

# Town of Garland Zoning Regulations

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## **GENERAL PROVISIONS**

### **§ 152.001 DEFINITIONS.**

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

**ADMINISTRATIVE DECISION.** Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this ordinance. These are sometimes referred to as “ministerial” decisions or “administrative determinations.”

**ADMINISTRATIVE HEARING.** A proceeding to gather facts needed to make an administrative decision.

**ADMINISTRATIVE OFFICER.** The person, officer or official or his or her authorized representative, whom the Town Board has designated as its agent for administration of this chapter.

**ADULT ESTABLISHMENT.** Any principal or accessory structure or use of land which meets the definition of adult establishment as set forth in G.S. 14-202.10 et.seq., but excluding licensed massage therapy.

**ALLEY.** A public way which affords only a secondary means of access to an abutting property and is not intended for general traffic circulation.

**APARTMENT.** See *DWELLING, MULTI-FAMILY*.

**BILLBOARD.** See *SIGN, OUTDOOR ADVERTISING*.

**BONA FIDE FARM PURPOSES.** Those agricultural activities set forth in G.S. 160D-903.

**BOARDING HOUSE or LODGING HOUSE.** A building or part thereof where meals or lodging or both are provided for ration for 4 or more bur not more than 10 individuals.

**BUILDING.** Any structure used or intended for supporting or sheltering any use or occupancy.

**BUILDING, ACCESSORY.** A use customarily incidental and subordinate to the principal building and located on the same lot with the principal building or use.

**BUILDING HEIGHT.** The vertical distance from the grade to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip, gambrel and pitch roofs.

**BUILDING LINE.** See **SETBACK LINE.**

**BUILDING, PRINCIPAL.** A building where the principal use of the lot is situated.

**CAMPGROUND.** Land containing two or more campsites which are located, established, or maintained for occupancy by people in temporary living quarters, such as tents, recreation vehicles, travel trailers, or camping cabins which are used for recreation or vacation purposes and are not intended as permanent living facilities.

- (A) All proposed campgrounds shall be a minimum of five (5) contiguous acres in size. Campsites shall be limited to a density of 8 sites per 1 acre of land.
- (B) All campsites shall provide a minimum of one (1) parking space for vehicles. This space shall be 9'x19' in size.
- (C) All campsites shall be located at least one hundred (100) feet from any right(s)-of-way. Access to all campsites shall occur internally to the campground via a private street network. No access to campsites shall be provided directly from the public right-of-way.
- (D) Each campground shall provide an accessible, adequate, safe, and potable supply of water. Individual or community septic systems and wells shall comply with Sampson County Environmental Health regulations regarding campgrounds and similar uses and permits for such uses shall be acquired prior to initiating the campground use. No campsite(s) or structures shall be located on top of a septic field.
- (E) Each recreational vehicle campsite shall be a minimum of 20 feet wide to accommodate the vehicle.
- (F) A central service building containing all necessary toilets, bathhouses, and other plumbing fixtures specified in the most current edition of the North Carolina State Plumbing Code, as amended, shall be provided. The service building shall be conveniently located within a radius of 300 feet of the spaces which it serves. Portable toilets (also known as port-a-potties, porta potties, porta johns, port-a-johns) are prohibited. A minimum of one toilet and one lavatory shall be provided at the rate of one for every 15 camping unit sites or fractional part thereof or one for every campground with less than 15 camping unit sites.
- (G) A trash disposal and containment area shall be provided and screened by an opaque fence on three sides. The height of the fence shall be at minimum one (1) inch taller than the top of the trash disposal bins and containment area, or six (6) feet tall, whichever is greater. A trash disposal and containment area shall be provided for every 15 campsites and shall be adequately sized to accommodate

the waste produced by such campsites. Trash disposal and containment areas shall be located at least 100 feet from a public right-of-way and at least 300 feet from any water feature (stream, wetlands, pond, lake, etc.).

(H) No person, recreational vehicle, or tent may occupy the campground for a period in excess of 30 days over a 90-day time period unless otherwise stated herein. A register of all occupants, the space occupied, and the time of arrival and departure shall be maintained by the owner or manager of the campground facility.

(I) The owner-occupant or resident manager may occupy the site with his/her immediate family permanently within a residential structure built to the standards of the North Carolina Building Code. A permanent residential home built for the purposes of the owner-occupant or resident manager shall be subject to standard setback requirements of this ordinance and shall not be limited in size.

(J) All campsites shall be accessible by an internal private road system, connecting customers, visitors, and emergency services from the public ROW to the campsites, central service building(s), campground office building(s), recreational facilities, and any other shared amenity or public space. All campsites and buildings shall be addressed by Sampson County GIS department as deemed necessary for E911 purposes. Internal private roads and driveways created as part of the site shall be constructed with asphalt or crush and run gravel. The internal private roads shall adhere to the following additional design standards:

- (1) Width shall be a minimum of 18 feet.
- (2) Minimum depth shall be three inches.

***CAMPSITE.*** Any plot of ground within a campground intended for the exclusive occupancy by a recreation vehicle, a tent, or a camping cabin.

***CAMPING CABIN.*** A non-moveable house-like structure that is less than 800 square feet in size and used for the purposes of recreation and/or vacation only within a campground. These structures are not utilized as permanent living facilities and may or may not include indoor plumbing and/or electricity. All camping cabins shall adhere to minimum North Carolina Building Code standards and obtain necessary permitting. Camping Cabins are required to adhere to setback requirements for the zoning district in which they are proposed.

***CHURCH, CLUB, OR LODGE, PRIVATE.*** An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational or like activities, operated on a nonprofit basis for the benefit of its members.

***DETERMINATION.*** A written, final, and binding order, requirement, or determination regarding an administrative decision.

**DEVELOPER.** A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

**DEVELOPMENT.** Any of the following:

- (a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- (b) The excavation, grading, filling, clearing, or alteration of land.
- (c) The subdivision of land as defined in G.S. 160D-802.
- (d) The initiation or substantial change in the use of land or the intensity of use of land.

**DEVELOPMENT APPROVAL.** An administrative or quasi-judicial approval made pursuant to this ordinance that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued.

**DEVELOPMENT REGULATION.** A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this ordinance, or a local act or charter that regulates land use or development.

**DWELLING.** Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of G.S. 160D, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

**DWELLING, SINGLE-FAMILY.** A detached residence designed for or occupied by 1 family only.

**DWELLING, MULTI-FAMILY.** A residence designed for or occupied by 3 or more families, with separate housekeeping and cooking facilities for each.

**DWELLING, 2-FAMILY (DUPLEX).** A residence designed for or occupied by 2 families only, with separate housekeeping and cooking facilities for each.

**EVIDENTIARY HEARING.** A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this ordinance.

**FAMILY.** One or more persons related by blood, marriage or adoption occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging or hotel.

**FRONTAGE.** The distance between the 2 side lot lines as measured along the front street line.

**GOVERNING BOARD.** The town board of the Town of Garland. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and means any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

**HOME OCCUPATION.** Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof, and in connection with which there is no display, and no person not a resident on the premises is employed specifically with the home occupation; except that no more than 1 assistant may be employed by the following home occupations: attorney, dentist, physician, chiropractor, and osteopath; provided further, that no mechanical equipment is installed or used except that which is used for domestic or professional purposes, and that not over 25 % of the total floor space of any structure is used for home occupations.

**HOTEL, MOTEL.** Building(s) containing sleeping accommodations for 10 or more persons; primarily the temporary abode of persons who have their residences elsewhere.

**JUNK YARD or SALVAGE YARD.** Use of property for indoor and/or outdoor storage, keeping, abandonment, sale or resale of Junk including scrap metal, rags, paper or other scrap materials, used lumber, salvaged house wrecking and structural steel, materials and equipment, or for the dismantling, demolition or abandonment of automobiles or other vehicle or machinery or parts thereof.

**LANDOWNER OR OWNER.** The holder of the title in fee simple. Absent evidence to the contrary, the town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

**LEGISLATIVE DECISION.** The adoption, amendment, or repeal of a regulation under this ordinance. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S. 160D.

**LEGISLATIVE HEARING.** A hearing to solicit public comment on a proposed legislative decision.

**LOT.** A parcel of land having frontage on a public street or other officially approved means of access occupied or intended to be occupied by a principal structure or use and sufficient in size to meet all lot width, lot frontage, lot area, yard, parking area and other open space provisions of this chapter and the following definitions:

- (a) **LOT, CORNER.** A lot abutting 2 or more streets at their intersection, provided that the corner of the intersection shall have an angle of 135 degrees or less, measured on the lot side.
- (b) **LOT DEPTH.** The mean horizontal distance between front and rear lot lines.
- (c) **LOT OF RECORD.** A lot which is part of a subdivision or plat of which has been recorded in the office of the Register of Deeds of Sampson County, or a lot described by metes and bounds, the description of which has been so recorded.
- (d) **LOT, SUBSTANDARD.** A parcel of land held in separate ownership having frontage on public street, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this chapter.
- (e) **LOT WIDTH.** The distance between side lot lines measured at the building line.

**MANUFACTURED HOME.** A dwelling unit that is:

- (a) Not constructed in accordance with the standards set forth in the North Carolina State Building Code;
- (b) Composed of one or more components each of which was substantially transported to the home site on its own chassis; and
- (c) Exceeds 40 feet in length and eight feet in width (commonly called a **MOBILE HOME**).

**MANUFACTURED HOME, CLASS A.**

- (a) A manufactured home that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfy the following size and appearance standards:

- (1) The unit has a length not exceeding four times its width, with the length measured along the axis and width measured at the narrowest part of the other axis;
- (2) Each unit shall contain 1,200 square feet of heated living area;
- (3) The pitch of the roof has a minimum vertical rise of two and two-tenths feet for each 12 feet of horizontal run (2.2 to 12 feet) and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- (4) All roof structures shall provide an eave projection of not less the six inches, which may include a gutter;
- (5) The exterior siding consists predominately of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
- (6) The home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the unit;
- (7) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance, attached firmly to the primary structure and anchored securely to the ground; and
- (8) The moving hitch, wheels, and axles and transporting lights have been removed.

