-family	One parking space for every two occupants authorized by the septic improvement permit issued by the Town of Belhaven or the appropriate permitting agency.
Dwellings: two-family	One parking space for every two occupants authorized by the septic improvement permit issued by the Town of Belhaven or the appropriate permitting agency.
Dwelling: multi-family	2.5 parking spaces on the same lot for each unit.
Hotel, motel, tourist home rooming or boarding house or Bed and breakfast	1.5 parking spaces for each room to be rented, plus one additional parking space for each three employees.
Home Occupation: Professional office	Two parking spaces per office or home occupation, in addition to residence requirements.
<b>Public and Institutional uses</b>	
Hospital	One parking space for each two beds intended for patient use, one space for each resident physician and one space for each two employees.
Clinics (medical)	Ten parking spaces minimum, plus five parking spaces for each doctor assigned, plus one parking space for each employee.
Convalescent Homes	One parking space for each five (5) beds intended for patient use and one space per three
Churches	One parking space for each four (4) seats in the sanctuary.
School, elementary or secondary and related uses	One parking space for each five students for which the building was designed, plus one parking space for each classroom and administrative office.
Public or private recreation facility	One parking space for each two hundred square feet of gross floor space.
Public utility buildings	One parking space for each employee. For customer service facilities, a minimum of five (5) additional spaces.
Day care centers, kindergartens, and childcare facilities	One space for every three children and one space for each employee.
<b>COMMERCIAL USES</b>	
Professional Offices	One parking space for each two hundred (200) square feet of gross floor space, plus one space per two (2) employees.

Restaurants	One parking space for every three (3) customer seats, plus one additional parking space for each three (3) employees. Seasonal outdoor dining areas that are appurtenant to restaurants shall require no parking in addition to the existing restaurant parking provided that such outdoor dining area shall not increase the seating capacity of the restaurant by more than 25%.
Retail sales	One parking space for each five hundred (500) square feet of gross floor space.
Fishing piers and fish houses	A minimum of 25 parking spaces, with one additional parking space for each two hundred square feet of gross floor space under cover.
Indoor Recreation Facilities	One parking space for each one hundred square feet of gross floor area and one additional space for each two (2) employees.
Recreation Area	One parking space per 200 square feet of principal use ground area plus 1 for each two employees.
Theaters	One parking space for each three seats in the auditorium.
Funeral Home	One parking space for each four seats in the chapel or parlor.
Retail use not otherwise listed	One parking space for each two hundred square feet of floor area.

1059

1060

**LIGHTING**

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1062

Access ways, walkways and parking areas shall be lighted adequately by lighting fixtures which shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference. Cut-off lighting and cut-off type luminaires shall be used when possible.

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1066

**SAFETY BARRIERS**

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Curbs or other similar devices shall be located along the perimeter of parking lots, when safety requires it, except at entrances and exits. The barrier shall be located to prevent parked vehicles from extending or rolling beyond the boundaries of parking lots. Each parking space shall be provided with curbing, a curb-stop, or in the case of unpaved spaces, railroad ties or similar material.

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1072

**IMPROVEMENT, DESIGN AND LOCATION STANDARDS**

1073

1074

(a) All off-street parking, including entrances, exits, maneuvering and parking areas shall meet the following requirements:

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1076

(b) Have access to a dedicated street;

1077

(c) Have all-weather access drives or lanes that are at least 10 feet wide or single-lane movement and 18 feet wide for double-lane movement;

1078

1079

(d) Be graded (to include proper drainage). Parking lots shall not drain onto or across public roads, streets or sidewalks or into adjacent property, except into a natural watercourse or a drainage easement in accordance with state and federal rules, laws or regulations. Site plans for parking lots must demonstrate adequate drainage facilities.

1080

1081

1082

(e) Be permanently maintained by owner.

1083

1084

(f) Off-street parking areas for more than ten vehicles shall be effectively screened on each side

1085

- 1086 which adjoins or faces any residential district by a suitable fence or evergreen hedge of at least  
1087 six feet high. The fence or hedge shall be maintained in good condition.
- 1088 (g) All parking lots that are used regularly at least five days per week shall be graded initially with at  
1089 least four-inch gravel base or other suitable base material and be permanently maintained by  
1090 the owner.
- 1091 (h) All parking facilities shall be designed so that the required access to public streets shall be by  
1092 forward motion of vehicles exiting the parking facility.  
1093  
1094

1095 **SPECIAL USES**

1096  
1097 **General Restrictions**

1098  
1099 Special uses add flexibility to the zoning ordinance by allowing uses which would otherwise be  
1100 undesirable to be established in designated districts under special conditions imposed by the Board of  
1101 Adjustment. Applications for Special Use Permits shall be filed with the Zoning Administrator who shall  
1102 transmit the application to the Planning Board and the Board of Adjustment. The Planning Board review  
1103 is to provide a preliminary forum for review prior to the quasi-judicial hearing and decision of the Board  
1104 of Adjustment. The recommendation of the Planning Board made not be considered in the decision of  
1105 the Board of Adjustment in the quasi-judicial decision process. After an evidentiary hearing by the  
1106 Board of Adjustment, the Board of Adjustment may grant permission to establish special uses permitted  
1107 in the district if it makes a written finding that:

- 1108 (1) The proposed use does not adversely affect the general plans for the physical development of  
1109 the planning area as embodied in these regulations and in any plan or portion thereof adopted  
1110 by the Planning Board;
- 1111 (2) The proposed use will not be contrary to the purposes stated in these regulations;
- 1112 (3) The proposed use will not affect adversely the health and safety of residents and workers in the  
1113 zoned area;
- 1114 (4) The proposed use will not be detrimental to the use or development of adjacent properties or  
1115 other neighborhood uses;
- 1116 (5) The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of  
1117 said use;
- 1118 (6) The proposed use will not constitute a nuisance or hazard because of the number of persons  
1119 who will attend or use such a facility, vehicular movement, noise or fume generation, or type of  
1120 physical activity;

1121  
1122 **ADDITIONAL REQUIREMENTS**

- 1123  
1124 (1) To encourage thorough disclosure and maximum opportunity for public input, statements must  
1125 be provided to all contiguous property owners and occupants advising them of the special use  
1126 request and describing the nature of the proposed use, including any known hazards of  
1127 exposure and listing any hazardous wastes. The Board of Adjustment evidentiary hearing date, if  
1128 known, should be included.
- 1129  
1130 (2) To protect the health, safety, and general welfare of residents and workers in zoned areas the  
1131 applicant must certify that the proposed special use will not unduly burden public services in the  
1132 area not expel into the air, water, or ground toxic or noxious substances beyond the standards

1133 of the Environmental Protection Agency (EPA), the state or the Town.

1134

1135 (3) To protect the aesthetic values of residents and workers in zoned areas, activities inherently  
1136 offensive with regard to visual enjoyment, noise and odor shall be subject to buffer and distance  
1137 requirements from other uses.

1138

1139 (4) With regard to all special uses, no exceptions to dimensional requirements in a given zone shall  
1140 be permitted.

1141

1142 (5) The Board of Adjustment may impose or require such reasonable and appropriate conditions  
1143 and safeguards necessary to protect the health and safety of workers and residents in the Town,  
1144 and to protect the value and use of property in the general neighborhood. Reasonable and  
1145 appropriate conditions and safeguards may be imposed upon these permits. Where  
1146 appropriate, such conditions may include requirements that street and utility rights-of-way be  
1147 dedicated to the public and that provision be made for recreational space and facilities.  
1148 Conditions and safeguards imposed under this subsection shall not include requirements for  
1149 which the local government does not have authority under statute to regulate nor requirements  
1150 for which the courts have held to be unenforceable if imposed directly by the local government,  
1151 including, without limitation, taxes, impact fees, building design elements within the scope of  
1152 G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29)  
1153 and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

1154

1155 **FAILURE TO COMPLY WITH CONDITIONS**

1156

1157 Wherever the Board of Adjustment shall find, in the case of any permit granted pursuant to the  
1158 provisions of these regulations, that any of the terms, conditions or restrictions upon which such permit  
1159 was granted are not being complied with, the Board shall rescind and revoke such permit after giving  
1160 due notice to all parties concerned and granting full opportunity for a public hearing.

1161

1162 If the Board of Adjustments denies the permit, it shall enter the reason for its action in the minutes of  
1163 the meeting at which the action is taken.

1164

1165 In the event of failure to comply with the plans approved by the Board of Adjustment or with any  
1166 conditions imposed upon the special use permit, the Board may rescind or revoke the permit, after the  
1167 Building Inspector notifies the petitioner in writing giving petitioner 30 days to comply with  
1168 requirements, after giving due notice to all parties concerned, granting full opportunity for a public  
1169 hearing. No further permits or certificates shall be issued until all requirements are complied with.

1170

1171 **REQUIREMENTS FOR SOME SPECIAL USES**

1172

1173 The following are the requirements for some special uses:

1174

1175 (1) Bulk fuel storage areas. Aboveground fuel tanks used for commercial wholesale or retail  
1176 purposes shall be enclosed with a fence at least six feet in height.

1177

1178 (2) Church and other places of worship:

1179

a) The structure shall have minimum side and rear yards of not less than 30 feet; and a front yard  
1180 at least 15 feet greater than that required for other principal structures within the district.

1180

- 1181 b) Plans are required and must show:
- 1182 i) Topography including well drained site and adequate storm drainage facilities (including
- 1183 retention pond facilities, when applicable).
- 1184 ii) Structures including location of signs, entrance, and buildings.
- 1185 iii) Circulation including proposed points of access, ingress, and egress and parking layout.
- 1186 iv) Buffering when adjacent to residential structures or when located in residential zones.
- 1187
- 1188 (3) Home occupations
- 1189 a) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate
- 1190 to its use for residential purposes by its occupants and not more than 25% of the floor area or
- 1191 400 square feet of the floor area, whichever amount is less, shall be used to conduct the home
- 1192 occupation.
- 1193 b) One sign, not to exceed six square feet in area shall be permitted if it is non- illuminated and
- 1194 mounted flat against the wall of the principal building or in any yard at least ten feet from any
- 1195 right-of-way or property line.
- 1196 c) Only two (2) people other than those residing in the home shall be engaged in the occupation.
- 1197 d) Any need for parking generated by the conduct of such home occupation shall be met off the
- 1198 street and other than in any required yard.
- 1199 e) No equipment or process shall be used in such home occupation which creates noise, vibration,
- 1200 glare, fumes, or electrical interference in any greater degree than may be produced from normal
- 1201 residential activities.
- 1202 f) No equipment or process shall be used which creates visual or audible interference in any radio
- 1203 or television receivers off the premises.
- 1204 g) No home occupation shall be conducted that creates a private or public hazard.
- 1205 h) No display of products may be visible from the street or from an adjacent lot.
- 1206 i) The occupation shall not involve the retail sales of products, except that in an RA District, farm
- 1207 products raised and prepared on the premises may be sold; and in approved bed and breakfast
- 1208 establishments home occupations may include retail sales of art, crafts, or antiques, provided
- 1209 such sales do not constitute outdoor displays, and, provided that parking is adequate to
- 1210 accommodate such activity;
- 1211 j) Home occupation signs shall meet the requirements of sections 152.090 through 152.093;
- 1212 k) The occupation shall not constitute any undue disturbance in the neighborhood;
- 1213 l) The dwelling shall provide one parking space in addition to the residential requirement, except
- 1214 for barber, beauty, and hair styling shops, according to sections 152.105 through 152.107;
- 1215 m) Home occupations shall consist of the services, including, but not limited to:
- 1216 i) Accounting service;
- 1217 ii) Addressing service;
- 1218 iii) Art teacher;
- 1219 iv) Attorney;
- 1220 v) Babysitting;
- 1221 vi) Beauty shop;
- 1222 vii) Drafting service;
- 1223 viii) Dressmaking or sewing service;
- 1224 ix) Insurance agent;
- 1225 x) Manufacturer's representative;
- 1226 xi) Music teacher;
- 1227 xii) Notary public;
- 1228 xiii) Photographer;

- 1229 xiv) Real estate agent;  
 1230 xv) Professional office, secretarial or typing service;  
 1231 xvi) Tax consultant;  
 1232 xvii) Tutor.  
 1233
- 1234 (4) Hospitals, clinics
- 1235 a) The lot size shall be at least two acres and the structure shall have minimum side and rear yard  
 1236 requirements of 50 feet and a front yard requirement of at least 25 feet greater than that  
 1237 required of principal structures within the district.
- 1238 b) The location and size of all existing and proposed building and structures on the lots adjacent  
 1239 thereto and also across the street shall be shown on the required site plan.
- 1240 c) The minimum distances between these uses and commercial or manufacturing uses which  
 1241 generate heavy traffic flows or extensive congestion shall be 300 feet.
- 1242 d) An off-street drop-off, pick-up area shall be required in such manner so as to be safe and  
 1243 convenient.  
 1244
- 1245 (5) Light manufacturing or industrial uses. In general business or highway business districts these  
 1246 uses are subject to the following conditions:
- 1247 a) Noise, odor, smoke and vibration levels must be unobtrusive to permitted uses.  
 1248 b) The use must be generally compatible with existing permitted uses. If the stated intent of the  
 1249 district is diminished, rezoning of the property should be pursued.
- 1250 c) Health and safety risks to surrounding uses must be low.  
 1251 d) Flow of traffic must not be unduly impeded.  
 1252 e) Manufacturing activities must be conducted entirely inside the building.  
 1253 f) Waste products or production byproducts must be properly stored or removed from the area in  
 1254 a timely manner.  
 1255
- 1256 (6) Nursing home, convalescent home
- 1257 a) The lot size shall be at least two acres and the structure shall have minimum side and rear yard  
 1258 requirements of 50 feet and a front yard requirement of at least 25 feet greater than that  
 1259 required of principal structures within the district.
- 1260 b) The location and size of all existing and proposed building and structures on the lots adjacent  
 1261 thereto and also across the street shall be shown on the required site plan.  
 1262
- 1263 (7) Schools
- 1264 a) All structures shall have minimum side and rear yards of 50 feet and a front yard of at least 25  
 1265 feet greater than that required for a principal structure within the district.
- 1266 b) Elementary and middle schools/hospitals/emergency service ingress-egress areas. The minimum  
 1267 distances between these uses and commercial or manufacturing uses which generate heavy  
 1268 traffic flows or extensive congestion shall be 300 feet.
- 1269 c) An off-street drop-off, pick-up area shall be required in such manner so as to be safe and  
 1270 convenient.  
 1271
- 1272 (8) Multifamily dwellings.
- 1273 a) A site plan of the proposed project shall be submitted to the Planning Board for review. The  
 1274 Planning Board may provide a preliminary forum for review of quasi-judicial decisions, provided  
 1275 that no part of the forum or recommendation may be used as a basis for the deciding board.  
 1276 b) Accessory buildings, garbage and trash facilities, and recreation facilities may be located in the

- 1277 required rear yard, provided that such uses shall be at least 15 feet from the principal building  
 1278 and 15 feet from any lot line;
- 1279 c) Garbage and trash facilities shall be subject to the approval of the County Health Department if  
 1280 not served by municipal garbage collection. If serviced by municipal garbage collection, the  
 1281 facilities shall be approved by the Town Manager;
- 1282 d) All parking shall be off-street.  
 1283
- 1284 (9) Public safety and utility facilities. All water treatment and sewage disposal facilities and electric  
 1285 substations shall be set back 100 feet from all exterior property lines. This area shall be planted  
 1286 with evergreen shrubs as a buffer strip. The entire perimeter inside the buffer shall be enclosed  
 1287 with a fence at least six feet in height.  
 1288
- 1289 (10) Separate use signs. Separate use signs (billboards) will not be allowed in any district.  
 1290
- 1291 (11) Veterinary hospitals/clinics/animal boarding.
- 1292 a) Subject to the provisions of **section 152.196(17)** Minimum lot size: 16,000 square feet; and the  
 1293 following conditions:
- 1294 i) Minimum lot width: 100 feet;  
 1295 ii) Minimum front setback: 50 feet;  
 1296 iii) Maximum height of building: 35 feet;  
 1297 iv) Maximum lot coverage: 50 percent.
- 1298 b) Where this use abuts another district, the conditional use must meet the side and area setback  
 1299 requirements of the abutting district.
- 1300 c) Visual buffers will be required for this conditional use when boarding space is provided outside  
 1301 the principal use structure.
- 1302 d) This use may be allowed on a limited basis within mall or shopping center locations at the  
 1303 discretion of the Board of Adjustment.  
 1304
- 1305 (12) Planned Unit Developments (PUDs).
- 1306 a) Planned Unit Developments (PUDs) are characterized by the orderly integration of residential,  
 1307 commercial, office, institutional, and/or open space land uses within a walkable community  
 1308 setting which conforms to the design requirements herein. It permits the planning of a project  
 1309 over the entire development rather than on a lot-by-lot basis.
- 1310 b) Permitted uses.
- 1311 i) Single-family dwellings, excluding mobile homes;  
 1312 ii) Multifamily dwellings;  
 1313 iii) Condominiums;  
 1314 iv) Accessory use buildings;  
 1315 v) Private swimming pools;  
 1316 vi) Bed and breakfast inns;  
 1317 vii) Daycare centers and pre-schools;  
 1318 viii) Primary and secondary schools;  
 1319 ix) Churches and similar places of worship;  
 1320 x) Private clubs or lodges;  
 1321 xi) Seafood markets;  
 1322 xii) Butchers markets;  
 1323 xiii) Bakery shops;  
 1324 xiv) Food stores;