(b) It is the intent of these criteria to ensure that a **CLASS A MANUFACTURED HOME**, when installed, shall have substantially the appearance of an on-site conventionally built, single-family dwelling, to include landscaping in harmony with surrounding dwellings.

**MANUFACTURED HOME PARK.** Any plot of ground with which 5 or more manufactured homes occupied for dwelling or sleeping purposes are locate, regardless of whether or not a charge is made for accommodations.

**MODULAR HOME.** Any building or closed construction which is made or assembled in manufacturing facilities on or off the building site for installation or assembly and installation on the building site other than mobile homes or recreational vehicles.

**MODULAR HOMES** shall comply with all codes applicable to residential construction and shall be considered the same as any conventional, site-built home.

**NONCONFORMING USE.** The use of a building or land which does not conform to the use regulations of this chapter for the district in which it is located, either at the effective date of this chapter or as a result of subsequent amendments which may be incorporated into this chapter.

**PARK MODEL HOME.** A dwelling unit that:

- (a) Is not constructed in accordance with the standards set forth in the North Carolina State Building Code;
- (b) Is composed of 1 or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported on its own chassis; and
- (c) Does not exceed 40 feet in length and 8 feet in width.

**PARKING SPACE.** The storage space of not less than 8 feet by 20 feet for 1 automobile, plus the necessary access space. It shall always be located outside the dedicated street right-of-way.

**PERSON.** An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

**PLANNING AND DEVELOPMENT REGULATION JURISDICTION.** The geographic area defined in Part 2 of G.S. 160D within the town may undertake planning and apply the development regulations authorized by G.S. 160D.

**PLANNING BOARD.** Any board or commission established pursuant to G.S. 160D-301.

**PROPERTY.** All real property subject to land-use regulation by the town. The term includes any improvements or structures customarily regarded as a part of real property.

**RECREATION VEHICLE (RV).** A vehicle, which is:

- 1) Built on a single chassis;
- 2) 400 square feet or less when measured at the largest horizontal projection;
- 3) Designed to be self-propelled or permanently towable by a light duty truck; and

4) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

(A) Recreational Vehicles are only permitted to be set up for use within a Town-permitted campground.

**SERVICE STATION.** A building or lot dedicated to the rendering of services such as the sale of gasoline, oil, lubricants and accessories and the minor repair of automobiles such as tune-up, s adjustments and tire changes, excluding body work, overhauling and painting.

**SETBACK LINE.** The line on the front, rear and sides of a lot, set according to the district regulations, which delineates the area upon which a structure may be built or maintained.

**SHOPPING CENTER.** Two or more commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size and type of shops to the trade area which the unit serves

**SIGN.** Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, flashing lights, design, trade names or trademarks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity or a product, which are visible from any public way and used to attract attention.

(a) **SIGN, BUSINESS.** Any sign which advertises an establishment, a service, commodity or activity conducted upon the premises where the sign is located.

(b) **SIGN, FREESTANDING.** A sign erected on a freestanding frame, mast or pole, and not attached to any building, and which is permanently affixed to the property.

(c) **SIGN, OUTDOOR ADVERTISING (BILLBOARD).** Any sign which advertises an establishment, service, commodity, goods or entertainment sold or offered on premises other than that on which the sign is located.

(d) **SIGN, TEMPORARY ADVERTISING.** Any sign, banner, pennant, valance or advertising display constructed of wood, metal, cloth, canvas, cardboard, wallboard or other light material with or without frames, whether either by reason of construction or purpose are intended to be displayed for a short period of time only.

**STREET.** A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

**STRUCTURE.** Anything constructed or erected, the use of which requires permanent or semi-permanent location on the ground, or attachment to something having permanent location on the ground, including advertising signs.

**TRAVEL TRAILER.** A structure that is:

- (a) Intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle); and
- (b) Is designed for temporary use as a sleeping quarters, but that does not satisfy 1 or more of the definitional criteria of a manufactured home.

**TOURIST HOME.** A dwelling in which sleeping accommodations are provided or offered to transient visitors for compensation.

**QUASI-JUDICIAL DECISION.** A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

**SITE PLAN.** A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

**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.

**SUBDIVISION.** The division of land for the purpose of sale or development as specified in G.S. 160D-802.

**SUBDIVISION REGULATION.** A subdivision regulation authorized by Article 8 of G.S. 160D.

**YARD.** A required open space on the same lot as the principal building, unoccupied and unobstructed (other than for vegetation) from the ground upward except as otherwise provided herein.

(a) **YARD, FRONT.** A yard extending across the front of a lot measured from side lot line to side lot line and lying between the abutting street right-of-way and the front building setback line.

(b) **YARD, REAR.** A yard extending across the rear of the lot measured from side lot line to side lot line and lying between the rear property line and the rear building setback line.

(c) **YARD, SIDE.** A yard extending along either side of a lot measured from front yard line to rear line and lying between the side lot line and the side setback line.

**VESTED RIGHT (ZONING).** The right to undertake and complete development and use of property under the terms and conditions of an approval secured as specified in G.S. §160D-108 or under common law

**ZONING MAP AMENDMENT OR REZONING.** An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and re-adoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

**ZONING REGULATION.** A zoning regulation authorized by Article 7 of G.S. 160D.

(B) Words used in the present tense shall include the future tense; the singular number includes the plural; the word "building" includes the word "structure"; the word "lot" includes the word "plot" or "parcel"; the term "shall" is always mandatory; the words

"used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

**§ 152.002 PURPOSE.**

In order to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of and; to avoid undue concentration of population; to facilitate the adequate provisions of transportation, sewerage, schools, parks, and other public requirements; to conserve the value of buildings; and encourage the most appropriate use of land throughout the Town's planning and development regulation jurisdiction , there is hereby adopted and established official zoning regulations and an official zoning map for the Town of Garland.

(Ord. passed 2-12-1991, § 1.1)

**§ 152.003 AUTHORITY.**

This zoning chapter is adopted pursuant to the authority vested in the town by its charter and the General Statutes of North Carolina , particularly G.S. § Chapter 160A and Chapter 160D – Local Planning and Development Regulation.

(Ord. passed 2-12-1991, § 1.2)

**§ 152.004 JURISDICTION.**

The provisions of this chapter shall apply within the planning and development regulation jurisdiction (corporate limits of the town, and within its extraterritorial jurisdiction) as now or hereafter fixed, as shown on the official zoning map..

(Ord. passed 2-12-1991, § 1.3)

**§ 152.005 MINIMUM REGULATIONS.**

(A) In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare.

(B) It is not intended by this chapter to interfere with, abrogate, or annul easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants or agreements, the provisions of this chapter shall govern.

(Ord. passed 2-12-1991, § 1.4)

**§ 152.006 EFFECTIVE DATE.**

This chapter and its provisions concerning the use of land and buildings, the height of buildings, and other matters as hereinafter set forth are hereby established and declared to be in full force and effect from and after its passage and any zoning ordinance previously adopted is hereby repealed.

(Ord. passed 2- 12-1991, § 1.6)

**§ 152.007 BONA FIDE FARM EXEMPTIONS.**

The provisions of this chapter shall not apply to bona fide farms. This chapter does not exercise controls over crop lands, timber land, pasture lands, idle or other farm lands, nor over any farm house, barn, poultry house, other farm building including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this chapter without the need for regulation. Per G.S. § 160D-903, residences which are not occupied by the owner, lessee, or operator and other non-farm uses shall be subject to the provisions of this chapter.

**§ 152.008 PERMIT CHOICE & VESTED RIGHTS.**

(A) General. Per G.S. 160D-108, the General Assembly recognizes that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation.

(B) Permit Choice. If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(C) Process to Claim Vested Right. Per G.S. 160D-108, a person claiming a statutory or common law vested right may submit information to substantiate that claim to the administrative officer or other agency designated by this ordinance, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrative officer may be appealed to the under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1

## ***OFFICIAL ZONING MAP AND ZONING DISTRICTS***

### **§ 152.015 ZONING MAP.**

(A) For the purposes of this chapter, the town is hereby divided into several conventional zoning districts whose locations and boundaries are shown on the official zoning map for the town which is hereby adopted by reference and declared to be a part of this chapter.

(B) Per G.S. 160D-105, the Town Board has adopted a Zoning Map entitled “Official Zoning Map, Town of Garland, NC” which is retained in the office of the Town Clerk. The Zoning Map and notations thereon are hereby designated, established, and incorporated as a part of these regulations and shall be as much a part of these regulations as if they were fully described herein. The maps may be in paper or a digital format approved by the town and may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the town clerk in accordance with G.S. 160A-79 or G.S. 153A-50, shall be admissible into evidence and shall have the same force and effect as would the original map.

(C) Development regulations adopted pursuant to this ordinance may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and federal agencies. For these maps a regulation text or zoning map may reference a specific officially adopted map or may incorporate by reference the most recent officially adopted version of such maps. When zoning district boundaries are based on these maps, the regulation may provide that the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated State or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection as provided in subsection this section.

### **§ 152.016 ZONING DISTRICTS.**

In order that the purpose of this chapter may be accomplished, the conventional zoning districts are hereby established within the planning and development regulation jurisdiction described in §§ 152.085 through 152.091, and are hereby given the following designations:

- (A) Residential District - R-15;
- (B) Residential District - R-85;
- (C) Residential Agricultural District - RA;
- (D) General Business District - GBD;
- (E) Highway Business District -HBD;
- (F) Industrial District -I

(Ord. passed 2-12-1991, § 2.2)

## **§152.017 INTERPRETATION OF DISTRICT BOUNDARIES.**

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

- (A) Unless otherwise specifically indicated, where district boundaries are shown on the official zoning map as approximately parallel or following the centerlines of streets, highways, railroad rights-of-way, utility easements or stream beds, or such lines extended, then the lines shall be construed to be the district boundaries.
- (B) Where district boundaries are so indicated that they approximately follow lot lines, the lot lines shall be construed to be the boundaries.
- (C) Where a district boundary line divides a lot in single ownership, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot, provided that the extension shall not include any part of the lot which lies more than 50 feet beyond the district boundary, and further provided that the remaining parcel shall not be less than the minimum required for the district in which it is located.
- (D) Where any public street or alley is hereafter officially vacated or abandoned, the regulations applicable to parcels of abutting property shall apply to that portion of the street or alley thereto by virtue of the vacation or abandonment.
- (E) In instances where none of the above methods are sufficient to resolve the boundary location by the Administrative Officer, the Board of Adjustment shall be empowered to interpret the intent of the zoning map as to the location of district boundaries in case any further uncertainty exists.  
(Ord. passed 2-12-1991, § 2.3)

## ***APPLICATION & ENFORCEMENT***

### **§152.030 APPLICATION.**

No building or land shall hereafter be used and no building or part thereof shall be erected, moved, or altered except in conformity with the regulations herein specified for the district in which it is located, except as hereinafter provided in this chapter.

(Ord passed 2-12-1991, § 3.1) Penalty, sec§ 152.999

### **§152.031 ENFORCEMENT.**

#### **(A) *Administrative Officer.***

(1) Per G.S. 160D-404, the Town Board shall appoint an Administrative Officer to enforce the provisions of this chapter. The assistance of other persons may be provided as the Town Board may direct.

(2) When the administrative officer determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this ordinance or other local development regulation or any State law delegated to the town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

#### **(B) *Certificate of zoning compliance and building permit required.***

(1) No land shall be used or occupied (except for agricultural purposes per G.S. 160D-903) and no building hereafter erected, structurally altered or moved or its use changed until a certificate of zoning compliance shall be issued by the Administrative Officer, except in conformity with the provisions of this chapter or except after written order from the Board of Adjustment.

(2) A building permit cannot be issued by the Building Inspector unless zoning compliance is certified.

(3) A record of all certificates shall be kept on file in the office of the Administrative Officer and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land involved.

(C) *Application procedures.*

(1) Each application for a certificate of zoning compliance shall be accompanied by 2 sets of plans drawn to scale, 1 of which shall be returned to the applicant upon approval. The plan shall show the following:

- (a) The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
- (b) The location of the lot with respect to adjacent rights-of-way;
- (c) The shape, dimensions and location of all buildings, existing and proposed, on the lot;
- (d) The nature of the proposed use of the building or land, including the extent and location of the use, on the lot;
- (e) The location and dimensions of oft street parking and loading space and the means of ingress and egress to that space; and
- (f) Any other information which the Administrative Officer may deem necessary for consideration in enforcing the provisions of this chapter.

(2) A fee, set by the Town Board, shall be charged for the processing of the application. The adopted fee schedule shall be posted in the Town Clerk's office.

(D) *Right of appeal.*

(1) If the certificate of zoning compliance is denied, the applicant may appeal the action of the Administrative Officer to the Board of Adjustment [referred to as an Administrative Appeal per G.S. 160D-405]; and that from the decision of the Board of Adjustment, recourse shall be had to superior court as provided by law. An appeal to the Board of Adjustment shall be made within thirty (30) days of the order, requirement, decision, or determination made by the Administrative Officer.

(2) The Board of Adjustment may reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination with reference to the appeal through an evidentiary hearing and quasi-judicial decision.

(3) The Administrative Officer who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The Administrative Officer shall also provide a copy of the

record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

(E) *Remedies.*

In any case any building is created, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this chapter, the Administrative Officer, or any other appropriate town authority, or any person who would be damaged by the violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent the violation.

(F) *Complaints regarding violations.*

When a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. The complaint shall state fully the cause and basis thereof and shall be filed with the Administrative Official. He or she shall record properly the complaint, investigate within 10 days, and take action thereon as provided in these regulations.

(G) *Stop Work Order and Cancellation of permits.*

(1) Per G.S. 160D-404, whenever any work or activity subject to regulation pursuant to this ordinance or other applicable local development regulation or any State law delegated to the town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the town that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

(2) A demolition, building or occupancy permit shall be cancelled by the Administrative Officer when the method of demolition, construction or use violates any provisions contained in these regulations or any state or local ordinance or resolution. Upon cancellation, any further work upon the demolition, construction, alteration or repair on the building or structure, or further use of the building or structure or land, shall be deemed a violation. Each and every day the unlawful demolition, construction,

alteration or repair on the building or structure, or further use of the building or structure or land continues shall be deemed a separate offense.  
(Ord. passed 2-12-1991, § 3.2) Penalty, see§ 152.999

## ***NONCONFORMING USES***

### **§ 152.045 CONTINUANCE OF NONCONFORMING BUILDINGS.**

The nonconforming use of a building existing at the time of the passage of this chapter shall not be affected by this chapter, although if the use does not conform to the provisions of this chapter, the use may be extended throughout the building, provided no structural alterations except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building are made therein, but no such use shall be extended to occupy any land outside the building. If the nonconforming building is removed or the nonconforming use of the building is discontinued for a continuous period of more than 180 days, every future use of the premises shall be in conformity with the provisions of this chapter.

(Ord. passed 2-12-1991, § 4.1)

### **§ 152.046 CONTINUANCE OF NONCONFORMING USES OF LAND.**

The lawful use of "land" existing at the time of the passage of this chapter, although the use does not conform to the provisions of this chapter, shall not be affected by this chapter; provided, however, that no such nonconforming use be extended to occupy a greater area of land than that occupied by the use at the time of the passage of this chapter. If the nonconforming use is discontinued for a continuous period of more than 180 days, any future use of the land shall be in conformity with the provisions of this chapter.

(Ord. passed 2-12-1991, § 4.2)

### **§ 152.047 CHANGE OF USE.**

A nonconforming use shall not be changed to any but a use listed as permitted for the conventional zoning district in which a nonconforming use is located. Uses not designated as permitted shall be prohibited by this chapter in the areas delineated by the official zoning map of the town.

(Ord. passed 2-12-1991, § 4.3) Penalty, see§ 152.999

### **§ 152.048 RECONSTRUCTION PROHIBITED.**

(A) Nothing in this chapter, shall be construed to prevent the restoration of a building destroyed to the extent of not more than 60% of its assessed value at the time of destruction by fire, explosion or other casualty, if the construction is begun within 180 days of the date of the damage.

(B) Owner-occupied residences which are nonconforming uses may be rebuilt regardless of the extent of the destruction.

(Ord. passed 2-12-1991, § 4.4) Penalty, see§ 152.999

**§ 152.049 NORMAL MAINTENANCE REPAIR OF NONCONFORMING USES.**

Normal maintenance and repair in a building occupied by a nonconforming use is permitted, provided it does not increase the bulk of the structure nor extend the nonconforming use.

(Ord. passed 2-12-1991, § 4.5)

## ***GENERAL REGULATIONS***

### **§ 152.060 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING.**

The minimum yards or other open spaces required by this chapter for each and every building hereafter erected, moved or structurally altered shall not be encroached upon or considered as meeting the yard or open space requirements of any other building. (Ord. passed 2-12-1991, § 5.1)

### **§ 152.061 RELATIONSHIP OF BUILDING TO LOTS.**

Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than 1 principal building and its customary accessory buildings on the lot, except in the case of designed complex of institutional, residential, commercial, industrial buildings in an appropriate zoning district, such as school campus, cluster housing, shopping center, research park and the like. (Ord. passed 2-12-1991, § 5.2)

### **§ 152.062 STREET ACCESS.**

No building shall be erected on a lot which does not abut a public street for a distance of at least 25 feet, provided that, in a designed shopping center in a commercial district or a planned project in a residential district, a building may be erected adjoining a parking area or other dedicated open space, used in common with other lots. (Ord. passed 2-12-1991, § 5.3)

### **§ 152.063 REDUCTION OF LOT AND YARD AREAS PROHIBITED.**

No yard or lot existing at the time of passage of this chapter shall be reduced in size or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall have at least the minimum requirements established by this chapter. (Ord. passed 2-12-1991, § 5.4) Penalty, see § 152.999

### **§ 152.064 STANDARDS FOR EFFLUENT AND EMISSIONS.**

All effluents and emissions into the air or surface or groundwaters from new development permitted by this chapter must be in conformity with applicable state, county, or town health and environmental quality regulations. (Ord. passed 2-12-1991, § 5.5)

### **§ 152.065 NEWLY INCORPORATED AREAS.**

All territory which may hereafter be included within the planning and development regulation jurisdiction of the town shall be zoned by the Town Board at the time of the incorporation per G.S. 160D.

(Ord. passed 2-12-1991, § 5.6)

**§ 152.066 LOT OF RECORD.**

Where the owner of a lot at the time of the adoption of this chapter or his or her successor in title thereto does not own sufficient land to enable him or her to conform to the dimensional requirements of this chapter, the lot may be used as a building site in the district in which it is located; provided, that the lot width and lot area are not more than 20% below the minimum specified in this chapter. In any case where the lot area and lot width are more than 20% below the minimum specified in this chapter or other dimensional requirements cannot be met, the Board of Adjustment may approve, through the variance process, those dimensions as shall conform as closely as possible to the required dimensions.