- 1325 xv) Convenience stores/neighborhood stores;  
 1326 xvi) Drug stores;  
 1327 xvii) Antique stores;  
 1328 xviii) Gift shops;  
 1329 xix) Book stores;  
 1330 xx) Hobby shops;  
 1331 xxi) Florists;  
 1332 xxii) Clothing stores;  
 1333 xxiii) Other small retail establishments;  
 1334 xxiv) Laundromats;  
 1335 xxv) Dry cleaning establishments;  
 1336 xxvi) Offices for professional and business activities;  
 1337 xxvii) Physician and dentist offices;  
 1338 xxviii) Restaurants;  
 1339 xxix) Personal service establishments, such as barber and beauty shops;  
 1340 xxx) Public infrastructure facilities; e.g., pumping stations, transformer banks, water tanks,  
 1341 drainage improvements, and the like;  
 1342 xxxi) Public parks and picnic areas;  
 1343 xxxii) Docks and piers;  
 1344 xxxiii) Marinas;
- 1345 b) Dimensional requirements.
- 1346 i) Minimum setback at project boundary from dedicated street: 15 feet.  
 1347 ii) Minimum lot size: None.  
 1348 iii) Minimum front yard: Five feet, except that when adjacent to a sidewalk, no front yard is  
 1349 required.  
 1350 iv) Minimum side yard: Three feet, except that if a commercial building or attached housing is  
 1351 constructed with a common wall, no side yard is required. An additional three-foot side yard  
 1352 adjacent to the street is required for a corner lot.  
 1353 v) Minimum rear yard: Three feet, except that if a commercial building or attached housing is  
 1354 constructed with a common wall or adjacent to water or a bulkhead, no rear yard is  
 1355 required.
- 1356 c) Other requirements.
- 1357 i) Sidewalks or alternate pedestrian ways must be provided within the PUD. Bicycle lanes and  
 1358 street landscaping are encouraged but not required.  
 1359 ii) At least ten percent of the gross site shall be open space or other recreation facilities  
 1360 suitable for the intended use shall be provided within the PUD. Open space, sidewalks,  
 1361 Boardwalks, pocket parks or other similar facilities shall be considered if appropriately  
 1362 designed and amenitized.  
 1363 iii) Each lot must front or abut a public or private street.  
 1364
- 1365 d) Parking.
- 1366 i) All parking requirements in sections 152.105 through 152.107 must be satisfied with the  
 1367 exception of the following:  
 1368 ii) Permeable pavement or reinforced grass pavers may be used in lieu of traditional paving  
 1369 when required by section 152.107(d)(1).  
 1370 iii) The required number of parking spaces for residential uses in section 152.107(h)(1) may be  
 1371 reduced by 50 percent.  
 1372 iv) The required number of parking spaces for commercial, office, and institutional uses in

1373 section 152.107(h)(1) may be reduced by 25 percent. If bicycle lanes are provided adjacent  
1374 to every street within the PUD in addition to sidewalks, the number of required parking  
1375 spaces for commercial, office, and institutional uses in section 152.107(h)(1) may be  
1376 reduced by 50 percent.  
1377

- 1378 e) Signs. All sign requirements in sections 152.090 through 152.093 must be satisfied.  
1379  
1380 f) Street and sidewalk design standards.  
1381 i) All sidewalks shall meet the requirements of the Americans with Disabilities Act.  
1382 ii) Streets to be publicly dedicated shall meet all design standards for secondary subdivision  
1383 streets required by NCDOT.  
1384 iii) All private streets must be dedicated to a homeowners' association, which meets the  
1385 following:  
1386 iv) The homeowners' association shall be established before the lots are sold.  
1387 v) Membership in the association shall be mandatory for each lot buyer and all successive  
1388 buyers.  
1389 vi) The association shall be responsible for the maintenance and upkeep of all private streets.  
1390 vii) Private streets must meet the following design standards:  
1391 viii) Private streets must meet all the requirements outlined in the section 152.1000.  
1392 ix) Private streets shall have a minimum right-of-way width of 28 feet.  
1393 x) Private streets shall have a minimum pavement width of 20 feet for two-way streets and 18  
1394 feet for one-way streets.  
1395 xi) Loop configuration or turnarounds shall be provided to accommodate fire and emergency  
1396 services access per the state fire code.  
1397  
1398 (12) Pool halls and sports bars  
1399 a) appropriate hours of operation  
1400 b) appropriate security  
1401 c) compliance with all ABC, health and fire codes and regulations;  
1402 d) Not to be located closer than 100 feet of a residence, church or school;  
1403 e) all other applicable requirements as outlined in this chapter.  
1404

1405 **PROVISIONS FOR SPECIAL USE PERMITS**  
1406

- 1407 (1) The Board of Adjustment shall hold an evidentiary hearing using the quasi-judicial procedures  
1408 required in NCGS 160D-406 to decide upon special use permit requests.  
1409  
1410 (2) In granting a special use permit, the Board of Adjustments shall give due regard to the nature  
1411 and state of all adjacent structures and uses, and the district within which the proposed use is to  
1412 be located, and shall make written findings of fact concerning the existence or absence of the  
1413 following criteria:  
1414 a. The special use permit is allowed pursuant to the zoning district regulations and meets  
1415 all required conditions and specifications, including without limitation, those set out in  
1416 152.080.  
1417 b. The special use will not materially endanger the public health or safety if located where  
1418 proposed and developed according to the plan as submitted and approved.  
1419 c. The special use will not substantially injure the value of adjoining or abutting property  
1420 or the special use of a public necessity.

- 1421 d. The location and character of the special use, if developed according to the plan as  
1422 submitted and approved, will be in harmony with the area in which it is located and in  
1423 general conformity with the land use plan of the Town and in general conformity with  
1424 any long range plan in effect at the time of the issuance of the special use permit.  
1425
- 1426 (3) Upon the issuance of any special use permit, the Board of Adjustments shall consider whether it  
1427 is necessary or appropriate to affix conditions thereto for the purpose of protecting neighboring  
1428 properties and/or the public interest and shall affix to such permit such conditions as it finds are  
1429 necessary for either or both of those purposes. These requirements shall follow the parameters  
1430 of NCGS 160D-705(c).  
1431
- 1432 (4) If any conditions affixed to any special use permit or any part thereof is held invalid by  
1433 competent authority, then said special use permit shall be void.  
1434
- 1435 (5) Upon its determination that all of the criteria set out in division (A) above are met, the Board of  
1436 Adjustments shall enter a written order with findings of fact and conclusions of law, and shall  
1437 issue the special use permit as requested or with such conditions as it finds necessary and  
1438 appropriate pursuant to (A)(S) above. An agreement of the approved conditions shall be signed  
1439 by the Town and the applicant.  
1440
- 1441 (6) Upon its determination that one or more of the criteria set out in this section are not met, the  
1442 Board of Adjustments shall issue its written order with finding of fact and conclusions of law and  
1443 shall deny the requested special use permit.  
1444
- 1445 (7) The Board of Adjustments shall have the authority to establish rules of procedure governing the  
1446 submission and hearing of applications for special use permits that follow the procedures  
1447 outlined in NCGS 160D-406.  
1448

1449 **ORDERS OF BOARD; ADMINISTRATION**

1450  
1451 Upon its determination that all of the criteria set out in this chapter are met, the Board of Adjustments  
1452 shall enter a written order with findings of fact and conclusions of law, and shall issue the special use  
1453 permit as requested or with the conditions as it finds necessary and appropriate.  
1454

1455 Upon its determination that one or more of the criteria set out in this chapter are not met, the Board of  
1456 Adjustments shall issue its written order with findings of fact and conclusions of law and shall deny the  
1457 requested special use permit.  
1458

1459 Any special use permit approved or approved with conditions shall be recorded in the office of the  
1460 Register of Deeds of Beaufort County.  
1461

1462 The Board of Adjustment shall have the authority to establish rules of procedure governing the  
1463 submission and hearing of applications for special use permits that follow the procedures outlined in  
1464 NCGS 160D-406.  
1465

1466 **TIME LIMIT**

1467  
1468 A special use permit shall continue in effect for a period of one year after the date upon which it is

1469 approved or approved with conditions. If the applicant or his/her successor in interest has not obtained  
1470 a building permit within the period of one year in the case of new construction, or if the applicant or  
1471 his/her successor in interest has not commenced the special use within the period of one year in the  
1472 case of an existing structure or structures, then the special use permit shall be void. If, after  
1473 commencement of a special use permit or any successor in interest ceases to utilize the property for the  
1474 use set out in the special use permit for a continuous period of one year, then the special use permit  
1475 shall be void. When fairness and justice require, the Board of Adjustment, in its sounds discretion, may  
1476 order an extension of a special use permit beyond either of the one-year periods.

1477

1478 **NOTICE OF REVOCATION**

1479

1480 In any case where the conditions of a special use permit have not been or are not being complied with,  
1481 the Building Inspector shall give the permittee notice of intention to revoke the permit at least ten days  
1482 prior to a Board of Adjustments review thereon. After conclusion of the review, the Board of  
1483 Adjustments may revoke the permit. Failure to comply with conditions attached to a special use permit  
1484 shall be deemed a violation of this chapter and shall be punishable upon conviction as provided in this  
1485 chapter.

1486

1487 **APPEAL TO SUPERIOR COURT**

1488

1489 If the special use permit is denied or the applicant is not satisfied with the decision, an appeal may be  
1490 taken to Superior Court. Appeal from the decision of the Board of Adjustments in regard to special use  
1491 permits shall be by petition for certiorari to the Beaufort County Superior Court. Any such petition to the  
1492 Superior court shall be filed with the court clerk no later than 30 days after the date the decision of the  
1493 Board of Adjustments is filed with the Town, or after the date a written copy of the decision is delivered  
1494 to every aggrieved party who has filed a written request for such copy with the Board of Adjustments at  
1495 the public hearing, whichever is later. The copy of the decision shall be delivered to the aggrieved party  
1496 either by personal service or registered or certified mail, return receipt requested.

1497

1498 **NONCONFORMITIES**

1499

1500 **INTENT; LIMITATIONS**

1501

1502 Within the districts established by this chapter or amendments, there may exist lots, structures and uses  
1503 of land and structures which were lawful before this chapter was passed or amended, but which are  
1504 prohibited under the terms of this chapter. Such lots, structures and uses shall be termed  
1505 nonconforming. It is the intent of this chapter to permit these nonconformities to continue in their  
1506 present condition but they are not to be enlarged, expanded, extended, nor used as grounds for added  
1507 other structures or uses prohibited elsewhere in the same district.

1508

1509 **NONCONFORMING STRUCTURES AND USES**

1510

1511 Nonconforming structures or lots may be used or continued provided they conform to the following  
1512 provisions:

1513

- 1514 (1) Minimum single lot requirements. Where the owner of a lot at the time of the effective date of  
1515 this chapter, or his/her successor in title thereto does not own sufficient land to enable him/her  
1516 to conform to the dimensional requirements of this chapter, the lot may be used as a building

- 1517 site for a single-family residence or a duplex in a district in which those residences are  
1518 permitted, provided all setbacks are complied with.  
1519
- 1520 (2) Extension of nonconforming uses. Nonconforming uses shall not hereafter be enlarged or  
1521 extended in any way.  
1522
- 1523 (3) Change of nonconforming uses. A nonconforming use shall not be changed to any but a use  
1524 listed as permitted in the regulations for the district in which the nonconforming use is located.  
1525
- 1526 (4) Cessation of nonconforming uses. If active operations of the nonconforming use are  
1527 discontinued because of reasons not due to damages or disaster for a continuous period of six  
1528 months, the nonconforming use shall thereafter be used only for a conforming use.  
1529
- 1530 (5) Repair or alteration. Normal maintenance and repair of a building occupied by a nonconforming  
1531 use is permitted provided it does not extend the nonconforming use.  
1532
- 1533 (6) Damage or destruction of nonconforming uses. Nonconforming uses damaged to an extent  
1534 exceeding 50% of its replacement cost shall not be reconstructed as a nonconforming use.  
1535
- 1536 (7) Lawful use required. In order to qualify as a non-conforming use, the way in which the use was  
1537 actually conducted as well as the purpose of the use must be lawful.  
1538

1539 **REPAIRS AND RESTORATION**

1540  
1541 Repairs and modernization are permitted on any building devoted in whole or part to any  
1542 nonconforming use, providing that the cubical content of the building shall not be increased.  
1543

1544 Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of  
1545 any building or part thereof declared to be unsafe by any public official charged with protecting the  
1546 public safety, upon order of such official. Repair or restoration shall be considered to be started when  
1547 building materials are placed on the site.  
1548

1549 **AVOIDANCE OF UNDUE HARDSHIP**

1550  
1551 To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans,  
1552 construction, or designated use of any building on which actual construction was lawfully begun prior to  
1553 the effective date of an ordinance for the adoption or amendment of this chapter and upon which actual  
1554 building construction has been diligently carried on.  
1555

1556 **SIGN REGULATIONS**

1557  
1558 **INTENT**  
1559

1560 It is the intent of this article to permit signs of a commercial nature in appropriate locations and to  
1561 regulate the size and placement of signs intended to be seen from a public right-of-way in the interest of  
1562 public safety and the general welfare. All signs within the jurisdictional area shall be covered by these  
1563 regulations and shall be erected, constructed and maintained in accordance with the provisions of this  
1564 article.

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**SPECIFIC REQUIREMENTS**

- (1) No sign shall hereafter be erected or attached to, suspended from or supported on a building or structure nor shall any existing sign be structurally altered, remodeled or relocated until a certificate of compliance has been issued by the Zoning Administrator. No permits are required for signs enumerated in section 152.092.
- (2) All signs shall be constructed and designed according to generally accepted engineering practices, to withstand wind pressures and load distribution as specified in section 804 of the North Carolina Building Code, 1958, as amended.
- (3) Each sign may be subject to inspection by the Zoning Administrator for the purpose of ensuring that the structure is maintained in a safe and aesthetic condition. When a sign fails to meet the maintenance requirements of section 152.091(j) or is determined to be structurally unsafe for other valid reasons the Zoning Administrator shall give written notice to the owner of the sign or the owner of the premises on which the sign is located, that the sign shall be made in compliance or removed within 30 days of receipt of notice.
- (4) No sign shall be erected or constructed so as to obstruct corner visibility or visibility at a driveway between a height of 2½ and ten feet.
- (5) No sign or sign structure shall be located so as to obstruct a public right-of-way.
- (6) No sign or outdoor advertising structure shall be erected or maintained which is a copy or imitation of an official highway sign and carrying the words "stop," "go," "danger," or "slow."
- (7) No sign or advertising structure shall be permitted which would tend, by its location, color or nature, to be confused with or obstruct the view of traffic signs or signals, or would tend to be confused with a flashing light of an emergency vehicle.
- (8) No flashing or intermittent illumination shall be permitted on any sign or structure. Illumination devices such as, but not limited to, floodlights or spotlights shall be so placed and so shielded as to prevent the rays of illumination therefrom being cast upon neighboring buildings and/or vehicles approaching from either direction.
- (9) Nonconforming signs, when removed for other than normal maintenance, may not be erected again nor may any such signs be replaced with another nonconforming sign. No such nonconforming signs shall be altered, expanded or enlarged. Change in permanent copy, including the surface upon which the copy is adhered, shall not be considered an alteration when copy advertises the same business originally advertised. Permanent copy shall not include signs with changeable panels and reader Board type signs with removable letters. No nonconforming sign shall be repaired when such repairs exceed 50 percent of the value of the sign as determined by the Building Inspector.
- (10) Sign bases shall be at least ten feet from any right-of-way line or property line and 20 feet from a right-of-way intersection. No part of a freestanding sign shall extend beyond a line projected vertically from two feet inside the right-of-way line and no portion of such sign shall be less than

1613 ten feet above the finished grade of the pavement except as herein provided in the business  
1614 district. In no way shall a sign hinder or obstruct visibility on the right-of-way or at intersections.

1615  
1616 (11) Separate use signs shall be allowed only in the RA or HB districts and total area shall be limited  
1617 to 300 square feet. The minimum distance between separate use signs shall be 100 feet. No  
1618 separate use sign shall be located within 100 feet of a residential use.

1619  
1620 (12) For aesthetics and safety the following maintenance requirements must be observed for all  
1621 signs:  
1622 a. No sign shall have more than 20 percent of its display surface area covered with  
1623 disfigured, chipped, cracked, ripped or peeling paint or poster paper for a period of  
1624 more than 30 successive days.  
1625 b. No sign shall be allowed to remain with bent or broken display areas, broken supports,  
1626 loose appendages or struts, or be allowed to stand more than 15 degrees away from  
1627 perpendicular for a period of more than 30 successive days.  
1628 c. No sign shall be allowed to have weeds, trees, vines or other vegetation growing upon it  
1629 for a period of more than 30 successive days.  
1630 d. Wall signs placed against the exterior walls of buildings or painted on the walls shall not  
1631 exceed 40 percent of the exposed finished wall surface area, including openings.

1632  
1633 (13) Civic and fraternal signs shall be allowed as long as they are located within 300 feet of the Town  
1634 limits and the proper permits have been requested and received.

1635  
1636 **SIGNS NOT REQUIRING A PERMIT**

1637  
1638 The following type of signs may be allowed in any district without a permit:

- 1639 (1) Occupant and house number. Signs not exceeding three square feet in area and bearing only  
1640 property numbers, post office box numbers, names of occupants or other identification not  
1641 having commercial connotations.  
1642 (2) Directional and information signs. Erected and maintained by public agencies and governmental  
1643 bodies.  
1644 (3) Professional and home occupation signs. One sign per lot not to exceed eight square feet,  
1645 located at least ten feet from the street line and side property lines. Where side yards are  
1646 required, no such sign may be erected in such side yards. Only indirect lighting shall be allowed  
1647 in a residential district.  
1648 (4) Temporary lease, rent or sale signs. One sign per lot, not to exceed six square feet in area,  
1649 pertaining only to lease, rental, or sale of the property on which displayed. No such sign shall be  
1650 illuminated in a residential district. Such signs may be indirectly illuminated in nonresidential  
1651 districts.  
1652 (5) Bulletin Boards. Churches, schools, community centers and similar public and institutional uses  
1653 may erect one sign or bulletin Board not to exceed 16 square feet in area for the purpose of  
1654 displaying the name of the institution and related information. Such signs shall be used as wall  
1655 signs or shall be located a minimum of 12 feet from the street line and side lot lines. Where side  
1656 yards are required, no such sign shall be erected in such side yards. Such signs may be indirectly  
1657 illuminated.  
1658 (6) Construction signs. During construction, repair or alteration of a structure, temporary signs  
1659 which denote builder or other participants in the project or which denote the name of the  
1660 structure and its occupants-to-be may be placed within the required yard setbacks as ground,

- 1661 wall or roof signs. The total area of such signs shall not exceed 50 square feet.
- 1662 (7) Subdivision signs. On-site subdivision signs advertising the sale of lots or buildings within new
- 1663 subdivisions are permitted, provided:
- 1664 a. They are non-illuminated or indirectly illuminated;
  - 1665 b. They do not exceed 20 square feet;
  - 1666 c. Not more than one such sign may be erected at each major entrance to the subdivision;
  - 1667 d. They meet all requirements applicable to principal structures with respect to yard,
  - 1668 setback and height requirements;
  - 1669 e. Display of such signs shall be limited to a period of two years, unless the signs are
  - 1670 permanent with advertising restricted to the name of the subdivision only and are
  - 1671 dedicated to and accepted by the county, a municipal government or a lawfully
  - 1672 established homeowners' or community association responsible for the maintenance of
  - 1673 commonly-owned properties of the development.
- 1674 (8) Window signs. Window signs shall be placed only inside a public or commercial building and
- 1675 shall not exceed 25 percent of the glass area of the pane upon which the sign is placed.
- 1676

1677 **PRINCIPAL USE SIGNS**

- 1678 (1) Principal use signs may be indirectly illuminated only.
  - 1679 (2) If suspended from a canopy, the principal use sign must be at least seven feet above the
  - 1680 sidewalk level.
  - 1681 (3) Principal use signs shall have a maximum surface area of two square feet for each one linear
  - 1682 foot of street frontage, but in no case exceeding a total of 200 square feet in sign area per lot.
  - 1683 (4) Freestanding signs shall be limited to two per lot, per business, neither of which shall be located
  - 1684 in any side yard or within ten feet of a side property line.
  - 1685 (5) Freestanding signs meeting state building code provisions will be allowable.
- 1686

1687 **BUFFERS**

1688

1689 **REQUIRED**

1690

1691 In order to lessen the impact of incompatible land use, a visual buffer of six feet or more in height shall

1692 be provided and maintained to separate those uses which are deemed to have a negative effect on

1693 residential or other areas. When new business or industrial construction will abut an existing residential

1694 district or use, a buffer strip with a visual buffer shall be provided and maintained by the business or

1695 industrial use. In addition, when new residential construction will abut an existing business or industrial

1696 use, the buffer strip and visual buffer shall be provided by the residential developer. This buffer strip

1697 shall be part of the lot and shall be maintained by the lot owner or the homeowners' association, in the

1698 case of commonly-owned land.

1699

1700 **DEFINITIONS**

1701

1702 The following words, terms and phrases, when used in this article, shall have the meanings ascribed to

1703 them in this section, except where the context clearly indicates a different meaning:

1704

1705 *Buffers* means solid, decorative, visual obstructions used to shield objectionable uses or use accessories

1706 from public view.

1707

1708 **REQUIREMENTS**

1709

- 1710 (1) Buffers shall consist of:
- 1711 a. Brick walls.
- 1712 b. Wood or vinyl fences.
- 1713 c. Berms (earthen barriers).
- 1714 d. Light evergreen hedges.
- 1715 e. Any combination of the above.

1716

1717 (2) Minimum height requirements for buffers shall be six feet, except that on corner lots or near  
 1718 rights-of-way, nothing shall be placed, planted, or erected to exceed a height of 2½ feet nor  
 1719 protrude lower than ten feet, nor otherwise inhibit motor vehicle visibility in streets or at  
 1720 railroad crossings (see sections 152.041 and 152.042).

1721 (3) Evergreen hedges should be a type which reaches the minimum height within two years.

1722 (4) Wooden fences must create a solid visual barrier.

1723

1724 **USES TO BE BUFFERED**

1725

1726 The following uses shall require buffers in all districts where they are legal:

- 1727 (1) All dumpsters shall be buffered. No dumpster may continue in a nonconforming state for more  
 1728 than one year after the effective date of the ordinance from which this chapter is derived.
- 1729 (2) Veterinary hospitals, clinics, boarding facilities or kennels, where allowed (see section 152.243).
- 1730 (3) Junkyards/salvage yards as specified in section 152.243.
- 1731 (4) Development as specified in section 152.120.
- 1732 (5) Other conditional uses, as the Board of Adjustment deems appropriate.

1733

1734

1735 **SHORT-TERM RENTAL REGULATIONS**

1736

1737 **INTENT**

1738

1739 The intent of this article is to establish minimum operational and safety standards for the use of  
 1740 residential dwelling units as primary resident and dedicated short-term rentals and to minimize the  
 1741 impact of changed regulations on existing land uses established as of the effective date of the changed  
 1742 regulations.

1743

1744 The Board of Aldermen agrees that this article is consistent with this chapter, and helps to promote the  
 1745 health, safety, and general welfare of the citizens of the Town.

1746

1747 A Zoning Compliance Permit shall be required to operate a primary resident or dedicated short-term  
 1748 rental within the planning and regulation jurisdiction of the Town.

1749

1750 **Scope of article**

1751

1752 Unless otherwise specified, the requirements and provisions of this section shall apply to primary  
 1753 resident and dedicated short-term rentals (collectively called "short-term rentals"). This section does not  
 1754 apply to other types of transient lodging uses, such as hotels, motels, boardinghouses, rooming houses,  
 1755 or hosted short-term rentals.

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**Definitions**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Dedicated short-term rental* means the residential dwelling unit that is not owner-occupied or used as a principal residential dwelling unit to transient guests for a duration not to exceed 30 consecutive days.

Designated responsible party means the local contact responsible for responding to complaints or issues stemming from the use of the dwelling unit as a short-term rental. The responsible party must be located within 25 miles of the short-term rental property and be available to respond to complaints within 60 minutes.

*Operator* means the property owner or any person, company, or rental agency that advertises a residential dwelling unit for nightly rentals or that otherwise facilitates the use of the property as a short-term rental.

*Primary resident short-term rental* means the rental of a principal residential dwelling unit by a transient guest for a duration not to exceed 30 consecutive days, for a maximum of 90 days per year. A principal residential dwelling unit is a residence that is occupied by the property owner (or the tenant/lessee of the owner authorized by the owner to offer the unit for short-term rental) for a cumulative minimum of 275 days per calendar year.

*Transient guest* means the person who, for compensation, rents a residential dwelling unit on a nightly basis for stays not to exceeded 30 consecutive days.

*Zoning Compliance Permit* means the zoning permit that the property owner is required to hold before the residential dwelling may be advertised or used as a primary resident or dedicated short-term rental.

**Zoning Compliance Permit regulations**

Primary resident short-term rentals and dedicated short-term rentals are hereby recognized as a lawful land use within the following zoning districts: Residential (R-5), Residential Mobile Home (R- 5M), General Business (GB).

Primary resident and dedicated short-term rentals are and may be considered as conditional use within the following zoning districts: Marine Business (MB).

**Grounds for denial**

The Town may deny an application for a zoning compliance permit if any of the following has occurred:  
The property owner submits an incomplete application; or  
The proposed short-term rental fails to meet a specified standard set forth in this chapter.  
The property owner may appeal the denial of a zoning compliance permit to the Board of Adjustment pursuant to the requirement set forth in this chapter.

**Operational requirements**

The following operational requirements apply to primary resident and dedicated short-term rentals:

1804 Maximum overnight occupancy. The overnight occupancy shall not exceed two persons per bedroom  
1805 plus four additional persons, excluding children under three years of age. The occupancy limit shall be  
1806 posted prominently within the short-term rental unit and be included in property listings on the hosting  
1807 platforms.

1808  
1809 Designated responsible party. Operators shall designate a local responsible party who is available to  
1810 respond to complaints or other issues arising from the STR use 24 hours during all times that the  
1811 property is rented or used on a transient basis. The name, telephone number, and email address of the  
1812 designee shall be conspicuously posted within the short-term rental unit. The designee shall reside  
1813 within twenty (25) miles of the short-term rental property and be available to respond to complaints  
1814 within 60 minutes of their receipt. A designee's repeated failure to timely respond to complaints may  
1815 result in the revocation of the zoning compliance permit. The designee may be the property owner if  
1816 he/she satisfies these requirements.

1817  
1818 Parking. A minimum of one off-street parking space per every two bedrooms is required.

1819  
1820 Noise. The noise regulations set forth in title IX, chapter 95 apply.

1821  
1822 Trash and recycle disposal. The dates and instructions for trash and recycling collection shall be posted  
1823 prominently within the short-term rental. Waste may not be placed in trash bags at the curb; all trash is  
1824 required to fit into trash receptacles.

1825  
1826 Signs. Signs may be affixed to the building and may not exceed three feet by four feet. Yard signs are not  
1827 permitted.

1828  
1829

### 1830 **Miscellaneous requirements**

1831  
1832 Taxes. Short-term rental owners are responsible for paying the state sales tax and personal property  
1833 taxes as established by state and local law.

1834  
1835 Minimum rental age. The principal transient guest of a short-term rental shall be at least 21 years old.

1836  
1837 Minimum rental duration. The operator shall not make the residential dwelling unit available to short-  
1838 term rental transient guests for a period of less than overnight.

1839  
1840 Simultaneous rental contracts. The simultaneous rental to more than one party under separate rental  
1841 contracts shall be prohibited.

1842  
1843 Food preparation. The operator shall not prepare or serve food to transient guests.

1844  
1845 Notice. The jurisdiction will notify neighboring property owners located within 100 feet of the short-  
1846 term rental that the property is being used as a short-term rental. The notice to neighboring property  
1847 owners shall include:

- 1848
- 1849 • The street address of proposed short-term rental;
  - 1850 • The name and contact information of the designated responsible party; and
  - 1851 • A statement of the maximum overnight occupancy for the property. (Ord. of 3-9-2020(2), § 152.265)

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**Safety standards**

The Town Manager, or his/her designee, shall establish safety standards for the operation of primary resident and dedicated short-term rentals. These standards include, but are not limited to, the following requirements:

- Property owners shall install at minimum of one smoke detector on each floor within the dwelling unit and in each bedroom. Property owners are responsible for changing the batteries annually or when put on notice that a detector needs replacement batteries.
- Property owners shall provide one wall-mounted fire extinguisher visible from the kitchen area.
- Property owners shall install a minimum of one operable carbon monoxide detector located on each floor of the dwelling unit. The property owner shall inspect the carbon monoxide detector every six months to ensure it is properly functioning.
- Property owners shall remove all double-keyed deadbolt locks. A double-keyed deadbolt lock one that can be locked with a key from the interior of the dwelling unit.
- Property owners should ensure that all exit doors and windows within the dwelling unit can easily be opened in the event of an emergency.
- Property owners shall ensure that the property address is easily visible from the street by using reflective address numbers.

**Enforcement**

Permit revocations. If a property owner receives three verified complaints relating to the use of the property as a short-term rental within a rolling 12-month period, the zoning compliance permit may be revoked.

Operating without a permit. Any person who operates a short-term rental property without having been issued a zoning compliance permit shall be fined \$25.00 per day. This is a continuing violation and fines will accrue until the owner has secured a permit or ceases to rent the property on a short-term basis. Action for recovery of civil penalty. If payment of a civil penalty is not made, or if violations are not cured or corrected, within the time specified in the citation, then the matter may be referred to the Town Attorney for institution of a civil action before a court of competent jurisdiction.

**ADMINISTRATION AND ENFORCEMENT**

The zoning code of the Town of Belhaven will be administered and enforced as required in North Carolina General Statutes 160D-404.

**Zoning Administrator to enforce provisions**

The Zoning Administrator designated by the Board of Aldermen shall administer and enforce this chapter. The term ZONING ADMINISTRATOR shall include the Building Inspector when that official has been directed to perform the duties and obligations of the Zoning Administrator. The Zoning Administrator shall have all necessary authority to administer and enforce this chapter, including the ordering of, in writing or verbally, and the remedying of any condition found in violation of this chapter

1899 and the bringing of legal action with prior Board approval to ensure compliance with this chapter,  
1900 including injunction, abatement or other appropriate action or proceeding.

1901  
1902 **Zoning permit required**

1903  
1904 No land shall be used or occupied and no structures shall be erected, moved, extended, or enlarged, nor  
1905 shall any excavation or filling of any lot for the construction of any building be initiated until the Zoning  
1906 Administrator has issued a zoning permit which will certify that such proposed work is in conformity  
1907 with the provisions of this chapter.

1908  
1909 To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure  
1910 compliance with the requirements of this chapter, pre-application consultation between the developer  
1911 and the administrator is encouraged or required as provided in this section.

1912  
1913 **Certificate of occupancy required**

1914  
1915 No land or building shall be used or occupied until a certificate of occupancy has been issued by the  
1916 Building Inspector, stating that the building or proposed use complies with the provisions of this  
1917 chapter. A certificate of occupancy, either for the whole or a part of a building, shall be applied for  
1918 before such structure is occupied and shall be issued within ten days after the erection or alteration of  
1919 such building, or part, shall have been completed in conformity with the provisions of this chapter. No  
1920 previously unoccupied structure shall be occupied until the certificate of occupancy is issued.

1921  
1922 **Records and invalidation**

1923  
1924 A record of all zoning permits shall be kept on file in the office of the Zoning Administrator.  
1925 Any zoning permit issued shall become invalid if the work authorized by it has not commenced within  
1926 one year of approval date per NCGS 160D-108(d).

1927  
1928 **DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS**

1929  
1930 Dimensional requirements and development standards shall be in accordance with the zoning district in  
1931 which the building is located.

1932  
1933 **SITE PLAN REVIEW PROCESS FOR COMMERCIAL, INDUSTRIAL, MARINE BUSINESS, AND MULTI-FAMILY**  
1934 **PERMITTED USES APPLICATIONS**

1935  
1936 Prior to preparing a site plan, the preparer should obtain a site plan requirements list from the  
1937 Inspections Department. This checklist covers most items required on site plans, and the site plan  
1938 preparer should address all items on the list before submitting a site plan. Applicants are encouraged to  
1939 review their particular cases with the staff in a sketch plan meeting prior to submission of formal  
1940 application. A sketch plan review by the Planning Board may be recommended.

1941  
1942 Site plan preparer submits the following to Zoning Administrator:  
1943 Copy of the site plan, all items on checklist addressed and an engineer's seal on the plan;  
1944 Letter of tentative environmental approval, from the local or state agency having jurisdiction;  
1945 Site plan review fee.

1946

1947 The Planning Board will review the site plan. They will make recommendations to the Town Council such  
1948 as: approval as submitted, approval with conditions, disapproval or that the plan be tabled to allow the  
1949 preparer to address the Planning Board's concerns.

1950  
1951 The Town Council will review site plans on the second Monday of the month. At that time the Town  
1952 Council will approve, conditionally approve, disapprove or table the proposed project.