(Ord. passed 2-12-1991, § 5.7)

**§ 152.067 ADJOINING AND VACANT LOTS OF RECORD.**

If 2 or more adjoining and vacant lots of record are in a single ownership at any time after the adoption of this chapter, and the lots individually have less frontage or area than the minimum requirements of the district in which such a single lot or several lots are located, the lands involved shall be considered to be an undivided parcel for the purposes of this chapter, and no portion of the parcel shall be used which does not meet lot width and area requirements established by this chapter, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

(Ord. passed 2-12-1991, § 5.8)

**§ 152.068 CURB CUTS GIVING ACCESS TO PUBLIC RIGHTS-OF-WAY.**

Construction of curb cuts for purposes of ingress or egress to property abutting a public right-of-way shall be approved by the public authority in the town which has jurisdiction over the maintenance of public streets and the North Carolina Department of Transportation where the curbs affect access to state highways. Provision for all access work done on highway right-of-way is subject to approval by the Department of Transportation.

(Ord. passed 2-12-1991, § 5.9)

**§ 152.069 ACCESSORY BUILDINGS.**

No accessory building shall be located in any required front or side yard.

(Ord. passed 2-12-1991, § 5.10)

**§ 152.070 MANUFACTURED HOMES AS TEMPORARY USES.**

Manufactured homes may be allowed as temporary quarters in any district at the discretion of the Administrative Officer. Examples of permissible temporary quarters are

construction offices and temporary disaster relief quarters for any type of use. Permits for 60-day periods of use must be obtained from the Administrative Officer, who can renew the permits for additional 60-day periods at his or her discretion. Appeal of the Administrative Officer's decisions [referred to as an Administrative Appeal per G.S. 160D-405] are to the Board of Adjustment.  
(Ord. passed 2-12-1991, § 5.11)

**§ 152.071 MANUFACTURED HOMES TO BE UNDERPINNED.**

In order to ensure public safety and welfare, every manufactured home located in the town's planning and development regulation jurisdiction at the time of the passage of this chapter will, within 6 months, be underpinned with materials approved by and in a manner approved by the Administrative Officer. The Administrative Officer will notify each manufactured home owner of this requirement, and ensure compliance within 6 months.

(Ord. passed 2-12-1991, § 5.12)

**§ 152.072 MANUFACTURED HOMES TO MEET REQUIREMENTS**

All manufactured homes to be located within the town's planning and development regulation jurisdiction of this chapter must meet the following requirements:

(A) The home model must meet the requirements of G.S. 143-145(7) at the time of placement on the lot;

(B) The home must pass a minimum housing code inspection after setup (the Administrative Officer may waive this requirement for new homes); and

(C) An occupancy permit must be obtained from the town before occupation.  
(Am. Ord. passed - -)

## *DISTRICT REGULATIONS*

### **§ 152.085 RESIDENTIAL DISTRICT R-15.**

(A) This residential district is established to accommodate single-family and planned residential developments at minimum urban densities in areas where urban services are available; to stabilize existing residential areas by limiting conflicting uses from occurring in the residential areas; to prevent unduly dense development in areas not receiving urban services; and to enhance the prospects for future residential development in an orderly manner.

(B) The following criteria pertain to this district:

(1) *Permitted uses.*

- (a) Single-family dwelling;
- (b) Public parks and recreation facilities;
- (c) Religious uses including churches and other places of worship; religious education buildings and parish houses;
- (d) Home occupations; and
- (e) Accessory uses to residential uses. provided that no accessory building shall be rented or occupied for gain, and provided that no accessory building shall be constructed upon a lot until the construction of the main building has commenced. There shall be no more than 2 accessory buildings per residential lot.

(2) *Conditional uses.*

- (a) Cemetery;
- (b) Club facility, including meeting hall, lodge and athletic facility;
- (c) Golf courses;
- (d) Hospital, nursing home, rest home, medical clinic or dental clinic;
- (e) Mortuary or funeral home;
- (f) Schools, colleges, libraries and other public institutions;
- (g) Private nonprofit outdoor recreation facilities; and

- (h) Public utility and municipal transformer station, pumping station, water and sewer treatment plant, and the like. All structures except fences shall be set back from all property lines by at least 1 foot for every foot of structure height. All such structures shall be architecturally in keeping with surrounding development to the maximum extent possible.

(3) *Dimensional Requirements*

- (a) *Single-family dwelling.*

Criteria	Dimensional Requirement	
Lot	Width	Minimum 100 feet
	Area	Minimum 15,000 square feet
Yards	Front	Minimum 65 feet
	Rear	Minimum 12 feet
	Side	Minimum 12 feet
	Corner side	Minimum 25 feet

- (b) *Other uses permitted in zone.*

Criteria	Dimensional Requirement	
Lot	Width	Minimum 150 feet
	Area	Minimum 20,000 square feet
Yards	Front	Minimum 30 feet
	Rear	Minimum 18 feet
	Side	Minimum 15 feet
	Lot Coverage	Maximum 50% of lot area

(Ord. passed 2-12-1991, § 6-1)

**§ 152.086 RESIDENTIAL DISTRICT R-85.**

(A) This residential district is established to accommodate low density residential development where urban services are available; to stabilize existing residential areas by limiting conflicting uses, and to enhance the prospects for future residential development.

(B) The following criteria pertain to this district:

- (1) *Permitted uses.*

- (a) Single-family dwelling;
- (b) Public parks and recreation facilities;

- (c) Religious uses including churches and other places of worship; religious education buildings and parish houses;
  - (d) Home occupations; and
  - (e) Accessory uses to residential uses. provided that no accessory building shall be rented or occupied for gain, and provided that no accessory building shall be constructed upon a lot until the construction of the main building has commenced. There shall be no more than 2 accessory buildings per residential lot.
  - (f) Class A manufactured homes; and
  - (g) Manufactured homes on individual lots, provided they are underpinned with material approved by the Administrative Officer, and they comply with all provisions of this chapter.
- (2) *Special uses.*
- (a) Cemetery;
  - (b) Club facility, including meeting hall, lodge and athletic facility;
  - (c) Golf courses;
  - (d) Guest house or bed and breakfast inn (provided that only a breakfast meal is served);
  - (e) Greenhouses and nurseries;
  - (f) Hospital, nursing home, rest home, medical clinic or dental clinic;
  - (g) Two-family dwellings;
  - (h) Mortuary or funeral home;
  - (i) Multi-family dwellings served by public sewer and water
  - (j) Schools, colleges, libraries and other public institutions;
  - (k) Private daycare centers and nurseries;
  - (l) Private nonprofit outdoor recreation facilities; and
  - (m) Public utility and municipal transformer station, pumping station, water and sewer treatment plant, and the like. All structures except

fences shall be set back from all property lines by at least 1 foot for every foot of structure height. All such structures shall be architecturally in keeping with surrounding development to the maximum extent possible.

(3) *Dimensional Requirements*

(a) *Single-family dwelling.*

Criteria	Dimensional Requirement	
Lot	Width	Minimum 85 feet (with public sewer and water)
		Minimum 100 feet (without public sewer and water)
	Area	Minimum 8,500 square feet (with public sewer and water)
		Minimum 10,000 square feet (without public sewer and water)
Yards	Front	Minimum 50 feet
	Rear	Minimum 10 feet
	Side	Minimum 10 feet
	Corner side	Minimum 25 feet

(b) *Two-family dwelling (special use, see 152.160 through 152.165)*

Criteria	Dimensional Requirement	
Lot	Width	Minimum 200 feet
	Area	Minimum 20,000 square feet
		Minimum 10,000 square feet (without public sewer and water)
Yards		Same as single-family dwelling

(c) *Multi-family dwellings (special use, see 152.160 through 152.165)*

Criteria	Dimensional Requirement	
Lot	Width	Minimum 200 feet
	Area	Minimum 6,000 square feet
Yards	Front	Minimum 30 feet
	Rear	Minimum 40 feet
	Side	Minimum 18 feet
Lot Coverage		Maximum 50% of lot area

(d) *Other uses permitted in zone.*

Criteria	Dimensional Requirement	
Lot	Width	Minimum 150 feet
	Area	Minimum 20,000 square feet
Yards	Front	Minimum 30 feet
	Rear	Minimum 18 feet
	Side	Minimum 15 feet
Lot Coverage	Maximum 50% of lot area	

(Ord. passed 2-12-1991, § 6-2)

**§ 152.087 RESIDENTIAL AGRICULTURAL DISTRICT RA.**

(A) This district is composed of quiet, low-density residential development and of open area which are used as farmland and woodland.

(B) The regulations of this district are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at sufficiently low densities to ensure a healthful environment, and to protect agricultural and residential from an influx of incompatible uses which would render such areas undesirable for farms and future development.