1953  
1954 Once a site plan has the Town Council approval, the Zoning Administrator may issue a zoning  
1955 compliance permit during the next 365 days, provided that all other requirements of this chapter and  
1956 other applicable town chapters are met. If a permit is not secured within 365 days from final approval of  
1957 the site plan, the site plan approval expires and the applicant must resubmit the site plan for review by  
1958 the Planning Board and the Town Council. In the event the applicant certifies to the Zoning  
1959 Administrator that there have been no intervening chapter or regulatory changes affecting siting and  
1960 use and there is no significant change in the site plan design, then the Zoning Administrator may certify  
1961 such conditions. Upon such certification, the Zoning Administrator may give the applicant 90 days in  
1962 which to secure a building permit. In the event no building permit is secured within the 90-day period,  
1963 the site plan approval extension shall expire and the site plan must be resubmitted through the  
1964 prescribed site plan approval process as specified in this chapter.

1965  
1966 Rejected site plans may be resubmitted in accordance with this chapter when redrafted to meet the  
1967 specifications of this chapter and upon payment of the required fees.

1968  
1969 **CHANGES IN PLAN BY OWNER OR DEVELOPER**

1970  
1971 If following the Town Council conditional or final approval, the owner or developer desires to make a  
1972 change in any of the factors listed in this chapter, the changed must be reviewed by the Planning Board  
1973 in accordance with the provisions of this chapter and approved by the Town Council.

1974  
1975 **MINOR MODIFICATIONS**

1976  
1977 The Zoning Administrator may approve minor modifications. These administrative modifications are  
1978 authorized for conditional zoning, special use permits, and administrative development approvals.

1979  
1980 (a) Insignificant deviations from the permit (including approved plans) issued by the Town Council, the  
1981 Board of Adjustment, or the zoning administrator are permissible and the administrator may authorize  
1982 such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring  
1983 properties, the general public, or those intended to occupy or use the proposed development.

1984  
1985 (b) Minor design modifications or changes in permits (including approved plans) are permissible with the  
1986 approval of the permit issuing authority. Such permission may be obtained without a formal  
1987 application, public hearing, or payment of any additional fee. For purposes of this section, minor design  
1988 modifications or changes are those that have no substantial impact on neighboring properties, the  
1989 general public, or those intended to occupy or use the proposed development.

1990  
1991 (c) All other requests for changes in approved plans will be processed as new applications. If such  
1992 requests are required to be acted upon by the Council or Board of Adjustment, new conditions may be  
1993 imposed in accordance with **Section 4.15**, but the applicant retains the right to reject such additional  
1994 conditions by withdrawing his request for an amendment and may then proceed in accordance with the

1995 previously issued permit.

1996

1997 (d) The zoning administrator shall determine whether amendments to and modifications of permits fall  
1998 within the categories set forth above in subsections (a), (b), and (c).

1999

2000 **VESTING OF RIGHTS**

2001

2002 Rights granted in accordance with the provisions of this chapter shall vest for a period of two years only  
2003 upon site plan approval by the Town Council. This provision is not intended to extend or reduce any  
2004 time requirements set forth in the North Carolina General Statutes 160D-801.1, North Carolina Building  
2005 Code, the Town Code or any other governmental regulation applicable to the project for which the site  
2006 plan approval is granted.

2007

2008 **PERMIT APPLICATIONS FOR SPECIAL USES**

2009

2010 Submission. Submission of a site plan for a special use overlay permit shall be subject to those  
2011 requirements outlined in Section 152.076 through 152.084 and Section 152.140 as applicable. The  
2012 application shall indicate the section of this chapter under which a permit is being sought and shall  
2013 contain the information required by the appropriate section and such other information as may be  
2014 required to ensure compliance with this chapter.

2015

2016 Granting special use permits. In granting any special use permit, the Board of Adjustments may  
2017 prescribe appropriate conditions and safeguards, including time and deed limitations imposed in  
2018 conformity with this chapter. Violation of those conditions and safeguards, when made a part of the  
2019 terms under which the special use permit is granted, shall be considered a violation of this chapter. The  
2020 Board of Adjustments may prescribe a time limit within which the action for which the special use  
2021 permit is required shall be begun or completed. Failure to comply within the time limit set shall void the  
2022 special use permit.

2023

2024 **POWERS AND DUTIES OF ZONING ADMINISTRATOR**

2025

2026 All questions arising in connection with the enforcement of this chapter shall be presented to the Zoning  
2027 Administrator. The Zoning Administrator has authority to grant certificates of zoning compliance with  
2028 the provisions established herein.

2029

2030 The Zoning Administrator shall not grant special use permits or variances, and shall not have the  
2031 authority to interpret this chapter. Questions of interpretation shall be determined by the Board of  
2032 Adjustment in considering appeals from decisions, orders or other actions of the Building Inspector.  
2033 When the Zoning Administrator finds that any of the provisions of this chapter are being violated,  
2034 he/she shall take corrective action by notifying the persons responsible for the violations in writing  
2035 indicating the nature of the violation and ordering corrective action necessary, including, but not limited  
2036 to the following:

2037

- 2038 a) Ordering discontinuance of illegal use of land or structures;
- 2039 b) Ordering removal of illegal construction, alterations and additions or changes to structures;
- 2040 c) Ordering discontinuance of illegal work being performed on land and/or structures;
- 2041 d) Ordering any other action authorized by this chapter to insure compliance with or prevent
- 2042 violation of its provision.

2043  
2044 Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written  
2045 complaint. The complaint, giving an adequate description of the violation or alleged violation, shall be  
2046 filed with the Zoning Administrator. He/she shall properly record the complaint, immediately investigate  
2047 and take appropriate action as provided herein.

2048  
2049 **REMEDIES**

2050  
2051 In case any structure is erected, reconstructed, altered or repaired in violation of this chapter, the  
2052 Building Inspector or any appropriate authority of the Town, or nearby or adjacent property owners who  
2053 would be affected by the violations may institute injunction, mandamus or other appropriate action to  
2054 prevent the occupancy of the dwelling, structure or land.

2055  
2056 **VIOLATIONS**

2057 Any person, firm or corporation violating this chapter or who violates or fails to comply with any order  
2058 made there under, shall be guilty of a and punishable as set forth in NCGS 14-4. Each day in violation  
2059 shall constitute a separate offense. Notice of action shall be sufficient if directed to the owner, agent of  
2060 the owner or the contractor, and left at his own place of residence or business. Nothing herein  
2061 contained shall prevent the Town from any other lawful action to prevent or remedy any situation.

2062  
2063 **PLANNING BOARD**

2064  
2065 **CREATION AND MEMBERSHIP**

2066  
2067 The Town Council does hereby create a Planning Board under the authority of G.S. 160A-361.

2068  
2069 The Belhaven Planning Board hereinafter referred to as the "Planning Board" shall have the authority to  
2070 create and amend its own rules and procedures at any time by an affirmative vote of a majority of the  
2071 members of the Planning Board, provided that such amendment shall have first been presented to the  
2072 membership in writing at a regular or special meeting.

2073  
2074 The Planning Board shall consist of seven members, six of which shall be bonafide residents of the Town  
2075 and one of which shall be bonafide resident of the "Area of Extraterritorial Jurisdiction" of the Town  
2076 hereinafter known as the "ETJ." All members shall be appointed by the Town Council.

2077  
2078 Appointments shall be for staggered terms with all subsequent appointments being for three year  
2079 terms. Should a vacancy occur, appointment will be made to complete the unexpired term. All members  
2080 shall be limited to three consecutive full terms.

2081  
2082 All members shall have equal rights, privileges, and duties with the other members regardless of  
2083 whether the matters at issue arise within the Town limits or within the ETJ.

2084  
2085 A quorum of the appointment members shall be the number needed to hold a meeting. A quorum is  
2086 considered a majority of the members currently serving on the Board.

2087  
2088 **POWERS AND DUTIES**

2089  
2090 The Planning Board shall have the following powers and duties:

- 2091 a) Make studies of the area within its jurisdiction and surrounding areas;
- 2092 b) Determine objectives to be sought in the development of the study area;
- 2093 c) Prepare and adopt plans for achieving these objectives;
- 2094 d) Develop and recommend policies, chapters, administrative procedures, and other means for
- 2095 carrying out plans in a coordinated and efficient manner;
- 2096 e) Advise the Town Council concerning the use and amendment of means for carrying out plans;
- 2097 f) Exercise any functions in the administrative and enforcement of various means for carrying out
- 2098 plans that the Town Council may direct;
- 2099 g) Perform any other related duties that the Town Council may direct.
- 2100 h) conduct such public hearings as may be required to gather information necessary for the
- 2101 drafting, establishment and maintenance of the Comprehensive and Land Use plans, Zoning
- 2102 Chapter, Subdivision Chapter, or other studies the Planning Board deems necessary.
- 2103
- 2104

2105 **BOARD OF ADJUSTMENT**

2106

2107 **APPOINTMENTS**

2108

2109 The Town Council does hereby create a Board of Adjustment and provides for the appointment of the

2110 Board of Adjustment consisting of five regular members and two alternate members.

2111 Four of the regular members be bonafide residents of the Town, residing within the corporate limit of

2112 the Town. Insofar as possible, members shall be appointed from different areas within the zoning

2113 jurisdiction.

2114

2115 All appointments to the Board of Adjustment shall be three years. However, to allow for staggered

2116 terms, the three initial appointments of regular, in-town members will be for periods of one, two and

2117 three years. The initial appointment of the regular ETJ members will be for periods of two years. All

2118 other appointments, including the initial appointments of alternate members shall be for three-year

2119 terms. An appointee to the Board of Adjustment may serve no more than two consecutive terms,

2120 providing that any member appointed to an initial term of one or two year shall be eligible to serve two

2121 additional full terms after such initial term.

2122

2123 **PROCEEDINGS**

2124

2125 The Board of Adjustment shall elect a Chairman and a Vice-Chairman at its first meeting following its

2126 creation and appointment of members and each year thereafter. The Chairman, or the Vice-Chairman in

2127 the Chairman's absence, shall preside at all meetings. In the absence of both the Chairman and the Vice-

2128 Chairman, those members of the Board of Adjustment who are present may elect a Chairman Pro

2129 Tempore for the purpose of appointing alternate members to sit for vacant members, if by doing so a

2130 quorum can be reached. In such case, the Chairman Pro Tempore shall be the presiding officer for that

2131 meeting. The Board of Adjustment shall select a Secretary who may or may not be a member of the

2132 Board of Adjustment but may be an employee of the Town.

2133

2134 Meetings of the Board of Adjustment shall be open to the public and shall be held at the call of the

2135 Chairman at a time and place that may be specified in the Board's rules of procedure. Due notice shall

2136 be given to all interested parties.

2137

2138 The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon  
2139 each question, or if absent or failing to vote, indicating such fact and shall keep records of its  
2140 examinations and official actions, all of which shall be filed in the office of the Town Clerk for public  
2141 record.

2142  
2143 If a regular member is absent from any meeting of the Board of Adjustment, the presiding member of  
2144 the Board of Adjustment shall appoint an alternate member to sit in the place of the absent regular  
2145 member if an alternate member is present. If the seat being filled is that of an in- Town member, then  
2146 only the in-Town alternate may be appointed to fill the vacancy. If the seat being filled is that of an ETJ  
2147 member, then only the ETJ alternate may be appointed to fill the vacancy.

2148  
2149 The concurring vote of a simple majority of the board shall be necessary to reverse any order,  
2150 requirement, decision or determination of the Zoning Administrator, or to decide in favor of the  
2151 applicant any matter upon which the Board is required to pass under the provisions of this chapter. On  
2152 any issue coming before the Board of Adjustment, there shall be no distinction between members  
2153 residing within the corporate limits of the Town and members residing in the ETJ.

2154  
2155 Appeal from the Board of Adjustment shall be to the Superior Court of Beaufort County.

2156  
2157 The Chairman of the Board of Adjustment is authorized in his official capacity to administer oaths to  
2158 witnesses in any matter coming before the Board. Any member of the Board while temporarily acting as  
2159 Chairman shall have and exercise like authority.

2160  
2161 North Carolina General Statute 160D-406(i) specifies how voting members should be counted. For the  
2162 purposes of this subsection, vacant positions on the board and members who are disqualified from  
2163 voting on a quasi- judicial matter under G.S. 160D-109(d) shall not be considered members of the board  
2164 for calculation of the requisite majority if there are no qualified alternates available to take the place of  
2165 such members.

2166  
2167 **Powers and Duties**

2168  
2169 The Board of Adjustment shall have the following powers and duties:

2170 (1) *Administrative review.* To hear and decide any appeal from and review any order, requirement,  
2171 decision, or determination made by the Zoning Administrator. A fee set according to a regularly  
2172 adopted fee schedule shall be paid to the Town for each appeal to cover advertising and  
2173 administrative costs.

2174 (2) *Variations.* To authorize, upon appeal, in specific cases such variance from the terms of this  
2175 chapter as will not be contrary to the public interest where, owing to special conditions, a literal  
2176 enforcement of the provisions of this chapter would result in unnecessary hardship. In granting  
2177 a variance, the Board of Adjustment may determine and prescribe reasonable conditions and  
2178 safeguards upon which the variance is granted in order to ensure that the variance is in  
2179 harmony with the general purpose and intent of the Zoning Chapter and preserves its spirit, and  
2180 to ensure that the variance will assure the public safety and welfare and will provide substantial  
2181 justice;

2182

2183 A variance from the terms of this chapter shall not be granted by the Board unless and until it shall make  
2184 a finding that:

- 2185 a. Special conditions and circumstances exist which are peculiar to the land, structure or building  
2186 involved and which are not applicable to other lands, structures or buildings in the same district;
- 2187 b. Literal interpretation of the provisions of this chapter would deprive the applicant of rights  
2188 commonly enjoyed by other properties in the same district under the terms of this chapter;
- 2189 c. The special conditions and circumstances do not result from the actions of the applicant; and
- 2190 d. Granting the variance requested will not confer on the applicant any special privilege that is  
2191 denied by this chapter to other land, structures, or buildings in this same district.

2192 A fee set according to a regularly adopted fee schedule shall be paid to the Town for each application for  
2193 a variance to cover advertising and administrative costs.

2194 (3) *Special uses.* To hear and decide requests for special uses as prescribed by sections 152.240  
2195 through 152.243. A fee set according to a regularly adopted fee schedule shall be paid to the Town  
2196 for each application for a conditional use to cover advertising and administrative costs.

2197  
2198

**Quasi-judicial procedure**

2200 (a) Process Required. - Boards shall follow quasi-judicial procedures in determining appeals of  
2201 administrative decisions, special use permits, certificates of appropriateness, variances, or any other  
2202 quasi-judicial decision.

2203 (b) Notice of Hearing. - Notice of evidentiary hearings conducted pursuant to this Chapter shall be  
2204 mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the  
2205 owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the  
2206 owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other  
2207 persons entitled to receive notice as provided by the local development regulation. In the absence of  
2208 evidence to the contrary, the local government may rely on the county tax listing to determine owners of  
2209 property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more  
2210 than 25 days, prior to the date of the hearing. Within that same time period, the local government shall  
2211 also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent  
2212 street or highway right-of-way. The board may continue an evidentiary hearing that has been convened  
2213 without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board  
2214 is not then present, the hearing shall be continued until the next regular board meeting without further  
2215 advertisement.

2216 (c) Administrative Materials. - The administrator or staff to the board shall transmit to the board  
2217 all applications, reports, and written materials relevant to the matter being considered. The  
2218 administrative materials may be distributed to the members of the board prior to the hearing if at the  
2219 same time they are distributed to the board a copy is also provided to the appellant or applicant and to  
2220 the landowner if that person is not the appellant or applicant. The administrative materials shall become  
2221 a part of the hearing record. The administrative materials may be provided in written or electronic form.  
2222 Objections to inclusion or exclusion of administrative materials may be made before or during the hearing.  
2223 Rulings on unresolved objections shall be made by the board at the hearing.

2224 (d) Presentation of Evidence. - The applicant, the local government, and any person who would  
2225 have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party  
2226 at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence  
2227 that is not repetitive as allowed by the board.

2228           Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness  
2229 of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any  
2230 objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to  
2231 judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the  
2232 first time on judicial review.

2233           (e)     Appearance of Official New Issues. - The official who made the decision or the person currently  
2234 occupying that position, if the decision maker is no longer employed by the local government, shall be  
2235 present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters  
2236 stated in a notice of appeal. If any party or the local government would be unduly prejudiced by the  
2237 presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

2238           (f)     Oaths. - The chair of the board or any member acting as chair and the clerk to the board are  
2239 authorized to administer oaths to witnesses in any matter coming before the board. Any person who,  
2240 while under oath during a proceeding before the board determining a quasi-judicial matter, willfully  
2241 swears falsely is guilty of a Class 1 misdemeanor.

2242           (g)     Subpoenas. - The board making a quasi-judicial decision under this Chapter through the chair  
2243 or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of  
2244 evidence. To request issuance of a subpoena, the applicant, the local government, and any person with  
2245 standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary  
2246 for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she  
2247 determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on  
2248 any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be  
2249 immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to  
2250 this subsection, the board or the party seeking the subpoena may apply to the General Court of Justice  
2251 for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these  
2252 orders after notice to all proper parties.

2253           (h)     Appeals in Nature of Certiorari. - When hearing an appeal pursuant to G.S. 160D-947(e) or any  
2254 other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of  
2255 review shall be as provided in G.S. 160D-1402(j).

2256           (i)     Voting. - The concurring vote of four-fifths of the board shall be necessary to grant a variance.  
2257 A majority of the members shall be required to decide any other quasi-judicial matter or to determine an  
2258 appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board  
2259 and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not  
2260 be considered members of the board for calculation of the requisite majority if there are no qualified  
2261 alternates available to take the place of such members.

2262           (j)     Decisions. - The board shall determine contested facts and make its decision within a  
2263 reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may  
2264 modify the decision appealed from and shall make any order, requirement, decision, or determination  
2265 that ought to be made. The board shall have all the powers of the official who made the decision. Every  
2266 quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.  
2267 Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested  
2268 facts and their application to the applicable standards, and be approved by the board and signed by the  
2269 chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the  
2270 written decision with the clerk to the board or such other office or official as the development regulation  
2271 specifies. The decision of the board shall be delivered within a reasonable time by personal delivery,  
2272 electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a  
2273 written request for a copy prior to the date the decision becomes effective. The person required to  
2274 provide notice shall certify to the local government that proper notice has been made, and the certificate  
2275 shall be deemed conclusive in the absence of fraud.

2276 (k) Judicial Review. - Every quasi-judicial decision shall be subject to review by the superior court  
2277 by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the  
2278 times specified in G.S. 160D-1405(d). The governing board of the local government that is a party to the  
2279 judicial review of the quasi-judicial decision shall have the authority to settle the litigation, subject to  
2280 Article 33C of Chapter 143 of the General Statutes.

2281  
2282

2283 **APPEALS**

2284

2285 Appeals from the enforcement and interpretation of this chapter, special use permits and request for  
2286 variances shall be filed with the Zoning Administrator within 30 days after the interested party or parties  
2287 receive notice of an order, requirement, decision or determination. The Zoning Administrator shall  
2288 transmit all the records in the case to the Board of Adjustment.

2289

2290 After receipt of notice of appeal, the Chairman of the Board of Adjustment shall fix a reasonable time  
2291 not to exceed 60 days, for the hearing of the appeal and publish notice of such hearing in a newspaper  
2292 of general circulation in Belhaven at least once each week, for two consecutive weeks prior to the  
2293 hearing. All applications for a variance must be accompanied by an application fee as set by Town staff  
2294 to help defray costs in advertising and administration.

2295

2296 An appeal stays all proceedings in furtherance of action appealed from, unless the Zoning Administrator  
2297 certifies to the Board of Adjustment that, based on the records of the case, a stay would cause damage  
2298 to life or property, in which case proceedings shall not be stayed otherwise than by an order from the  
2299 Beaufort County Superior Court. All appeals to the Superior Court and all applications to the Superior  
2300 Court for a stay shall be made within 30 days of a party's receipt of notice of the decision of the Board of  
2301 Adjustment.

2302

2303 **SPECIAL USES**

2304 All special uses shall be approved by the Board of Adjustment in accordance with this chapter and shall  
2305 be subject to those requirements outlined in Sections 152.076 through 152.084, Section 152.140, and  
2306 Section 152.146 as applicable.

2307

2308 **CONTINUITY OF ACTION**

2309 Any application for any action by the Board of Adjustment pending before the Board of Adjustment  
2310 which is being abolished herein on the day of passage of these amendments shall be deemed continuing  
2311 in effect and shall be considered by the Board of Adjustment which is being created herein in the same  
2312 manner as if such application had been originally submitted to said newly created Board of Adjustment.

2313

2314 **DECISIONS OF THE BOARD**

2315

2316 The Board of Adjustment shall submit to the appellant, in written form, the decision of the Board. Such  
2317 written notice shall be sent to appellant, not more than seven days following the date of the Board's  
2318 decision. Such notice shall describe the reasons for the Board's action.

2319

2320 **AMENDMENTS**

2321

2322 **Development Regulation. Procedure for adopting, amending, or repealing development regulations.**

2323

(a) Hearing with Published Notice. – Before adopting, amending, or repealing any ordinance or

2324 development regulation authorized by this Chapter, the governing board shall hold a legislative hearing.  
2325 A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper  
2326 having general circulation in the area. The notice shall be published the first time not less than 10 days  
2327 nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of  
2328 publication is not to be included but the day of the hearing shall be included.

2329 (b) Notice to Military Bases. – If the adoption or modification would result in changes to the zoning map  
2330 or would change or affect the permitted uses of land located five miles or less from the perimeter  
2331 boundary of a military base, the local government shall provide written notice of the proposed changes  
2332 by certified mail, return receipt requested, to the commander of the military base not less than 10 days  
2333 nor more than 25 days before the date fixed for the hearing. If the commander of the military base  
2334 provides comments or analysis regarding the compatibility of the proposed development regulation or  
2335 amendment with military operations at the base, the governing board of the local government shall take  
2336 the comments and analysis into consideration before making a final determination on the ordinance.

2337 (c) Ordinance Required. – A development regulation adopted pursuant to this Chapter shall be adopted  
2338 by ordinance.

2339 (d) Down-Zoning. – No amendment to zoning regulations or a zoning map that down-zones property  
2340 shall be initiated nor is it enforceable without the written consent of all property owners whose  
2341 property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated  
2342 by the local government. For purposes of this section, "down-zoning" means a zoning ordinance that  
2343 affects an area of land in one of the following ways:

2344 (1) By decreasing the development density of the land to be less dense than was allowed under its  
2345 previous usage.

2346 (2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land  
2347 development regulation to fewer uses than were allowed under its previous usage. (2019-111, s. 2.4;  
2348 2020-3, s. 4.33(a); 2020-25, ss. 12, 50(a), 51(a), (b), (d).)

2349

#### 2350 **Notice of hearing on proposed zoning map amendments**

2351

2352 (a) Mailed Notice. – Subject to the limitations of this Chapter, an ordinance shall provide for the manner  
2353 in which zoning regulations and the boundaries of zoning districts are to be determined, established,  
2354 and enforced, and from time to time amended, supplemented, or changed, in accordance with the  
2355 provisions of this Chapter. The owners of affected parcels of land and the owners of all parcels of land  
2356 abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map  
2357 amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts.  
2358 For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other  
2359 transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days  
2360 prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an  
2361 expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S.  
2362 160D-202, a single hearing on the NC General Statutes - Chapter 160D Article 6 2 zoning map  
2363 amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning  
2364 map amendment hearing may be combined with the boundary hearing notice and the combined hearing  
2365 notice mailed at least 30 days prior to the hearing.

2366

2367 (b) Optional Notice for Large-Scale Zoning Map Amendments. – The first-class mail notice required  
2368 under subsection (a) of this section is not required if the zoning map amendment proposes to change  
2369 the zoning designation of more than 50 properties, owned by at least 50 different property owners, and  
2370 the local government elects to use the expanded published notice provided for in this subsection. In this  
2371 instance, a local government may elect to make the mailed notice provided for in subsection (a) of this

2372 section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601,  
2373 provided that each advertisement shall not be less than one-half of a newspaper page in size. The  
2374 advertisement is effective only for property owners who reside in the area of general circulation of the  
2375 newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation  
2376 area, according to the address listed on the most recent property tax listing for the affected property,  
2377 shall be notified according to the provisions of subsection (a) of this section.

2378  
2379 (c) Posted Notice. – When a zoning map amendment is proposed, the local government shall  
2380 prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent  
2381 public street or highway right-of-way. The notice shall be posted within the same time period specified  
2382 for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map  
2383 amendment, a posting on each individual parcel is not required but the local government shall post  
2384 sufficient notices to provide reasonable notice to interested persons.

2385  
2386 (d) Repealed by Session Laws 2020-25, s. 13, effective June 19, 2020.

2387  
2388 (e) Optional Communication Requirements. – When a zoning map amendment is proposed, a zoning  
2389 regulation may require communication by the person proposing the map amendment to neighboring  
2390 property owners and residents and may require the person proposing the zoning map amendment to  
2391 report on any communication with neighboring property owners and residents.

2392  
2393 **Citizen comments**

2394  
2395 Subject to the limitations of this Chapter, zoning regulations may from time to time be amended,  
2396 supplemented, changed, modified, or repealed. If any resident or property owner in the local  
2397 government submits a written statement regarding a proposed amendment, modification, or repeal to a  
2398 zoning regulation, including a text or map amendment that has been properly initiated as provided in  
2399 G.S. 160D-601, to the clerk to the board at least two business days prior to the proposed vote on such  
2400 change, the clerk to the board shall deliver such written statement to the governing board. If the  
2401 proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705 or any other statute,  
2402 the clerk shall provide only the names and addresses of the individuals providing written comment, and  
2403 the provision of such names and addresses to all members of the board shall not disqualify any member  
2404 of the board from voting.

2405  
2406 **Planning board review and comment**

2407  
2408 (a) Initial Zoning. – In order to exercise zoning powers conferred by this Chapter for the first time, a local  
2409 government shall create or designate a planning board under the provisions of this Article or a local act  
2410 of the General Assembly. The planning board shall prepare or shall review and comment upon a  
2411 proposed zoning regulation, including the full text of the regulation and maps showing proposed district  
2412 boundaries. The planning board may hold public meetings and legislative hearings in the course of  
2413 preparing the regulation. Upon completion, the planning board shall make a written recommendation  
2414 regarding adoption of the regulation to the governing board. The governing board shall not hold its  
2415 required hearing or take action until it has received a recommendation regarding the regulation from  
2416 the planning board. Following its required hearing, the governing board may refer the regulation back to  
2417 the planning board for any further recommendations that the board may wish to make prior to final  
2418 action by the governing board in adopting, modifying and adopting, or rejecting the regulation.

2419

2420 (b) Zoning Amendments. – Subsequent to initial adoption of a zoning regulation, all proposed  
2421 amendments to the zoning regulation or zoning map shall be submitted to the planning board for review  
2422 and comment. If no written report is received from the planning board within 30 days of referral of the  
2423 amendment to that board, the governing board may act on the amendment without the planning board  
2424 report. The governing board is not bound by the recommendations, if any, of the planning board.  
2425

2426 (c) Review of Other Ordinances and Actions. – Any development regulation other than a zoning  
2427 regulation that is proposed to be adopted pursuant to this Chapter may be referred to the planning  
2428 board for review and comment. Any development regulation other than a zoning regulation may  
2429 provide that future proposed amendments of that ordinance be submitted to the planning board for  
2430 review and comment. Any other action proposed to be taken pursuant to this Chapter may be referred  
2431 to the planning board for review and comment.  
2432

2433 (d) Plan Consistency. – When conducting a review of proposed zoning text or map amendments  
2434 pursuant to this section, the planning board shall advise and comment on whether the proposed action  
2435 is consistent with any comprehensive or land-use plan that has been adopted and any other officially  
2436 adopted plan that is applicable. The planning board shall provide a written recommendation to the  
2437 governing board that addresses plan consistency and other matters as deemed appropriate by the  
2438 planning board, but a comment by the planning board that a proposed amendment is inconsistent with  
2439 the comprehensive or land-use plan shall not preclude consideration or approval of the proposed  
2440 amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning"  
2441 under G.S. 160D-602(b), the planning board statement describing plan consistency may address the  
2442 overall rezoning and describe how the analysis and policies in the relevant adopted plans were  
2443 considered in the recommendation made.  
2444

2445 (e) Separate Board Required. – Notwithstanding the authority to assign duties of the planning board to  
2446 the governing board as provided by this Chapter, the review and comment required by this section shall  
2447 not be assigned to the governing board and shall be performed by a separate board.  
2448

2449 **Governing board statement**

2450 (a) Plan Consistency. – When adopting or rejecting any zoning text or map amendment, the governing  
2451 board shall approve a brief statement describing whether its action is consistent or inconsistent with an  
2452 adopted comprehensive or land-use plan. The requirement for a plan consistency statement may also be  
2453 met by a clear indication in the minutes of the governing board that at the time of action on the  
2454 amendment the governing board was aware of and considered the planning board's recommendations  
2455 and any relevant portions of an adopted comprehensive or land-use plan. If a zoning map amendment is  
2456 adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment has the  
2457 effect of also amending any future land-use map in the approved plan, and no additional request or  
2458 application for a plan amendment is required. A plan amendment and a zoning amendment may be  
2459 considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning  
2460 map amendment qualifies as a "large rezoning" under G.S. 160D-- scale 602(b), the governing board  
2461 statement describing plan consistency may address the overall rezoning and describe how the analysis  
2462 and policies in the relevant adopted plans were considered in the action taken.  
2463

2464 (b) Additional Reasonableness Statement for Rezoning. When adopting or rejecting any petition for a  
2465 zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be  
2466 approved by the governing board. This statement of reasonableness may consider, among other factors,  
2467 (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits

2468 and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship  
2469 between the current actual and permissible development on the tract and adjoining areas and the  
2470 development that would be permissible under the proposed amendment; (iv) why the action taken is in  
2471 the public interest; and (v) any changed conditions warranting the amendment. If a zoning map  
2472 amendment qualifies as a "largescale rezoning" under G.S. 160D-602(b), the governing board statement  
2473 on reasonableness may address the overall rezoning.

2474  
2475 (c) Single Statement Permissible. The statement of reasonableness and the plan consistency statement  
2476 required by this section may be approved as a single statement.

2477  
2478 **Delay between denial and resubmission**  
2479  
2480 When a petition for amendment is denied by the Board of Aldermen, a period of 12 months must elapse  
2481 before another petition for the same change previously involved may be submitted.

2482  
2483 **Penalty**  
2484  
2485 *NOTE: Session Law 2021-138 specifically decriminalizes violations to ordinances adopted under Chapter*  
2486 *160D, except for those regarding unsafe buildings. As a result, this section should be revised. Other*  
2487 *enforcement tools such as issuing notices of violation, civil penalties, and court action are still available*  
2488 *to local governments.*

2489  
2490 **Penalty**  
2491 Any person violating any provision of this chapter shall be guilty of a civil violations and subject to civil  
2492 penalties. These violations shall be punished for each offense by a fine not to exceed \$50.00. Each day  
2493 such violation continues shall be deemed a separate offense.

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## APPENDIX A DEFINITIONS

ACCESSORY BUILDING OR STRUCTURE: Structures that are located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Examples of common accessory structures include, but are not limited to: Garages, carports, swimming pools, and storage sheds. Pole barns and hay sheds qualify as accessory structures where associated with bonafide farms, and may or may not be located on the same parcel as the principal structure.
ACCESSORY DWELLING UNIT: A dwelling unit either added within an existing single family detached dwelling or in a separate accessory structure on the same lot as the principal dwelling, or within a commercial building for use as a complete, independent living facility with provision within the accessory dwelling unit for cooking, eating, sanitation and sleeping.
ACCESSORY USE: A use which is on the same lot as, and of a nature customarily incidental and subordinate to the principal use, structure, or building on the property.
ADMINISTRATIVE DECISION. Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Chapter or local government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.
ADMINISTRATIVE HEARING. A proceeding to gather facts needed to make an administrative decision.
ADMINISTRATOR, ZONING. means the person, officer, or official and his/her authorized representative whom the Town has designated as its agent for the administration of these regulations. The Administrator may provide for the enforcement of this chapter by means of withholding zoning permits and occupancy permits, and by instituting injunctions, mandamus, or other appropriate action or proceeding to prevent unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; to correct or abate such violation, or to prevent the occupancy of said building, structure, or land.
ADULT: Adult person who has attained the legal age of majority; or 18 years.
AGRICULTURE, LIVESTOCK: The use of land for the keeping, grazing, feeding, or breeding of livestock, including cattle, hogs, sheep, goats, horses, and poultry, and also animal specialties such as rabbits, bees, fish, and fur-bearing animals in captivity.
AGRICULTURE, NON-LIVESTOCK: The use of land for the production of cash grains, field crops, vegetables, fruits, and nuts, and for horticulture and floriculture.
ALCOHOLIC BEVERAGE SALES STORE The retail sales of beer, wine, and/or other alcoholic beverages for off-premise consumption as a primary use.
ALLEY: A right-of-way dedicated or deeded for public use having a width of no more than 20 feet, which affords a secondary means of access to abutting property and not intended for general traffic.
ANIMAL HOSPITAL: A public or private institution, whether organized for profit or not, which is devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of animals that are admitted for overnight stay or longer in order to obtain veterinary treatment for illnesses, diseases, injuries, and deformities.
APPROVED: Certified as correct or otherwise meeting the requirements of this Chapter by a Town official or other authority having jurisdiction.
AREA OF SPECIAL FLOOD HAZARD: The land in the 100- year flood plain, as designated by the Federal Emergency Management Agency (FEMA), subject to a one (1) percent or greater chance of flooding in any given year.
AS-BUILT PLAN: A reproducible plan showing the true and actual location and nature of buildings, structures, plant materials, underground utility lines and connections, and other features or improvements which have been installed on or off the property pursuant to a development plan approved under this Chapter, to be used to determine compliance with the requirements of this Chapter.
ATTACHED DWELLING: A building which contains two or more dwelling units which share one or more common walls for fifty (50) percent or more of their length, with each dwelling unit located on a separate lot.
AUTOMOTIVE REPAIR: see Vehicle Services
AWNINGS: An architectural projection that provides weather protection, identity and/or decoration, and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid, or retractable skeleton over which an approved cover is attached.
BACKYARD PENS/COOPS/BEEKEEPING The long-term keeping of poultry, rabbits, honey bees, and other similar small creatures in backyards as accessory uses to existing residential structures.
BAR/TAVERN/NIGHT CLUB A business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery and other beverage tasting facilities. Entertainment including live music and/or dancing, comedy, etc. may also be included.
BASE FLOOD: The flood having a one percent chance of being equaled or exceeded in any given year.
BED AND BREAKFAST INN: means a single-family dwelling with rooms without cooking facilities that are rented, and which provides a breakfast meal but no other daily meals on the premises for guests only. The owners resides on premises.
BERM: Any elongated earthen mound designed or constructed to separate, screen or buffer adjacent land uses.
BEST MANAGEMENT PRACTICES (BMP): A structural or non-structural 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.
BILLBOARD: a sign which directs attention to and is located other than the premises where a business, commodity, service, or entertainment is conducted, sold or offered.
BLOCK: A tract of land or a lot or group of lots bounded by streets, public parks, golf courses, railroad right-of-way, water courses, lakes, un-subdivided land, or a boundary line or lines of the Town of Belhaven or its extraterritorial zoning jurisdiction or any combination of the above.
BUFFER: A unit of land and any plants and structures thereon which is used to separate land uses from each other as required by this Chapter. The required height and width of the buffer strip and the materials used in its construction vary according to use.
BUILDING: Any structure used or intended for supporting or sheltering any use or occupancy.
BUILDING FOOTPRINT: The portion of a lot's area, which is enclosed by the foundations of buildings, plus any cantilevered upper floors.
BUILDING HEIGHT: The vertical distance from the adjacent grade to the highest point of any roof or wall. All heights shall be measured from the adjacent grade (within ten feet of the building) to the highest extremity of the wall or roof.
BUILDING INSPECTOR: An officer or other designated authority charged with the administration of the State Building Code and other duties described within this Chapter.
BUILDING PERMIT: A permit that allows the commencement of construction of a structure or building, after being issued by the Inspections Department pursuant to this Chapter and the State Building Code.
BUILDING SETBACK LINE(S): Lines parallel to and inside of the lot lines, at the setback distances prescribed by this Chapter.
BUILDING, PRINCIPAL: a building in which is conducted the principal use of the lot on which it is located.
BUILT-UPON AREA: Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks, golf courses, and the water area of a swimming pool are not considered built-upon area).
BULKHEAD: A vertical wall structure designed to retain shoreline material.
BULLETIN BOARD: a sign on a premises used to announce meetings or programs to be held at a church, school, auditorium, library, museum, community recreation center, or similar noncommercial place of public assembly.