(C) The following criteria pertain to this district:

(1) *Permitted uses.*

- (a) Class A manufactured homes;
- (b) Single-family dwelling;
- (c) Manufactured homes on individual lots, provided they are underpinned with material approved by the Administrative Officer, and they comply with all provisions of this chapter.
- (d) Public parks and recreation facilities;
- (e) Religious uses including churches and other places of worship; religious education buildings and parish houses;
- (f) Public utility lines;
- (g) Home occupations;
- (h) Agriculture (see G.S. 160D-903 for exemptions); and

- (i) Accessory uses to residential uses. provided that no accessory building shall be rented or occupied for gain, and provided that no accessory building shall be constructed upon a lot until the construction of the main building has commenced. There shall be no more than 2 accessory buildings per residential lot.
- (2) *Special uses.*
- (a) Boarding house;
  - (b) Cemetery;
  - (c) Club facility, including meeting hall, lodge and athletic facility;
  - (d) Golf courses;
  - (e) Hospital, nursing home, rest home, medical clinic or dental clinic;
  - (f) Mortuary or funeral home;
  - (g) Manufactured homes in parks (see 152.125 through 152.130);
  - (h) Multi-family dwellings served by public sewer and water;
  - (i) Schools, colleges, libraries and other public institutions;
  - (j) Two-family dwellings;
  - (k) Private daycare centers and nurseries;
  - (l) Private nonprofit outdoor recreation facilities; and
  - (m) Public utility and municipal transformer station, pumping station, water and sewer treatment plant, and the like. All structures except fences shall be set back from all property lines by at least 1 foot for every foot of structure height. All such structures shall be architecturally in keeping with surrounding development to the maximum extent possible.
  - (n) Retail shops, stores and service establishments.
  - (o) Campgrounds (see specific use standards in 152.001)
- (3) *Dimensional Requirements*
- (a) *Single-family dwelling.*

Criteria	Dimensional Requirement	
Lot	Width	Minimum 100 feet (without public sewer and water)
		Minimum 80 feet (with public sewer and water)
	Area	Minimum 20,000 square feet (without public sewer and water)
		Minimum 15,000 square feet (with public sewer and water)
Yards	Front	Minimum 30 feet
	Rear	Minimum 25 feet
	Side	Minimum 15 feet
	Corner side	Minimum 25 feet

(b) *Two-family dwelling*

Criteria	Dimensional Requirement	
Lot	Width	Minimum 150 feet (without public sewer and water)
		Minimum 120 feet (with public sewer and water)
	Area	Minimum 30,000 square feet (without public sewer and water)
		Minimum 25,000 square feet (with public sewer and water)
Yards		Same as single-family dwelling
Building Height		Maximum 40 feet

(c) *Multi-family dwellings (special use, see 152.160 through 152.165)*

Criteria	Dimensional Requirement	
Lot	Width	Minimum 100 feet
	Area	Minimum 5,000 square feet
Yards	Front	Minimum 30 feet
	Rear	Minimum 40 feet
	Side	Minimum 18 feet
Building Height		Maximum 40 feet
Lot Coverage		Maximum 40% of lot area

(d) *Other uses permitted in zone.*

Criteria	Dimensional Requirement	
Lot	Width	Minimum 150 feet
	Area	Minimum 20,000 square feet
Yards	Front	Minimum 35 feet
	Rear	Minimum 25 feet
	Side	Minimum 18 feet
Building height		Maximum 40 feet
Lot Coverage		Maximum 50% of lot area

(4) *Parking.* Off-street parking shall be provided according to the provisions set forth in 152.110 and 151.111 of this chapter.

(Ord. passed 2-12-1991, § 6-3)

**§ 152.088 RESIDENTIAL AGRICULTURAL DISTRICT RA-85.**

(A) This district is composed of quiet, low-density residential development in area of the town's extraterritorial jurisdiction immediately surrounding the town limits.

(B) (1) District regulations are identical to those in the RA District with 1 exception. Agriculture (including orchards, pasturage and field crops, and commercial production of swine, poultry, and poultry produces) is a special use in this district, while it is a permitted use in the RA District. This shall not apply to those uses classified as a Bona Fide Farm per G.S. 160D-903.

(2) For district regulations, see RA District, § 152.087.

(Ord. passed 2-12-1991. § 6.7)

**§ 152.089 GENERAL BUSINESS DISTRICT GBD.**

(A) The principal use of land in this district shall be for concentrated business development.

(B) Regulations are intended to encourage the construction of and the continued use of the land for downtown commercial and service areas; and to prohibit heavier commercial and industrial uses which would substantially interfere with the orderly growth of the district to meet the needs of increased populations in the market area.

(B) The following criteria pertain to this district:

(1) *Permitted uses.*

- (a) Retail shops and stores and service establishments whose operation is conducted entirely within an enclosed building;
  - (b) Offices for business and professional purposes;
  - (c) Social uses such as social halls, lodges, fraternal organizations, clubs and similar activities;
  - (d) Government offices and services;
  - (e) Public utility lines and facilities, excluding outside storage yards;
  - (f) Trades such as carpentry, electrical, plumbing, heating and ventilating shops; upholstery, decorating, paint and sign shops; and similar enterprises catering to household and business establishments; provided that all materials are stored and operations take place within an enclosed building;
  - (g) Motels, hotels and other similar establishments;
  - (h) Parking lots;
  - (i) Religious uses including churches and other places of worship; religious education buildings and parish houses;
  - (j) Taxi stand;
  - (k) Banks; and
  - (l) Accessory uses and structures. Any use of a structure customarily incidental to a principal use or structure or to a special use for which a permit has been issued.
- (2) *Special uses.*
- (a) Storage; provided that use is within a building and the use is not visible from outside the building;
  - (b) Manufactured home for use as temporary office or commercial establishment, while permanent quarters for while establishment are being constructed. Should construction not be begun within 6 months of the establishment of the temporary use, the use must be discontinued. However, the Administrative Officer may extend the temporary zoning compliance permit for an additional 6 months if the Administrative Officer receives adequate assurances that

construction of the permanent building will commence within the extended time period; and

- (c) Manufacturing industries, providing that their operation does not produce a nuisance by reason of odor, noise, dust, smoke or vibration, and whose operation is conducted entirely within an enclosed building.;

(3) *Dimensional Requirements*

Criteria	Dimensional Requirement	
Yards	Front	No front yards are required.
	Rear	Minimum required depth – 10 feet
	Side	No side yards are required except on lots that are adjacent to residentially zoned lots. These lots shall have a minimum of 20-foot side yards. In instances where a side yard is provided although not required, it shall be at least 10 feet in width
Building Height	No building shall exceed 40 feet in height	

- (4) *Off-street parking and loading.* Off-street parking and loading shall be provided according to the provisions set forth in §§ 152.110 and 152.111 of this chapter, with the following exceptions:

- (a) Hotels, motels and similar uses shall meet the parking requirements of § 152.110 (F).
- (b) Banks and other establishments with drive-in windows shall file a circulation plan providing adequate off-street waiting lanes for drive-in customers.

- (5) *Signs.* All signs shall conform to the provisions set forth in §§ 152.140 through 152.144 of this chapter.  
(Ord. passed 2-12-1991, § 6.4)

**§ 152.090 HIGHWAY BUSINESS DISTRICT HBD.**

- (A) The principal use of land in this district shall be for the wholesaling and retailing of durable goods and services and for planned shopping areas located adjacent to major thoroughfares leading into and around the developed areas.
- (B) This district is also designed to encourage the provision of services to travelers.

(C) The following criteria pertain to this district:

(1) *Permitted uses.*

- (a) Retail shops and stores and service establishments whose operation is conducted entirely within an enclosed building;
- (b) Offices for business and professional purposes;
- (c) Social uses such as social halls, lodges, fraternal organizations, clubs and similar activities;
- (d) Recreational uses such as bowling alleys, miniature golf courses, driving range and similar recreation;
- (e) Public Parks;
- (f) Government offices and services;
- (g) Public utility lines and facilities;
- (h) Trades such as carpentry, electrical, plumbing, heating and ventilating shops; upholstery, decorating, paint and sign shops;
- (i) Motels, hotels;
- (j) Shopping centers;
- (k) Wholesale establishments, not including salvage and used parts sales or salvage yards; and
- (l) Accessory uses and structures. Any use of a structure customarily incidental to a principal use or structure or to a special use for which a permit has been issued.

(2) *Special uses.*

- (a) Drive-in theater;
- (b) Retail and wholesale establishments engaged in selling oil and petroleum products;
- (c) Feed mills;
- (d) Medical clinic or dental clinic;

- (e) Animal hospitals and kennels; and
- (f) Manufactured home for use as a temporary office.

(3) *Dimensional Requirements*

Criteria	Dimensional Requirement	
Lot	Width	100 feet
	Area	15,000 square feet
Yards	Front	Minimum 35 feet. A strip at least 10 feet wide adjoining the street shall be developed with sidewalks, grass and plants and necessary entrances and exits of driveways. Off-street parking shall not be permitted in this minimum required front yard area.
	Side	Minimum 15 feet adjacent to residential districts. In cases where a side yard is provided but not required, or where the side yard abuts a public right-of-way, it shall be at least 10 feet in width.
	Rear	Minimum 25 feet

(4) *Required buffers.* Where uses in this district abut a residential district, there shall be provided and maintained along the property line a continuous visual buffer. The buffer shall be compact evergreen hedge or other type of evergreen foliage screening which shall reach a height of 8 feet within 4 years and shall be maintained at a minimum of 8 feet in height thereafter.

(5) *Off-street parking and loading.* Off-street parking and loading shall be provided according to the provisions set forth in §§ 152.110 and 152.111 of this chapter.

(6) *Signs.* All signs shall conform to the provisions set forth in §§ 152.140 through 152.144 of this chapter.

(Ord. passed 2-12-1991, § 6.5)

**§ 152.091 INDUSTRIAL DISTRICT I.**

(A) This district includes warehousing, mixed industrial, and industrial-heavy commercial type uses.

(B) The purpose is to promote and protect both existing industrial activities and potential sites where urban services are available and which are considered suitable for

continued or future industrial use; do prohibit uses or land which would substantially interfere with the continuation of uses permitted in the district; and to promote the operation of industrial facilities in a relatively clean and quiet manner.

(C) The following criteria pertain to this district:

(1) *Permitted uses.*

- (a) Manufacturing, assembling and processing industries, provided that their operation does not produce a nuisance by reason of odor, noise, dust, smoke or vibration;
- (b) Agriculture (including orchards, pasturage and field crops, but not including commercial production of swine, poultry or poultry products). This shall not apply to those uses classified as a Bona Fide Farm per G.S. 160D-903;
- (c) Wholesale, warehouse and transfer activities;
- (d) Service stations and other auto-oriented business establishments;
- (e) Public utility lines and facilities;
- (f) Public buildings and uses; and
- (g) Accessory uses and structures. Any use of a structure customarily incidental to a principal use or structure.