BUSINESS SUPPORT SERVICES These establishments provide any of the following: document preparation, telephone answering, telemarketing, mailing (except direct mail advertising), court reporting, and steno typing. They may operate copy centers, which provide photocopying, duplicating, blueprinting, or other copying services besides printing. They may provide a range of support activities, including mailing services, document copying, facsimiles, word processing, on-site computer rental, <u>tax preparation, legal services and office product sales.</u>
CANOPY: An architectural projection that provides weather protection, identity, or decoration and is supported by the building to which it is attached and by at least one support at the outer end.
CARPOR: A permanent roofed structure permanently open on at least two sides, designed for or occupied by private passenger vehicles.
CEMETERY: Land used or intended to be used for the burial of the human dead and dedicated for cemetery purposes, including crematories, mausoleums, columbariums, and mortuaries if operated in connection with and within the boundaries of such cemetery.
CERTIFICATE OF OCCUPANCY: That document issued at the conclusion of all work done under all permits following inspection(s) by the appropriate inspector, showing that all completed work complies with the applicable state and local laws and the terms of all permits. No new building or part thereof may be occupied, and no existing building that has been altered or moved may be occupied until the Inspections Department has issued a valid Certificate of Occupancy.
CHILD DAY CARE HOME: Supervision or care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling.
CHURCH (PLACE OF WORSHIP): A building or structure in which persons regularly gather to worship for religious purposes. This definition is intended to include all religious denominations.
CLINIC: Any building or portion thereof, the principal use of which is for offices of one or more licensed physicians, ophthalmologists, dentists, physical or occupational therapists, psychologists, or the like for the examination and treatment of persons on an out-patient basis only and ambulatory/outpatient care facilities.
CLUBS AND LODGES, CIVIC OR FRATERNAL: Private not-for-profit social or civil associations, corporations, or other entities consisting of persons who are bona fide paying members and which own, lease, or use a building, a parcel of land, or a portion thereof, the use of such premises being restricted primarily to members and their guests, including offices for local, state, regional and national officials of that organization.
COLLEGE/UNIVERSITY Junior colleges, colleges, universities, and professional schools with physical structures (excluding online and remote programs). These establishments furnish academic or technical courses and grant degrees, certificates, or diplomas at the associate, baccalaureate, or graduate levels in a campus setting.
COMMERCIAL VEHICLES: Vehicles for hire or used for business, or designed to transport goods or equipment, whether or not displaying advertising indicia.
COMMUNICATION TOWERS: A structure designed to support antennae used for transmitting or receiving commercial telephone communications and/or commercial telecommunications. Also included in this definition are radio, television, internet, and microwave towers. (Amateur or ham radio towers are not included in this definition). <u>Communication towers may be considered to be an accessory use or structure when incidental to the use of the principal structure.</u>
COMPREHENSIVE PLAN: The comprehensive plan, land-use plan, small area plans, neighborhood plans, transportation plan, capital improvement plan, and any other plans regarding land use and development that have been officially adopted by the governing board.
CONDITIONAL ZONING: A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.
CONDOMINIUM: An estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial or commercial building on such property.
CONTIGUOUS: Abutting directly on the boundary of, separated by a street other than a controlled access highway from, or separated by a railroad or public utility right-of-way.
CONVENIENCE STORE: A small retail store with a floor area of less than 3,000 square feet which may sell groceries, home goods, dry goods, and gasoline, and may contain an area for on-site eating (in which food preparation and service is incidental, or no more than ten (10) percent of the gross floor area of the store), but not including an automobile service station.
CORNER LOT: A corner lot is either a zoning lot bound entirely by streets, or a zoning lot that adjoins the point of intersection of two (2) or more streets and in which the interior angle formed by the extensions of the street lines in the directions they take at their intersections with lot lines other than street lines forms an angle of one hundred and thirty-five (135) degrees or less.
CRITICAL ROOT ZONE: A circular area surrounding a tree, of which the center is the center of the tree trunk and the radius is the distance from the outside of the trunk to any point 12 times the diameter at breast height (DBH), which points constitute the circumference of the critical root zone. The critical root zone shall extend to a depth of five (5) feet below surface ground level.
CROP PRODUCTION A property used primarily for the production and activities relating or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants.
CUL-DE-SAC: A street designed to have one end permanently closed, with the closed end terminated by a vehicular turnaround.
CULTURAL OR COMMUNITY FACILITY Facilities designed to promote cultural advancement and serve the community such as live theater, dance, or music establishments; art galleries, studios and museums; museums, exhibition, or similar facility; and libraries.
DAY CARE CENTER: A child care facility or child care arrangement which provides day care for more than five (5) children, not including the operator's own school aged-children, under the age of 13 years, on a regular basis of at least once per week for more than four (4) hours, but less than 24 hours per day regardless of the time of day and regardless of whether the same or different children attend.
DECK: An exterior floor supported on at least two opposing sides by an adjacent structure and/or posts, piers or other independent supports.
<i>Dedicated short-term rental</i> means a residential dwelling unit that is not owner-occupied or used as a principal residential dwelling unit to transient guests for a duration not to exceed 30 consecutive days.
DEDICATION: A transfer by the owner of his property to the Town. Such dedication shall be made by written instrument and is deemed complete only with acceptance by the Town Council plus the recording of each written acceptance with the Beaufort County Register of Deeds.
DEMOLITION BY NEGLIGENCE: Owners of historic properties and structures shall have the responsibility to preserve those properties and structures against decay, deterioration, and structural defects and to correct conditions that would compromise their long-term integrity. The failure to properly maintain any designated historic landmark or property located within a district, whether intentionally or not, such that it falls into disrepair and is no longer habitable shall constitute a demolition by neglect of such property or structure and shall be a violation of this ordinance. The Town of Belhaven may take appropriate actions to prevent and/or cure a demolition by neglect violation according to the provisions outlined in this ordinance.
DEMOLITION: The razing or destruction, whether entirely or in significant part, of the exterior of a building, structure, or site. Demolition includes the removal of a building or structure from its site or the removal, stripping, concealing, or destruction of the facade or any significant exterior architectural features which are integral to the character of the resource, for whatever purpose, including new construction or reconstruction.
DESIGNATED RESPONSIBLE PARTY: the local contact responsible for responding to complaints or issues stemming from the use of the dwelling unit as a short-term rental. The responsible party must be located within 25 miles of the short-term rental property and be available to respond to complaints within 60 minutes.
DEVELOPMENT PERMIT: A permit issued by the Inspections Department that authorizes the commencement of development provided all of the other necessary permits have been obtained.
DEVELOPMENT: may mean any of the following (a) construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure. (b) the excavation, grading, filling, clearing, or alteration of land. (c) the subdivision of land as defined in G.S. 160D-802, (d) the initial or substantial change in the use of land or the intensity of use of land.

DEVELOPMENT APPROVAL: An administrative or quasi-judicial approval made pursuant to this chapter that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes other regulatory approvals required by regulations adopted pursuant to this chapter including plat approvals, permits issued, development agreements entered into, and building permits issued.
DIRECTIONAL SIGN: signs other than business signs which contain only the name of a parking area or similar accessory use to a business establishment to which direction is given.
DISCHARGE POINT: The point at which runoff leaves a tract of land.
DISTRICT: A mapped area, (otherwise known as a "Zoning District"), to which a uniform set of regulations applies as established by this Chapter.
DOCK: A platform constructed beyond the shoreline to which boats may be secured.
DRAINAGE WAY: An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The drainage way is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.
DRIVE-THROUGH FACILITY (exists as "drive-through window"): A facility designed or intended to enable a customer, without exiting a motor vehicle parked on or moving through the premises, to transact business with a person outside the motor vehicle.
DRIVEWAY: A private roadway located on a parcel or lot used for vehicle access.
DWELLING: a building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.
DWELLING UNIT: A single unit providing complete, independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.
DWELLING, MOBILE HOME: A movable or portable dwelling bearing the seal of the U.S. Department of Housing and Urban Development (HUD) over 32 feet in length and over eight (8) feet wide, constructed to be towed on its own chassis, for year-round occupancy, which may include one (1) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two (2) or more such units which are separately towable but designed to be joined into one (1) dwelling unit, and which is constructed in accordance with the rules and regulations as set forth by the North Carolina Building Code and HUD.
DWELLING, MULTI-FAMILY: A dwelling or a combination of dwellings or buildings on a single lot used for the purpose of providing three (3) or more dwelling units.
DWELLING, PATIO: A multiple of not more than six (6) single-family dwellings connected on not more than two (2) sides by common walls and an open patio area.
DWELLING, SINGLE-FAMILY: A detached building consisting of a single dwelling unit only and designed for or occupied exclusively by one family.
DWELLING, TWO-FAMILY: A building which contains two (2) dwelling units which share a common wall or ceiling/floor and sit on the same lot, with open yards on all sides and not being attached to any other building. Also referred to as a duplex or duplex dwelling.
DWELLING-DUPLEX: A two-unit building located on a single lot that is divided horizontally or vertically, and each unit has a separate entrance from the outside or through a common vestibule.
DWELLING-TOWNHOME: A building with two or more residential units, located side by side, with common walls between the units and where each unit has a separate entrance from the outside and occupies a separate lot. Townhomes typically have one primary yard (rear) and a small front setback to provide some
EASEMENT: A grant by a property owner to the public, a corporation, or other person or persons, of the right to use an identifiable piece of land for specified purposes, such as for utility lines, streets or greenway trails. Such grant shall be recorded with the Beaufort County Register of Deeds by an appropriate instrument.
EMERGENCY SERVICES FACILITIES: Any building or group of buildings housing a police department, fire department, emergency medical services (EMS) or rescue
ENGINEER: A professional engineer registered by the State of North Carolina.
EROSION: The wearing away of a surface by the action of wind, water, or any combination thereof.
EXISTING BUILDING: Any building or structure erected prior to the adoption of this Chapter, or one for which a valid building permit has been issued.
EXISTING DEVELOPMENT: Includes those projects meeting at least one of the following criteria: Having a current building permit used by the Town; having an approved site-specific development plan issued by the Town as authorized by the North Carolina General Statute 160-A-385.1; or, a conforming single-family lot of record, which received final plat approval before July 1, 1993.
EXTRATERRITORIAL JURISDICTION (ETJ): the unincorporated territory surrounding Belhaven in which the provisions of this Chapter apply and described on the Town's Zoning Map.
FABRICATION SHOPS The assembly, fabrication, production or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building and are visually undifferentiated from an office building. This shall not include uses that require deliveries by trucks with more than two axles more frequently than once a day.
FAMILY CARE HOME: see residential family care home.
Family means any number of persons related by blood, adoption, or marriage, or not to exceed four persons not so related, living together in a dwelling unit as a single housekeeping entity.
FAMILY: The collective body of persons who live in one house and under one head or manager; a household, including parents, children and servants.
FARM: A plot of land used for the raising of crops, livestock, or other plants and animals, including orchards, vineyards and nurseries, along with any buildings and structures that are customarily and necessarily incidental to such activities.
FENCE: A structure used to delineate a boundary or as a barrier or means of protection; confinement, screening or as an aesthetic component of landscaping. Open fence or wall shall be defined as one through which clear vision is possible from one side to the other on a horizontal plane occupying 75% or more of the side area of the wall.
FINANCIAL INSTITUTION: A business whose primary purpose is to provide management or investment services such as stocks, bonds, and capital funds programs to the public.
FLOOD INSURANCE RATE MAP: An official map of a community, used by the Federal Emergency Management Agency, which delineates both the areas of special flood hazard and the risk premium zones applicable to the community.
FLOOD INSURANCE STUDY: The official report, provided by the Federal Emergency Management Agency, which contains flood profiles as well as the Flood Hazard Boundary Map or Floodway Map and the water surface elevation of the base flood.
FLOOR AREA RATIO: The numerical value obtained by dividing the gross floor area on a lot by the area or size of such lot.
FLOOR AREA: The gross total horizontal area of: all floors, including usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings; The centerlines of a party wall separating such buildings or portions thereof; Within lines drawn parallel to and two (2) feet within the roof line of any building or portions thereof without walls. However, this definition excludes the case of nonresidential facilities, arcades, porticos, and similar areas open to the outside air which are accessible to the general public and which are not designed or used as areas for sales, display, storage, service, or production.
FLOOR: The level base of a room; the lower inside surface of a building; the horizontal structure dividing a building into stories.
Flush-mounted sign means a sign mounted flat against the surface of a building.
Freestanding sign means a sign which is supported by uprights or braces placed upon or in or supported by the ground and is not attached to a building.

FRONT YARD: A yard across the full width of the lot, extending from the farthest projection of the structure including but not limited to steps, eaves, porches, terraces or patios (excluding, however, steps and overhangs permitted to project into the yard) to the front property and/or right-of-way line.
FRONTAGE: All of the real property abutting a street line measured along the street line.
FUNERAL HOME: A building used in the preparation of the dead for burial or cremation. Also a facility where funeral services are held, funeral vehicles are stored, and caskets and other funeral supplies are sold.
GLARE: The effect of brightness in the field of view that causes annoyance or discomfort or interference with seeing. It may be direct glare from a light source or reflected glare from a glossy surface.
GOVERNMENT: Any agency, office bureau or corporation licensed by any duly authorized authority of the United States, the State of North Carolina, Beaufort County, any regional government, or the Town of Belhaven.
GRADE: A datum or reference level indicating the height of the ground on which something stands, specifically ground level.
GREENWAY or GREENWAY PARK: A linear open space, either privately-owned or owned by the Town or another unit of government, which may contain a trail for walking, bicycling, horseback riding or other passive recreation, but not for use by vehicles for purposes other than maintenance of the greenway.
GROSS DENSITY: The number of dwelling units or the amount of non-residential gross floor area on a particular tract or parcel of land, taking into account the entire area of that tract or parcel.
GROUND COVER: Any natural vegetative growth or other material that renders the soil surface stable against accelerated erosion.
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, building, means the vertical distance measured from the average grade to the highest point of a flat roof; to the deck line of a mansard roof; or the mean height level between the eaves and ridges of a gable, hip, or gambrel roof.
HISTORIC STRUCTURE: Any structure that is: (a) listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing in the National Register; (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district; (c) individually listed on the North Carolina inventory of historic places; (d) individually listed on a Beaufort County, Belhaven or other local inventory of historic places in communities with historic preservation programs.
HOME OCCUPATION: any profession or occupation for gain carried on by a member of a family or an individual residing on the premises, such use being incidental and subordinate to the residential use.
Home occupation sign means a sign used to identify the name of the individual, family, organization or enterprise occupying the home and engaged in a home occupation or the profession of the occupant.
HOSPITAL: A public or private institution, whether organized for profit or not, which is devoted primarily to the maintenance and operation of facilities for the diagnosis and treatment or care of humans in order to obtain medical treatment for illnesses, diseases, injuries, and deformities.
IMPERVIOUS SURFACE AREA: That portion of the land area that allows little or no infiltration of precipitation into the soil.
INTERIOR LOT: An interior lot is any zoning lot that is neither a corner lot nor a through lot.
IRRIGATION WELL: An excavation that is cored, bored, drilled, jetted, dug or otherwise constructed for the purpose of withdrawing groundwater to be used for irrigation only and will not be connected to a potable water supply or utilized for human consumption.
JUNK: Any material or item, such as but not limited to old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber or debris; junked, dismantled or wrecked motor vehicles, or parts thereof; iron, steel and other old or scrap ferrous or nonferrous material; old or salvaged building materials, appliances, dismantled or wrecked boats, machinery and machinery parts or parts thereof; and any item which is either in a wholly or partially rusted, wrecked, dismantled or inoperative condition.
JUNKYARD: Any lot, land or structure or part thereof used for storing, keeping, buying, processing or selling junk.
KENNEL: An establishment engaged in boarding, breeding, buying, selling, grooming or training of pet animals.
LANDSCAPE PROTECTION PLAN: A plan identifying existing landscape elements, proposed changes, and protection measures to be used to aid the survival of landscape elements.
LANDSCAPED AREA: A portion of the site or property containing vegetation to exist after construction is completed. Landscaped areas can include, but are not limited to, natural areas, buffers, lawns and plantings.
LAUNDRY: A commercial laundering or clothes cleaning establishment including dry cleaning operations and commercial laundry mats.
Lodge means a group of attached or detached buildings containing individual living or sleeping units, designed or used temporarily by transients for not more than 30 days. Cooking facilities may be included within living units. A lodge may include structures located on separate parcels so long as: (1) They are contiguous and interconnected by means of one or more viable pedestrian walkways; (2) There are common amenities; and (3) The entire campus functions as a single enterprise. On-site management is required. The term "lodge" does not include hotels and motels, bed and breakfast establishments or residential vacation rentals.
LOT COVERAGE: That portion of the lot area, expressed as a percentage, that is occupied and obstructed by an improvement or a structure, including but not limited to buildings, covered decks, concrete patios, gazebos, pools, concrete, asphalt, or similar paved parking areas, concrete, asphalt, or similar private sidewalks, concrete, asphalt, or similar paved driveways and roadways, and any accessory use or structure requiring location above ground. Uncovered decks and open arbors, pergolas, overhangs, and similar structures located over pervious surfaces shall be excluded from the calculation of lot coverage. Paving block, pavers and similar materials installed on a pervious base (not to include clay) shall be considered 60% impervious for the purposes of lot coverage calculation. Percentage is determined by dividing that area of the lot that is occupied or covered by the gross area of the lot.
Lot depth means the mean horizontal distance between the front and rear lot lines.
LOT FRONT: In the case of an interior lot, the lot line along the street right-of-way.
LOT LINES: The lines bounding a lot. Where a lot of record includes a right(s)-of-way, the lot lines shall not to extend into the right(s)-of-way.
Lot means a parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same. The term "lot" includes the terms "plot," "parcel" and "tract."
Lot of record means a lot which is part of a subdivision, a plat of which has been recorded in the office of the county register of deeds or a lot described by metes and bounds, the description of which has been so recorded.
Lot width means the distance between side lot lines measured at the building setback line.
MAJOR SUBDIVISION: Any subdivision other than a minor subdivision.
MANUFACTURED HOME-CLASS C A singlewide manufactured home constructed to meet or exceed the construction standards promulgated by the US Department of Housing and Urban Development authorized under the National Manufactured Housing Construction and Safety Standards Act of 1974 that were in effect at the time of construction and has a HUD label attached, but does not meet the criteria of a Class A Manufactured Home.
MANUFACTURED HOUSING-CLASS A A manufactured home constructed after July 1, 1998 that meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development authorized under the National Manufactured Housing Construction and Safety Standards Act of 1974 that were in effect at the time of construction, and has a HUD label attached.
MANUFACTURED HOUSING-CLASS B A double-wide manufactured home constructed to meet or exceed the construction standards promulgated by the US Department of Housing and Urban Development authorized under the National Manufactured Housing Construction and Safety Standards Act of 1974 that were in effect at the time of construction and has a HUD label attached, but does not meet the criteria of a Class A Manufactured Home.

<i>Manufactured/mobile home</i> means a dwelling unit that: (1) Is not constructed in accordance with the standards set forth in the state building code; and (2) Is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis.
MEAN SEA LEVEL: The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this Chapter, the term is synonymous with the National Geodetic Vertical Datum (NGVD).
METES AND BOUNDS: A means of describing the location of land by defining boundaries in terms of directions (courses) and distances from one or more specified points of reference.
MINOR SUBDIVISION: A subdivision that does not involve either of the following: creation of more than three (3) lots from any one (1) tract of land (as the tract existed on October 23, 1995) whether such lots are created at one time or over a period of ten (10) years; or, dedication or improvement of any new street other than widening approved existing streets.
MOBILE HOME: A movable or portable dwelling bearing the seal of the U.S. Department of Housing and Urban Development (HUD) over 32 feet in length and over eight (8) feet wide, constructed to be towed on its own chassis, for year-round occupancy, which may include one (1) or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two (2) or more such units which are separately towable but designed to be joined into one (1) dwelling unit and which is constructed in accordance with the rules and regulations as set forth by the North Carolina Building Code and HUD.
<i>Modular building</i> means a building constructed in accordance with the standards set forth in the state building code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.
<i>Modular home</i> means a dwelling unit constructed in accordance with the standards set forth in the state building code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a mobile home (except that the modular home meets the state building code), or a series of panels or room sections transported on a truck and erected or joined together on the site.
MOORING BUOY: A floating object anchored to the river or creek bed to which boats or floats/rafts may be secured.
MULTI-FAMILY DEVELOPMENT: Two (2) or more buildings containing multi-family dwellings located on a single property.
MULTI-OCCUPANT NON-RESIDENTIAL DEVELOPMENT: A building or group of buildings under unified ownership or management that contains more than one non-residential establishment or occupant.
NATURAL WATERCOURSE: Any stream, river, swamp, canal, or other waterway in which sediment may be moved or carried in suspension, and which could be damaged by the accumulation of sediment.
NEIGHBORHOOD CENTER: A development containing three (3) or more retail stores, restaurants, service establishments, and/or other similar permitted uses that are planned, organized, and managed to function as a whole. A neighborhood center has common parking, pedestrian movement, architectural elements, ingress and egress, signage, and landscaping. A neighborhood center is used or is intended to be used for the sale of goods and services to the public.
NET DENSITY: The number of dwelling units or the amount of non-residential gross floor area on a particular tract or parcel of land, not taking into account the portions of the tract or parcel on which buildings may not be erected, or development may not occur. Such areas closed to development include, but are not limited to: street rights-of-way, areas of special flood hazard, lakes or other water bodies, or wetlands falling under the regulatory jurisdiction of the U.S. Army Corps of Engineers, buffers and recreational and open spaces.
NEW CONSTRUCTION: Any construction of a new structure, building or dwelling unit other than those defined in this chapter as Substantial Improvement or an addition, repair or renovation to an existing structure or building.
NONCONFORMING LOT: A lot that met all legal requirements when it was platted or otherwise recorded, but which does not comply with the minimum lot area or minimum lot width requirements of this Chapter, or a subsequent amendment hereto, for the zoning district in which it is located.
NONCONFORMING SIGN: Any sign that met all legal requirements when constructed but that does not comply with this Chapter or a subsequent amendment hereto. An illegal sign is not a non-conforming sign.
NONCONFORMING STRUCTURE: A building or structure that met all legal requirements when constructed but which does not comply with this Chapter or a subsequent amendment hereto.
NONCONFORMING USE: Any legally existing use that met all legal requirements when it was first established which fails to comply with the provisions of this Chapter or a subsequent amendment hereto.
NONCONFORMITY Any building, structure, use, sign, light source or other development feature which was erected legally, but which does not comply with subsequently enacted restrictions and regulations.
NON-CUTOFF LIGHT: An artificial outdoor lighting fixture designed to allow light to be directly emitted in all directions.
NON-RESIDENTIAL: Used or intended for purposes other than as a dwelling unit.
NURSERY: A retail or wholesale enterprise, which grows trees, shrubs, vines and other plants for sale or distribution.
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 (3) or more persons unrelated to the licensee.
OFFICIAL MAPS OR CHAPTERS: Any maps or chapters officially adopted by the Town Council as a guide to or for required standards of development.
OFF-PREMISE SIGN: Any sign that is used to attract attention to an object, person, product, institution, organization, business, service, event, or location that is not located on the premises upon which the sign is located. This shall not include traffic, directional or regulatory signs, or notices erected by a federal, state, county or municipal government agency.
OFF-STREET PARKING SPACE: A space which is designed for the parking or temporary storage of one automobile, and is located outside of a dedicated street right-of-way.
ON-SITE REAL ESTATE SALES OFFICE (TEMPORARY SALES OFFICE): A building or structure, which is located on the site of a development or subdivision and temporarily used for the purpose of selling or leasing properties located within that development or subdivision.
<i>Open space</i> means all land area not covered by buildings, structures, parking area or street pavement.
OPEN SPACE: Any portion of a parcel or area of land or water which is open and unobstructed by structures from the ground to the sky including areas maintained in a natural and undisturbed character. Open space may include recreational facilities such as swimming pools, golf courses, greenways and tennis courts. This term includes land under an obligation to keep such land free from development except for recreational facilities for a stated period of time. Such land may be conveyed to a homeowners association with responsibility for maintenance, or be publicly owned.
<i>Operator</i> means the property owner or any person, company, or rental agency that advertises a residential dwelling unit for nightly rentals or that otherwise facilitates the use of the property as a short-term rental.
OUTDOOR RECREATION FACILITY: A facility providing recreational activities outdoors including, but not limited to, outdoor swimming pools and tennis courts, outdoor miniature golf, driving ranges, golf courses, and outdoor batting cages, riding stables, tennis clubs, and athletic fields.
OVERLAY DISTRICT: A district, as established in this Chapter, which applies supplementary or replacement regulations to land which is classified into a general use district.
OWNER: Any person, agent, firm, partnership or corporation having a legal or equitable interest in property.
<i>Park</i> means a public recreation area in public or private ownership that is operated for the convenience and recreation of the public and containing such facilities as the owning public or private agency or party shall see fit.
PARKING AREA: A designated area operated as the principal use of a property either as a commercial use or an accessory use for an adjacent property.

PARKING GARAGE: Any building or facility used as an accessory to or a part of the main building(s), and providing for the parking of motor vehicles and in which no business, occupation, or service for profit is in any way conducted.
<i>Parking space</i> means a space of not less than 200 square feet suitable to accommodate one automobile, plus the necessary access space. It always shall be located outside the dedicated street right-of-way.
PEDESTRIAN PATH: A cleared way for pedestrians or bicycles that may or may not be paved or otherwise improved.
PENNANT: Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, which is suspended from a rope, wire, string, or pole, usually in series, and which is designed to move in the wind.
PERMIT: An official document or certificate issued by the Town or an official thereof, authorizing performance of a specified activity or granting a particular right, use or duty.
PERMITTED USE: A land use listed in this Chapter as a permitted use in the zoning district in which it is located, and which is subject to the approval procedures set forth in this Chapter.
<i>Person</i> means and includes a firm, partnership, company, organization, trust, association or corporation, as well as an individual.
PLANNED UNIT DEVELOPMENT (PUD). An area characterized by the orderly integration of residential, commercial, office, institutional, and/or open space land uses within a walkable community setting which conforms to the design requirements herein. It permits the planning of a project over the entire development rather than on a lot-by-lot basis.
PLANTED BUFFER: A unit of land containing sufficient quality and quantity of vegetation to meet the requirements of this Chapter. No development may occur within such buffer.
PLAT: A map or plan of a parcel of land which is to be or has been subdivided, containing sufficient data in order that a determination may be readily made as to the location, bearing and length of every street and alley line, lot line, easement boundary line and other boundary line and meeting the required standards of this Chapter.
POLITICAL SIGN: A sign attracting attention to political candidates or political issues.
POND: A permanent, natural, or artificial inland body of water either controlled by natural barriers or by dams and of relatively constant surface level, in which sediment may be moved or carried in suspension and which could be damaged by the accumulation of sediment.
PORCH: A projection from an outside wall of a dwelling that is covered by a roof and/or side walls (other than the sides of the building to which the porch is attached) that may be held up by posts if no side walls are present.
PORTABLE SIGN: Any sign that is not permanently affixed to a building, structure, or the ground, or that is not designed to be permanently affixed to a building, structure, or the ground.
PORTICO: A porch or walkway, open to the outside air that is covered by a roof which is supported by columns or pillars, typically leading to the entrance of a building.
PRELIMINARY PLAT A map or plat of a parcel of land which is to be or has been subdivided, containing sufficient data in order that a determination may be readily made as to the location, bearing, and length of every street and alley line, lot line, easement boundary line, and other boundary line, and meeting the required standards of this ordinance and approved following the procedures in this ordinance.
PRIMARY LEVEL: The level of a building containing the primary living areas such as the kitchen, den and living room. This term may also include bedrooms. A basement is not considered to be a primary level.
<i>Primary resident short-term rental</i> means the rental of a principal residential dwelling unit by a transient guest for a duration not to exceed 30 consecutive days, for a maximum of 90 days per year. The term "principal residential dwelling unit" means a residence that is occupied by the property owner (or the tenant/lessee of the owner authorized by the owner to offer the unit for short-term rental) for a cumulative minimum of 275 days per calendar year.
PRINCIPAL BUILDING: The main structure on a lot in which the principal use of that lot is conducted.
<i>Principal use sign</i> means a sign which directs attention to a business, commodity, service, entertainment, or other activity conducted, sold, or offered exclusively on the premises upon which said sign is located.
PRINCIPAL USE: The primary or predominant use for which a building or other structure or a tract of land may be designed, arranged, maintained or occupied.
PRIVATE GARAGE: Any building or space used as an accessory to or a part of the main buildings permitted in any residential district, and providing for the storage of motor vehicles and in which no business, occupation, or service for profit is in any way conducted.
PRIVATE RECREATION FACILITIES Indoor or outdoor uses or structures for active or passive recreation that are owned by private for-profit entities. Such uses include, gymnasiums, natatoriums, fitness center, athletic equipment, indoor running tracks, climbing facilities, court facilities, parks, pools, ball fields, batting cages, skateboard parks, playgrounds, greenway trails, driving ranges, tennis courts, riding stables, golf courses and their customary accessory uses including, but not limited to maintenance sheds, clubhouses (with or without food service), restrooms, and picnic shelters.
PRIVATE ROAD OR STREET: Any road or street which is not publicly owned and/or maintained and is used for access by the occupants of the development and their guests.
PROFESSIONAL OFFICE: the primary use is the conduct of a business such as accounting, correspondence, research, editing, administration or analysis; or the conduct of a business by salesmen, sales representatives, or manufacturer's representatives; or the conduct of a business by professionals such as engineers, architects, land surveyors, artists, musicians, lawyers, accountants, real estate brokers, insurance agents, and landscape architects. For the purpose of this chapter, an office shall not involve manufacturing, fabrication, production, processing assembling, cleaning, testing, repair or storage of materials, goods and products; or the sale and/or delivery of any materials, goods or products which are physically located on the premises. Also referred to as Offices.
<i>Projecting sign</i> means a sign which is attached to a building by supports which extend at any angle from the building more than two feet.
PROPERTY: All real property subject to the provisions of this Chapter.
PUBLIC RECREATION FACILITIES Indoor or outdoor uses or structures for active or passive recreation that are owned by public or semipublic entities including municipal governments, homeowner's associations, athletic associations and youth associations. Such uses include, gymnasiums, natatoriums, fitness center, athletic equipment, indoor running tracks, climbing facilities, court facilities, parks, pools, ball fields, batting cages, skateboard parks, playgrounds, greenway trails, driving ranges, tennis courts, riding stables, golf courses and their customary accessory uses including, but not limited to, maintenance sheds, clubhouses (with or without food service), restrooms, and picnic shelters.
PUBLIC SAFETY STATION: A police, fire, or paramedic station operated or franchised by a government agency. Also see: Emergency Services Facilities.
PUBLIC SEWAGE DISPOSAL SYSTEM: A waste disposal system serving two (2) or more dwellings or business units, or any combination thereof.
PUBLIC SIDEWALK An improved surface paralleling a street, road, or alley that is used as a public pedestrian walkway. This sidewalk shall not include any privately installed and maintained areas located adjacent to the public sidewalk that is used primarily to provide a pedestrian linkage between the abutting property and the public sidewalk.
PUBLIC STREET: A street consisting of a publicly dedicated right-of-way and a roadway maintained by the Town of Belhaven or the State of North Carolina.
PUBLIC UTILITIES: Any Town or other public entity approved water and/or sanitary sewer system, including collection and distribution lines that are constructed to public utility standards, sizes, and specifications; conform to the requirements of this Chapter; and, have been dedicated to and accepted by the public for operation and maintenance.
PUBLIC UTILITY: Any Town or other public entity approved water and/or sanitary sewer system, including collection and distribution lines that are constructed to public utility standards, sizes, specifications, and conform to the requirements of the Ordinance. The Town or other public entity will be dedicated to and accepted by the public for operation and maintenance.