(2) *Special uses.*

- (a) Any industrial use may be permitted which the Town Board finds can conform to the following findings of fact:
  - 1. There is no unusual fire, explosion or safety hazard;
  - 2. There is no emission of fly ash, dust, fumes, vapors, mist or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or other forms of property;
  - 3. There is no production of heat or glare perceptible from any lot line of the premises on which the use is located; and
  - 4. There is no emission of any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside the premises.

- (b) Automobile wrecking yards and similar types of used material industries, when conducted within a structure or on a lot enclosed by a solid fence at least 6 feet in height, provided that the Town Board finds that such a wrecking yard will not have an injurious effect on the public interest or welfare;
- (c) Circuses, carnivals and fairs;
- (d) Fertilizer manufacture and sale;
- (e) Wholesale storage of gasoline or bulk terminal plants, provided no above-ground storage tank shall be closer than 50 feet to any property lines, and that the uses are in conformity with the state and local regulations governing the storage of combustible fuels; and
- (f) Outdoor advertising signs.

(3) *Dimensional Requirements*

Criteria	Dimensional Requirement	
Lot	Width	100 feet
	Area	Minimum 1 acre
Yards	Front	Minimum depth, 15 feet, which shall be devoted to sidewalks, plantings and necessary driveways. Off-street parking shall not be permitted in front yard area
	Side	Minimum 15 feet
	Rear	Minimum 25 feet
Building height	Maximum 40 feet, unless the depth of front yard and total width of side yards required be increased 5 feet for each 10 feet or fraction thereof of building height in excess of 40 feet	
Lot coverage	Total ground area covered by the principal building and all accessory buildings shall not exceed 50 % of the total lot area	

(4) *Required buffers.*

- (a) After the effective date of this chapter, where this district abuts a lot in a residential district or land occupied by any residential use permitted by this chapter, there shall be provided and maintained along the property line a continuous visual buffer. The buffer

shall be a compact evergreen hedge or other type of evergreen foliage screening which shall reach a height of 8 feet within 4 years and shall be maintained at a minimum of 8 feet in height thereafter, or shall be combined fence and shrubbery screen, the latter facing the residential use.

(b) This requirement can be waived by the Board of Zoning Adjustment through the variance process along any boundary which is naturally screened by evergreen plant materials or topography, or may be deferred in isolated areas.

(5) *Off-street parking and loading.* Off-street parking and loading shall be provided according to the provisions set forth in §§ 152.110 and 152.111 of this chapter.

(6) *Signs.* All signs shall conform to the provisions set forth in §§ 152.140 through 152.144 of this chapter.  
(Ord. passed 2-12-1991, § 6.6)

## ***OFF-STREET PARKING AND LOADING***

### **§ 152.110 OFF-STREET PARKING REQUIREMENTS**

(A) *General.* Off-street automobile parking or storage space shall be provided on the same lot as the principal use except in the General Business District and as provided in division (D) below at the time or erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area; or before conversion from 1 type of use or occupancy to another, in the amount specified by this section. The parking space may be provided in a covered parking structure or properly graded open space.

(B) *Certification of minimum parking requirements.* Each application for a building permit or certificate of occupancy submitted to the Administrative Officer and Building Inspector as provided for in this chapter shall include information as to the location and dimensions of off-street parking and loading space and the means of exit and entrance to the space. This information shall be in sufficient detail to enable the Administrative Officer and Building Inspector to determine whether or not the requirements of this section are being met.

(C) *Joint use of required parking space.* The required parking space for any number of separate uses may be combined in 1 lot, but the required space assigned to 1 use may not be assigned to another use, except that ½ of the parking space required for churches, theaters or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

(D) *Remote parking space.* If the off-street parking space required by this chapter cannot be reasonably provided on the same lot on which the principal use is located, the space shall be provided on any lot, a substantial portion of which is within 500 feet of the main entrance of the principal use, provided the land is in the same ownership as the principal use or leased on a long-term basis for the specific purpose to serve as parking space for the aforesaid principal use.

(E) *Improvement and location standards.*

(1) All off-street parking, including entrances, exits, and maneuvering and parking areas shall :

(a) Have the access drive(s) paved from the existing street paving to a point at least 15 feet beyond the public right-of-way. except that residential uses requiring less than 5 spaces shall be exempt from this paving requirement; and

(b) Be permanently maintained by the owners.

(2) In addition, all parking lots that are used regularly at least 5 days per week, except as provided below, shall be paved up to the required paved driveway. This paving requirement shall not apply to:

(a) Parking lots used only by churches, private clubs or similar organizations on an irregular schedule; and

(b) Parking lots for residential uses where less than 5 spaces are required.

(3) A strip of land 5 feet wide adjoining any street line or any zoned for residential uses shall be reserved as open space, guarded with wheel bumpers and planted in shrubbery.

(F) *Minimum off-street parking requirements.*

(1) Off-street parking space shall be provided with vehicular access to a street or alley; this use shall not thereafter be encroached upon or altered; and shall be equal in number to at least the minimum requirements for the specific uses set forth below:

<i>Use Classification</i>	<i>Parking Space Requirement</i>
Auditorium or Theater	One space for each 4 seats in the largest assembly area
Banks	One parking space for each 200 square feet of gross floor space, plus 1 space for each 2 employees
Bowling Alley	Three spaces per alley plus requirements for any other use associated with the establishment such as a restaurant
Church	One space for each 4 seats in the main chapel
Club or Lodge	One space for each 200 square feet of gross floor space
Golf Courses	Four spaces for each hole plus requirements for any other use associated with the golf course (restaurant, and the like)
Home Occupation	In addition to residence requirements, 1 parking space per 500 square feet of floor space devoted to the home occupation use
Hospital or Nursing Home	One parking space for each 2 beds plus 1 space for each 2 employees (nurses, attendants, and the like), plus 1 space for each staff or visiting doctor
Hotel	One space for each room to be rented plus 1 additional space for each 2 employees

Industrial or Manufacturing Establishment or Warehouse	One space for each 2 employees on shift of greatest employment. 1 parking space for each managerial personnel, 1 visitor parking space for each 10 managerial personnel and 1 space for each vehicle used directly in the conduct of the business
Kindergarten or Nursery	One space for each employee and 4 spaces for off-street drop-off and pick-up
Library	One space for each 3 seats provided for patron use
Medical and Dental Offices	Four spaces for each physician or dentist practicing at the clinic, plus 1 space for each employee
Motel, Motor Court or Tourist Home	One space for each unit plus 1 space for each 2 employees. plus requirements for any other use associated with the establishment
Multi-Family Residence	One and one-half spaces for each dwelling unit
Offices, Business and Public	One space for each 200 square feet of floor area
Offices, Professional	One parking space for each employee plus 3 spaces for each professional member of the staff
Restaurant, Cafe, Tavern or other place serving food and drink	One space for each 3 seats plus 1 space for each 2 employees
Restaurant, Drive-In	One space for each 3 seats plus a minimum of 15 spaces for drive-in service, plus 1 space for each 2 employees
Retail Uses not otherwise listed	One parking space for each 100 square feet of gross floor area
Rooming and Boarding Houses	One space for each 2 guest rooms, plus 1 additional space for the owners
School, Elementary and Junior High	One space for each classroom and administrative office plus adequate facilities for school bus parking and • convenient loading and unloading of students
Service Station	Five spaces for each lubrication rack and 1 space for each
Shopping Center	2 employees
Single-Family Residence and Duplex	One parking space for every 150 square feet of overall floor area
Stadium	Two spaces for each dwelling unit

(2) Special situations which are not covered by the above shall be handled by the Administrative Officer. In such cases the Administrative Officer shall make the final determination as to the number of spaces to be required, but shall in all cases give due

consideration to the needs and space available, and shall classify the proposed use in 1 of the categories listed above.

(Ord. passed 2-12-1991, § 7.1)

**§ 152.111 OFF-STREET LOADING.**

(A) *Off-street loading and unloading space requirements.* Every building or structure used for business, trade or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. The space shall have adequate access to an alley or, in the absence of an alley, a public street. For the purposes of this section, an off-street loading space shall have minimum dimensions of 12 feet by 50 feet exclusive of adequate access drives and maneuvering space, and overhead clearance of 15 feet in height above the alley or street grade. A loading space requirement may be modified by the Administrative Officer on application in the case of a bank, auditorium, theater, assembly hall or other building of similar limited space requirement.

(B) *Number of required off-street loading spaces.*

<i>Square feet of gross floor area</i>	<i>Required Number of Spaces</i>
0 - 25,000	1
25,000 - 40,000	2
40,000 - 100,000	3
100,000 - 160,000	4
160,000 - 240,000	5
240,000 - 320,000	6
320,000 - 400,000	7
Each 90,000 above 400,000	1

(Ord. passed 2-12-1991, § 7.2)

## ***MANUFACTURED HOME PARKS***

### **§ 152.125 APPLICATION PROCEDURE; SPECIAL USE PERMIT.**

(A) *Special use.* Manufactured home parks are permitted as a special use only, and may be developed following approval of an application for a special use permit.

(B) *Preliminary plan.*

(1) A preliminary plan drawn to a scale of not less than 1 inch equals 200 feet nor more than 1 inch equals 50 feet may be submitted to the Town Board as part of the special use permit application. The sketch plan should include, among other things:

- (a) Location of drives and parking areas;
- (b) Location of manufactured home spaces;
- (c) Location and sizes of service buildings and other service area;
- (d) Topography and contours in areas where major grading will occur; and
- (e) Location, type and size of water supply and sewage systems.

(2) The owner and developer may discuss the proposed manufactured home park plan with the Administrative Officer to determine if the proposal meets the requirements and intent of this chapter.