PUBLIC UTILITY FACILITIES: A building or structure, other than a transportation facility that houses or contains facilities for the operation of publicly-owned or publicly-licensed water, waste water, waste disposal, electricity or communication services. This includes, but is not limited to: water pumping stations and filtration plants, waste water and storm water treatment plants, electrical transformer stations, landfills, solid waste transfer stations, wells, well houses, and water towers. This does not include recycling and salvage operations, communication towers or public safety stations.
PUBLIC WATER SUPPLY: A system for the supply of potable water to two (2) or more dwellings or business units, or any combination thereof.
REAR YARD: A yard extending across the full width of the lot and measured between the rear line of the lot and the rear line of the main building. Eaves, steps, uncovered porches, terraces and patios are considered part of the main building.
RECREATION AREA: An area of common open space developed to provide recreational facilities for the use of the residents of the community and/or the general public. Such recreational facilities may include, but are not limited to: golf courses, parks, playgrounds and athletic areas, swimming pools, tennis courts, picnic areas, riding trails, and appropriate service facilities.
RECREATIONAL CENTER: A building, enclosed structure or facility for use by the public for recreational clubs and activities, such as country clubs, tennis courts, swimming pools, and/or gymnasiums.
RECREATIONAL VEHICLE PARK: A commercial enterprise on any site or tract of land with two (2) or more spaces (sites) which are provided for temporary rental only, upon which recreational vehicles are provided utility hook-ups and services. Service buildings and areas necessary to provide laundry, sanitation, storage, vending machines, and other permitted services are provided by the facility operator for the use and convenience of recreational vehicles.
RECREATIONAL VEHICLE: A vehicle that is: built on a single chassis or capable of being placed in or on a vehicle; four hundred (400) square feet or less when measured at the largest horizontal projection; designed to be self-propelled or towable by a motor vehicle; designed primarily for use as temporary living quarters for recreational camping, travel or seasonal use.
REHABILITATION FACILITY: An indoor facility including uses such as exercise equipment, specialized rehabilitation equipment, game courts, swimming pools, locker rooms where patients and members receive physical therapy or other medical treatment.
REQUIRED SETBACK: The minimum distance between the property line and the building required by the zoning district and measured from the property line.
FAMILY CARE HOME (6 OR FEWER RESIDENTS) A home with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than 6 resident handicapped persons and is certified by the State of North Carolina. (NCGS 168-Article 3).
RESIDENTIAL DEVELOPMENT: Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, or cottages and their associated outbuildings such as garages, storage buildings, and gazebos.
RESOURCE CONSERVATION FACILITIES: Fishponds, nature preserves, botanical and zoological gardens, water reservoirs, lakes, ponds, engineered storm water control devices and dams.
RESTAURANT: Any establishment (including a cafeteria) whose principal business is the preparation and service of food and beverages (including those allowed under ABC Permits) as a ready-to-eat meal.
RETAIL SALES: the principal use or purpose of which is the sale of goods, products, or materials directly to the consumer. This includes, but is not limited to: antiques, clothing stores, appliance stores, bakeries, food stores, grocers, caterers, pharmacies, book stores, furniture stores, hardware stores, pet stores, toy stores, and variety stores. It does not include restaurants, personal service establishments, convenience stores, or amusement establishments.
RIGHT-OF-WAY: An area owned or maintained by the Town, the State of North Carolina, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities, or railroads.
ROOF ASSEMBLY: A system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and roof deck. A roof assembly includes the roof deck, vapor retarder, substrate or thermal barrier, insulation, and roof covering.
SATELLITE DISH ANTENNA HEIGHT: The height of the antenna or dish shall be that distance as measured vertically from the highest point of the antenna or dish, when positioned at its operating angle, to ground level at the bottom of the base which supports the antenna.
SATELLITE DISH ANTENNA SETBACK: The setback of a dish antenna shall be measured from the center mounting post supporting the antenna.
SATELLITE DISH ANTENNA: Any antenna of any size, including DSS antennae and any supporting structure, designed to receive signals from orbiting satellites or similar sources.
SCHOOL: A privately owned or publicly owned elementary school, middle school, junior high school, or high school accredited by the North Carolina Department of Education that does not provide lodging for students, including any accessory athletic fields and recreational facilities.
SCHOOLS – ELEMENTARY & SECONDARY A public or private institution for education or learning including athletic or recreational facilities, but not including lodging. This includes any school licensed by the state and that meets the state requirements for elementary and secondary education. This may include remedial after school activities.
SCHOOLS – VOCATIONAL/TECHNICAL A public or private institution for education or learning including athletic or recreational facilities, but not including lodging. These schools offer vocational and technical training in a variety of technical subjects and trades. Training may lead to job-specific certification. (LBCS F6100 and F6140)
SCREENING: See BUFFER.
SECURED: Placed in a concrete footing, holes with compacted earth or gravel, or other approved support, so as to be adequately affixed to the ground as a permanent structure.
SEDIMENT: Solid particulate matter, both mineral and organic, that has been, or is being transported by water, air, gravity, or ice from its site of origin.
Separate use sign means any sign, including a standard poster panel, which directs attention to a business, commodity, service, entertainment, or other activity conducted, sold or offered elsewhere than on the premises on which said sign is located.
SERVICE COURT: Enclosed area attached to, or on the same lot as, a principal building which contains HVAC equipment, trash containers, service doors, docks, and other similar facilities.
SETBACK: See BUILDING SETBACK.
SEXUALLY ORIENTED BUSINESS: Any place defined as an "Adult Establishment" as defined by North Carolina General Statute 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. Sexually 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 North Carolina General Statute 14-202.10 as such statute may be amended from time to time.
SHORELINE: The line made by the natural intersection of the water on the shore.
SIDE YARD: An open space on the same lot with a building
Sign (advertising sign and structure) means any surface, fabric, or device bearing lettered, pictorial, or sculptured matter designed to convey information visually and exposed to public view, or any structures designed to carry the above visual information.
SIGN SURFACE AREA: The size of the surface of a sign, including any border or trim and all the elements of the matter displayed, but excluding the base, apron, supports, and other supportive structural members. In the case of three-dimensional letters or painted letters directly attached to a wall surface, the surface area shall be that rectangular area encompassing the individual letters themselves, including any trim or border and excluding the background behind the letters.

SINGLE FAMILY RESIDENTIAL DEVELOPMENT: Any development where no building contains more than one dwelling unit; every building is on a separate lot; and where no lot contains more than one dwelling unit.
SITE PLAN: a scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot.
SKETCH PLAN A component of a development application that shows in simple line drawing form the proposed layout of streets, lots, buildings, civic spaces and other features in relation to existing conditions based upon the size of the tract proposed for development.
SLEEPING UNIT: a room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.
SMALL EQUIPMENT REPAIR/RENTAL The repair and/or rental of small equipment as a primary use including televisions, computers, cleaning equipment, vacuum cleaners, and other equipment that can be transported by automobile, small truck/van.
SPECIAL EVENT: Any activity or circumstance of a business or organization, which is not part of its daily activities. Such activities may include, but are not limited to, grand openings, closeout sales (pursuant to Article 17 of Chapter 66 of the General Statutes), and fund raising membership drives, or temporary events conducted by civic, philanthropic, educational, or religious organizations.
SPECIAL FLOOD HAZARD AREA: Any area designated on a Flood Hazard Boundary Map or Flood Insurance Rate Map Panel designated as a Zone A.
SPECIAL USE PARK: A unique park that typically exhibits a theme or is devoted to a unique narrowly focused use, such as a race track or amusement park.
SPECIAL USE: A land use listed in this Chapter as a special use in the zoning district in which it is located, and which is subject to the approval procedures set forth in this Chapter. A zoning permit issued for a special use under the approval of the appropriate authority is referred to as a special use permit.
SPECIAL USE PERMIT: A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.
STORAGE – SELF-SERVICE A building containing separate enclosed storage spaces of varying sizes leased or rented on an individual basis.
STORAGE-OUTDOOR STORAGE YARD The storage of various materials including, but not limited to, lumber, pipe, bricks, stone, shingles, mulch, soil, sand, gravel and other nonhazardous materials outside of a structure, as a principal use. This definition is not inclusive of any scrap metal, junk vehicles or other similar salvage materials.
STORAGE-WAREHOUSE, INDOOR STORAGE Facilities for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include warehouse, storage, self-service or mini-storage facilities offered for rent or lease to the general public; warehouse facilities primarily used for wholesaling and distribution; or terminal facilities for handling freight
STORM DRAINAGE FACILITIES: The system of inlets, conduits, channels, ditches, and appurtenances which serve to collect and convey storm water through and from a given drainage area.
STORM WATER RUNOFF: The direct runoff of water resulting from precipitation in any form, which cannot percolate into the surface or be accommodated satisfactorily by the existing drainage system and which therefore travels overland to the nearest channel.
STORY: That portion of a building included between the upper surface of a floor and the upper surface of the next floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.
STREAM BUFFER: The area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.
STREAM: A perennial body of water running over the earth's surface in a channel or bed and also shown by a single blue line on the most recent version of the U.S. Geological Survey 1:24,000 scale (7.5 minute) topographic maps.
STREET LINE: The line between the street right-of-way and abutting property.
STREET: A right-of-way for vehicular traffic abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare, except an alley.
Structure means anything constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to something having more or less permanent location on the ground.
SUBDIVISION All divisions of a tract or parcel of land into 2 or more lots, building sites, or other divisions when any 1 or more of those divisions is created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of a new street or a change in existing streets.
SUBDIVISION PLAT: See PLAT.
SUBSTANTIAL IMPROVEMENT: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: before the improvement or repair is started or if the structure has been damaged and is being restored, before the damage occurred. Substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term does not, however, include either: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than 30 days; installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of the building foundation.
SURVEYOR: A person whose occupation is surveying land, and is a registered professional in the State of North Carolina as a land surveyor.
SWALE: A gentle man-made or natural depression in grade for drainage of surface water.
SWEEPSTAKES FACILITIES Any business enterprise, whether as a principal or accessory use, where persons utilize computers, gaming terminals, or other electronic machines to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are earned, redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This does not include any lottery approved by the State of North Carolina. For purposes of this definition, a game of chance is one in which the element of chance is the dominating element that determines the result of the game. See also ADULT ARCADES.
TECHNICAL REVIEW COMMITTEE (TRC): A staff committee appointed by the Town Manager for the purpose of providing the Town Staff and Boards with technical advice on subdivision and development plan matters.
TEMPORARY CERTIFICATE OF OCCUPANCY: A Certificate of Occupancy issued under the terms on the North Carolina Building Code and this Chapter which expires under its own terms after a limited time.
TEMPORARY PORTABLE BUILDING: A building intended for nonresidential use for a limited time period, consisting of one or more modules constructed off the ultimate site of use and transported to that site either on its own wheels or otherwise.
TEMPORARY SIGN: A sign that can be used only for a designated period of time.
TEMPORARY USE A land use on an individual parcel or site established for a limited and fixed period of time for a purpose which may not normally be permitted in a zoning district, or which does not meet all zoning requirements, but which is necessary in special situations.
THROUGH LOT: A through lot is any zoning lot, not a corner lot, which adjoins two (2) street lines opposite to each other and parallel or within 45 degrees of being parallel to each other. Any portion of a through lot that is not or could not be bounded by two
Tourist home means a building, or part thereof, occupied by the owner or operator, not a hotel or motel, in which sleeping rooms are available for hire as lodging and used by the traveling public on a short-term basis.

TOWER: See COMMUNICATION TOWER.
TOWN PLANNER: The Planning Director, Zoning Administrator or his or her designee.
TOWNHOUSE DEVELOPMENT: A type of subdivision utilizing a development design technique, which enables substantial modification of lot size standards and setback regulations without increasing the allowable density for the zoning district in which the development is located. The common open space is substantially increased for the benefit of all occupants of the Townhouse development.
TRACT: Contiguous parcel(s) of land being disturbed or to be disturbed as a unit, regardless of ownership.
TRAFFIC SIGN: A sign indicating federal, state, or municipal regulations for automobile, truck, bicycle, and/or pedestrian movement.
<i>Transient guest</i> means the person who, for compensation, rents a residential dwelling unit on a nightly basis for stays not to exceed 30 consecutive days.
TRANSIENT: A person or thing that is temporary or staying only a short time including, but not limited to, a temporary guest, boarder, boater, vendor, laborer, or the like.
TRANSITIONAL SHELTER: An area within a principal structure such as a church that is used for temporary housing for no more than 12 consecutive months. The building or structure shall meet all requirements of the Belhaven Chapters and North Carolina Building Code.
TREE: Any upright existing plant whose trunk Diameter at Breast Height (DBH) measures a minimum of three (3) inches.
VARIANCE: The permission to depart from the literal requirements of this Chapter, granted by the Zoning Board of Adjustment to a property owner where the enforcement of the literal requirements of this Chapter will result in undue hardship.
VEHICLE RENTAL/LEASING/SALES Establishments which may have showrooms or open lots for selling, renting or leasing vehicles. May include car dealers for automobiles and light trucks, mobile homes, motorcycle, ATV, or boat and marine craft dealers.
VEHICLE SALES AND RENTAL: The sale or rental of automobiles, motor vehicles, boats, trailers, or farm equipment. This shall not include salvage operations or scrap operations.
VEHICLE SERVICES – MAJOR REPAIR/BODY WORK The repair, servicing, alteration, restoration, towing, painting or finishing of automobiles, recreational vehicles, and other personal vehicles as a primary use. This includes major repair and body work such as collision repair, painting services, tire recapping and other body work. This may be an accessory use to an establishment that provides vehicle rental/leasing/sales. “Vehicle Services – Minor,” as well as the sale of vehicle parts, food and convenience items may also be included as an incidental part of such uses.
VEHICLE SERVICES – MINOR Facilities for the fueling, cleaning and servicing of automobiles, recreational vehicles, and other personal vehicles as a primary use. Examples include: gas stations; car washes (attended and self-service); car stereo and alarm system installers; detailing services; muffler and radiator shops; tire and battery sales and installation (not including recapping); and quick-lube services. Such uses may include structures that are specialized for selling gasoline with storage tanks, often underground or hidden. The sale of vehicle parts, food and convenience items may be included as an incidental part of such uses.
VESTED RIGHT: The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan as defined in N.C.
VIOLATION: An infringement or breach of a duty or right granted under this Chapter, or a failure to comply with one or more of the provisions of this Chapter.
WALL, PARAPET: That portion of a building wall that extends above the level of the roofline.
WALL, PARTY: A firewall on an interior lot line used or adapted for separation or joint service between two buildings.
WALL, RETAINING: A wall designed to prevent the lateral displacement or movement of soil or other material.
WALL: An erection of stone, brick, wood, metal or other material intended to delineate a boundary or serve as a barrier or means of protection, confinement, and screening or as an aesthetic component of landscaping.
WASTE DISPOSAL SYSTEM: Any public or private sewage system or public or private septic system.
WATERSHED: The entire land area contributing surface drainage to a specific point (e.g. the water supply intake.).
WETLANDS: Those areas that are defined as wetlands by the United States Army Corps of Engineers. Wetlands are those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.
WOODLANDS: Land that is undeveloped except for roads and utilities, and contains stands of native trees.
YARD LINE: A line in a lot parallel to the lot line which is at no point nearer to such lot line than the required width or depth of the applicable setback.
<i>Yard, rear</i> , means the space extending the full width of the lot and situated between the rear line of lot and the rear lines of the buildings, projected to the side lines of the lot.
<i>Yard, side</i> , means the space situated between the side lines of the building and the adjacent side lines of the lot and extending from the rear line of the front yard to the front line of the rear yard.
YARD: An open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except by trees, shrubbery or driveways or as otherwise provided herein.
YOUTH ACTIVITIES: An organization where young people are recruited, offered leadership opportunities, participate in activities that improve themselves and/or the community, and are trained and mentored.
ZERO LOT LINE: Where a building and its foundation area, and/or a small yard or patio area, are conveyed, under the following conditions: minimum lot area and width are non-applicable; must have open space on all sides that are not connected to a building; and, units within a patio home, duplex or multifamily structure using the zero lot line must be separated by an applicable fire rated wall (s).
<i>Zoning compliance permit (STR permit)</i> means the zoning permit that the property owner is required to hold before the residential dwelling may be advertised or used as a primary resident or dedicated short-term rental.
ZONING DISTRICT: A district established in Chapters 152.020 through 152.038 of this Chapter.
ZONING LOT: A zoning lot is either: a lot of record existing on the effective date of the zoning chapter or any applicable subsequent amendment thereto; or a tract of land, either not subdivided or consisting of two (2) or more abutting lots of record located within a single block in single ownership.