(C) *Final plan.*

(1) Applications to the Town Board for a special use permit to construct, alter or enlarge a manufactured home park shall be accompanied by a plan for the park, prepared by a registered engineer or architect, drawn to a scale of not less than 1 inch equals 200 feet nor more than 1 inch equals 50 feet. Three copies shall be submitted.

(2) The plan shall show the following:

- (a) Locations of manufactured home spaces;
- (b) Drives, parking areas, walks and access to a public street;
- (c) The name of the manufactured home park, the name(s) and the addresses of the owner(s), the developer, if applicable, and the designer of the park;

- (d) Date, scale and approximate North arrow;
- (e) Location and uses of any proposed buildings and building lines;
- (f) Proposed storm drainage plan for the entire manufactured home park;
- (g) Location and dimensions of all recreation areas, open spaces and parks;
- (h) When public water or public sewer is not available, a written statement from the County Health Department shall be submitted with the manufactured home park plan indicating that the manufactured home park has adequate land area and suitable topography and soils to accommodate the proposed methods of water supply and sewage disposal; and
- (i) Where a park is to be developed in sections, the plan shall show what part is to be developed initially. No permit shall be issued for the initial establishment of any section of a manufactured home park with less than 5 spaces.

(Ord. passed 2-12-1991, § 8.1)

**§ 152.126 CERTIFICATE OF OCCUPANCY.**

(A) When the developer of the manufactured home park is satisfied that construction has been completed in accordance with the terms of the special use granted by the Town Board, certification of the completion shall be made, and the site shall be inspected by the Administrative Officer or his or her representative. After completion of the manufactured home park in compliance with the approved plan and other application regulations has been ascertained, the certificate of occupancy shall be issued by the Administrative Officer.

(B) The manufactured home park shall be maintained in compliance with the terms of the special use. In the event of violation of the special use, the certificate of occupancy may be revoked for a specific section of a manufactured home park which is in violation or for the manufactured home park in its entirety if necessary.

(Ord. passed 2-12-1991, § 8.2)

**§ 152.127 ANNUAL INSPECTIONS.**

The Sampson County Health Department and Garland Administrative Officer may conduct as many inspections of manufactured home parks as deemed necessary to ensure the maintenance of applicable standards. The operators of manufactured home parks in

Garland shall once a year pay an annual inspection fee as posted in the Town Clerk's office, and the certificate of occupancy may be revoked if the fee is not paid.  
(Ord. passed 2-12-1991, § 8.3)

**§ 152.128 GENERAL REQUIREMENTS.**

(A) *Area.* The area of the manufactured home park shall be a minimum of 2 acres, and the park shall have a minimum of 5 manufactured home spaces available at first occupancy.

(B) *Density.* The maximum number of units allowed per acre of land shall be the same as the minimum area per unit required for multi-family dwellings subject to yard and other setback requirements. When not served by public water and sewer, the minimum size manufactured home space shall be 7,500 square feet.

(C) *Utilities.* The manufactured home park and all occupied units located in it must be connected to the municipal water and sewerage systems or other systems approved by the Sampson County Health Department or the North Carolina Division of Health Services and the North Carolina Division of Environmental Management.

(D) *Yards and setbacks.* All manufactured units and permanent structures must meet yard and setback requirements for principal structures in the district.

(E) *Other permitted uses.* Service buildings, recreation buildings, and other areas or structures providing laundry, sanitation and managerial facilities are permitted and shall serve only the park to which they are located. No such facility shall have direct access to a public street but shall be served by the privately maintained roadway.

(F) *Access and parking.* Paved, privately maintained roadways must be provided for access to individual units and other facilities located within the park. No manufactured home shall have direct access to a public street.

(G) *Screening and landscaping.* The manufactured home park shall have a screening strip of plant material, 5 feet wide minimum, adjacent to and within the park boundary extending along the entire perimeter of the park. This requirement may be waived by the Board of Adjustment through the variance process along any boundary which is naturally screened by evergreen plant materials or topography. Screening strips shall not be a portion of any manufactured home space, street or private drive. Evergreen shrubs shall be 4 feet or more in height at time of planting. The park shall be completely screened at a height of 4 to 6 feet from the view of adjacent properties. Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.

(H) *One manufactured home per space.* No more than 1 manufactured home may be parked on any manufactured home space.

(Ord. passed 2-12-1991, § 8.4)

**§ 152.129 SPACE REQUIREMENTS.**

(A) *Access.* Each space shall have access to an interior roadway with a paved width of at least 18 feet. No space shall have direct access to a public street.

(B) *Clearance.* Each space shall be designed so that at least 30 feet clearance will be maintained between units and other structures within the park.

(C) *Setbacks.* Manufactured home units shall be located so that a 25-foot setback is maintained from the centerline of the private interior roadway.

(D) *Minimum size.* A manufactured home space shall consist of a minimum of 7,500 square feet and shall have a width of at least 45 feet at the location of the manufactured home stand.

(E) *Patio.* Each manufactured home space shall contain a patio of at least 240 square feet and have a minimum width of 7 feet. It must be constructed of concrete, brick, flagstone or other such hard surface material. A hard surface walkway, 2 feet wide minimum, leading from the road or off-street parking space to the patio shall be provided.

(F) *Parking.* Parking spaces sufficient to accommodate at least 2 automobiles shall be constructed within each manufactured home space and they shall be paved and/or covered with 4 inches of crushed stone.

(G) *Grading.* Each manufactured home space shall be graded, and graded areas grassed to prevent erosion and provide adequate storm drainage away from the manufactured home.

(H) *Utilities.* Each space shall have hook-up facilities for water, sewer, electricity and telephone services. All occupied manufactured home units shall have and use sanitary facilities within the manufactured home unit.  
(Ord. passed 2-12-1991, § 8.5)

**§152.130 ADDITIONAL REQUIREMENTS.**

Within a reasonable time (not to exceed 6 months) after being located in a manufactured home park, each manufactured home shall be underpinned with materials and in a manner approved by the Administrative Officer.

(Ord. passed 2-12-1991, § 8.6)

## *SIGNS*

### **§ 152.140 GENERAL PROVISIONS.**

(A) *General provisions.* It is the purpose of this section to permit signs of a commercial, industrial, and residential nature and to regulate the size and placement of signs which are visible from any public way. These regulations shall apply to all districts. No exterior sign may be erected, painted, repainted, posted, reported, placed, replaced or hung in any district, except in compliance with these regulations.

(B) *Permit required.* With the exception of those signs specifically authorized in § 152.141 below, no sign may be erected without a permit from the Administrative Officer.

(C) *Permit application.*

(1) Applications for permits shall be submitted on forms obtainable at the office of the Administrative Officer. Each application shall be accompanied by a plan which shall:

(a) Indicate the proposed site by identifying the property by ownership, location and use;

(b) Show the location of the sign on the lot in relation to property lines and building, zoning district boundaries, right-of-way lines and existing signs; and

(c) Show size, character, complete structural specification and methods of anchoring and support.

(2) If conditions warrant, the Administrative Officer may request additional information as will enable him or her to determine if the sign is to be erected in conformance with this chapter,

(D) *Structural requirements.* Structural requirements for signs shall be those requirements found in the North Carolina State Building Code.

(E) *Sign area computation.* Sign area shall be computed by the smallest square, triangle, rectangle, circle or combination thereof which will encompass the entire sign, including lattice work, wall work, frame or supports incidental to its decoration. In computing the area, only one side of a double-face sign structure shall be considered.

(F) *Fees.*

(1) No permit shall be issued until the exact dimensions and area of the sign have been filed with the Administrative Officer and the fees posted in the Town Clerk's office paid accordingly.

(2) Exempt from this fee requirement shall be those signs specified in § 152.141 below.

(G) *Maintenance.* All signs, together with all their supports and braces, shall be kept in a state of good repair and in a neat and clean condition. No sign shall be continued which becomes, in the opinion of the Administrative Officer, structurally unsafe and endangers the safety of the public or property. The Administrative Officer may order the removal of any sign that is not maintained in accordance with the provisions of this section. This removal shall be at the expense of the owner or lessee and shall occur within 10 days after written notification thereof by the Administrative Officer. If the order is not complied with in 30 days, the Administrative Officer shall remove the sign at the expense of the owner or lessee thereof.

(H) *Location restrictions.*

(1) No sign shall be permitted on any public right-of-way except as specifically authorized herein.

(2) No sign shall be attached to or painted on any telephone pole, telegraph pole, power pole, or other man-made object not intended to support a sign, nor on any tree, rock or other natural object except as specifically authorized herein.

(3) Signs shall not obstruct any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building, structure or lot.

(I) *Setback and height requirements.*

(1) Except as otherwise provided herein, signs are required to observe the same yard setback and height regulations as other principal structures or buildings.

(2) If the lot on which a ground sign is to be located is zoned other than residential, but is immediately adjacent to a lot zoned residential, then a distance of at least 50 feet shall intervene between the closest part of the sign and the adjacent lot line of the property in the residential district; provided further, that all outdoor advertising signs shall conform to § 152.144.

(J) *Nonconforming signs.*

(1) No nonconforming sign erected before the adoption of this chapter shall be moved or replaced, without complying with the provisions of this chapter. All signs existing on the effective date of this chapter which do not conform to the requirements set forth herein shall be removed or brought into compliance within 36 months from the effective date hereof; however, a nonconforming business or industry shall, after the 3-year period, be allowed 1 sign not exceeding 12 square

feet on a side or a total of 20 square feet, which sign shall be affixed to the building and have only non-flashing illumination.

(2) Any nonconforming sign in a nonresidential district which is nonconforming only with respect to the sign area requirements shall have 5 years to conform to the provisions of this chapter. (Ord. passed 2-12-1991, § 9.1)

**§ 152.141 SIGNS NOT REQUIRING A PERMIT FROM THE ADMINISTRATIVE OFFICER.**

(A) The signs listed below shall not require a permit from the Administrative Officer. However, all signs using electrical wiring and connection shall require an electrical permit.

(1) *Directional and information signs.* Erected and maintained by public agencies and governmental bodies;

(2) Quasi-public signs. Not to exceed 4 square feet in area, these signs shall only be used for the purpose of stating or calling attention to:

- (a) The name or location of the city, hospital, community center, school, church, synagogue or other place of worship;
- (b) The name of a place of meeting or an official or civic body such as the Chamber of Commerce, service club or fraternal organization;
- (c) An event of public interest such as public hearing, rezoning, announcement, general election, church or public meeting; local or county fair; and other similar community activities and campaigns;
- (d) Soil conservation, 4-H and similar projects; and
- (e) Zoning and subdivision jurisdiction boundaries.

(3) *Professional and home occupation signs.*

- (a) One sign per lot, not to exceed 2 square feet, attached to the principal structure.
- (b) One sign per lot, not to exceed 2 square feet, located at least 10 feet from the street line and side property lines. Where side yards are required, no such sign shall be permitted in the required side yards.
- (c) No such signs shall be illuminated in the residential zoning district.

(4) *Temporary subdivision sign.* Subdivision development signs, not over 64 square feet in area, which direct attention to the opening of a new subdivision may be erected on the site of the new subdivision. Only indirect illumination with white light will be permitted. The sign shall be removed when 75% of the subdivision is developed;

(5) *Bulletin board.* One bulletin board for each school or other public building and for each church, synagogue or place of worship, provided that it be located on the same premises and shall not exceed 50 square feet. The bulletin board may be freestanding or attached. In residentially zoned districts, illumination of bulletin boards shall be white, non-flashing lights;

(6) *Temporary signs.*

(a) One temporary real estate sign, not exceeding 4 square feet in area, may be placed on a property that is for sale, lease, rent or barter; however, when the property on which the sign is placed fronts on more than 1 street, 1 sign shall be allowed on each street frontage. Such signs shall not be illuminated.

(b) Temporary advertising signs shall be permitted, providing that the signs shall not exceed 6 square feet in area in residentially zoned districts and shall be spaced no closer than 100 feet apart.

(c) 1. One temporary construction sign may be erected on the site during the period of construction or reconstruction to announce the name of the owner and/or developer, the name of the structure and its use or occupants-to-be, contractor, subcontractor, architect and engineer; however, when the property on which the sign is placed fronts on more than 1 street, 1 sign shall be allowed on each street frontage.

2. The signs shall be removed when the building has been approved for occupancy by the Administrative Officer.

3. Maximum size of construction signs in the residential zone shall be 24 square feet; in all other zones, 72 square feet.

(7) Fence wraps displaying signage when affixed to perimeter fencing at a construction site per G.S. 160D-908.

(8) Political signs during the time period under G.S. 163-227.2 shall be permitted without a permit in the right-of-way of the State highway system per G.S. 136-32.

(B) Setback requirements for signs not requiring a building permit. Signs which do not require a permit from the Administrative Officer shall be set back at least 10 feet from any public right-of-way line or property line and shall be set back at least 25 feet from any road intersection.

(Ord. passed 2-12-1991, § 9.2)

#### **§ 152.142 PERMANENT SIGNS FOR SUBDIVISION.**

(A) *Permanent sign permitted.* One permanent subdivision sign per major entrance is permitted.

- (1) Total area per entrance is 64 square feet;
- (2) Signs shall be placed on private property no closer than 10 feet to any property line;
- (3) Illumination is restricted to white indirect lighting; and
- (4) Content of sign is limited to the name of the subdivision.

(B) *Exception.* If a subdivision name sign is incorporated into gateposts, brick walls, or similar structures making the entrance, the name may appear on both sides of the entrance as a substitute for other subdivision identification signs.

(Ord. passed 2-12-1991, § 9.3)

#### **§ 152.143 BUSINESS AND INDUSTRIAL SIGNS.**

Signs for business and industrial use shall be permitted on the premises in zoning districts in which the principal use is permitted subject to the following limitations:

- (A) They shall not project more than 1 foot from any building wall or canopy;
- (B) If suspended from a canopy, the sign must be at least 8 feet above the sidewalk level;
- (C) Nonilluminated signs shall have a total surface area in square feet per establishment no greater than 2 times the street frontage of the lot, in feet, but in no case shall the total for all signs be greater than 100 square feet;
- (D) Illuminated signs shall have a total sign surface area in square feet per establishment no greater than 2 times the street frontage of the lot, in feet, but in no case shall the total for signs be greater than 50 square feet. Display lighting shall be shielded so as to prevent a direct view of the light source from a residence in a residential district. No intermittent lighting effect may be utilized;

(E) Freestanding signs shall be located not less than 12 feet from the street lot line or behind the setback line, whichever is greater. No freestanding sign shall be located in a required side yard or within 10 feet of the side property line. If a freestanding sign is utilized, the total allowable sign area may be increased by 25%;

(F) One free standing shopping center (as defined in this ordinance) identification sign is permitted per shopping center. The maximum area per sign is 200 square feet for centers having up to 15 businesses and 300 square feet for centers having more than 15 businesses; and

(G) One manufactured home park sign is permitted per major entrance to a manufactured home park. Area of each sign shall not be more than ½ square foot per manufactured home space, but not to exceed 50 square feet. Setback shall be at least 10 feet from the front property line; illumination is restricted to indirect white lighting. (Ord. passed 2-12-1991, § 9.4)

#### **§ 152.144 OUTDOOR ADVERTISING SIGNS.**

Outdoor advertising signs are allowed as a special use in the Industrial Zoning District subject to the provisions of this chapter and the following requirements:

- (A) They meet all requirements of the Industrial Zoning District applying to the principal structures with regard to yards, setbacks and height requirements;
- (B) The signs shall not be located within 100 feet of any residential zoning district;
- (C) No 2 outdoor advertising signs shall be spaced less than 300 feet apart; and
- (D) Maximum area of any outdoor advertising sign is 672 square feet. (Ord. passed 2-12-1991, § 9.5)

## *SPECIAL USES*

### **§ 152.160 PURPOSE.**

The development and execution of this chapter is based on the division of the town into zoning districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are some land uses which are basically in keeping with the intent and purposes of the district where special, but which may have an impact on the area around them which can only be determined by review of the specific proposal. These uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects. In order to ensure that these uses, in their proposed locations, would be compatible with surrounding development and in keeping with the purposes of the district in which they are located, their establishment shall not be as a matter of right, but only after review and approval of a special use permit preceded by an evidentiary public hearing.

(Ord. passed 2-12-1991, § 10.1)

### **§ 152.161 APPLICATION.**

(A) Applications for special use permits, signed by the applicant, shall be addressed to the Town Board. A fee as posted in the Town Clerk's office shall be paid to the town for each application to cover the costs of advertising and administrative costs. Each application shall contain or be accompanied by such legal descriptions, maps, plans and other information so as to completely describe the proposed use and existing conditions.

(B) The applicant shall provide to the Administrative Officer a list of names and addresses of all adjacent property owners. Notice of evidentiary hearings conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The town board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement..

(Ord. passed 2-12-1991, § 10.2)

**§ 152.162 PUBLIC HEARING.**

(A) The Town Board, through the Administrative Officer, shall schedule an evidentiary public hearing on the application for a special use permit to be held within 60 days after the application is filed. Public notice of the hearing shall be In accordance with Section 152.161(B). (Ord passed 2-12-1991,§ 10.3)

(B) *Conflicts of Interest.* A member of the town board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

**§ 152.163 ACTION BY TOWN BOARD.**

(A) The Town Board shall review the application and conduct the evidentiary public hearing in accordance with G.S. 160D-406.

(B) The Town Board shall approve, modify or deny the application for special use permit following the evidentiary public hearing. In granting a special use permit, the Town Board shall make written findings that the applicable regulations of the district in which it is located are fulfilled. With due regard to the nature and scale of all adjacent structures and uses, the district with which same is located, and official plans for future development, the Town Board shall also make written findings that the following provisions are fulfilled:

- (1) The use requested is listed among the special uses in the district for which application is made; or is similar in character to those listed in that district;
- (2) The requested use is essential or desirable to the public convenience or welfare;
- (3) The requested use will not impair the integrity or character of the surrounding or adjoining zoning districts, nor be detrimental to the health, morals or welfare;
- (4) The requested use will be in conformity with officially adopted town plans and policies;
- (5) Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided;
- (6) That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and

(7) That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

(C) After action by the Town Board, written notice of the action of the Town Board shall be made in writing and delivered in a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. (Ord. passed 2-12-1991, § 10.4)

#### **§ 152.164 CONDITIONS AND GUARANTEES.**

(A) Per G.S. 160D-705, prior to the granting of any special use, the Town Board may stipulate such conditions and restrictions as agreed upon by the applicant. Reasonable and appropriate conditions and safeguards may be imposed upon the special use permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the town, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

(Ord. passed 12-12-1991, § 10.5)

#### **§ 152.165 GENERAL PROVISIONS IN GRANTING SPECIAL USE PERMITS.**

(A) *Compliance with other codes.* Granting of a special use permit does not exempt applicant from complying with all of the requirements of building codes and other ordinances.

(B) *Revocation.* In any case where the conditions of a special use permit have not been or are not being complied with, the Administrative Officer shall give the permittee notice of intention to revoke the permit at least 10 days prior to a Town Board review thereof. After conclusion of the review, the Town Board may revoke the permit.

(C) *Expiration.*

(1) In any case where a special use permit has not been exercised within 2 years then upon written notice to the applicant by the Administrative Officer 60 days prior to the expiration, the permit shall be null and void.

(2) **EXERCISED** as set forth in this section shall mean that binding contracts for the construction of the main building have been let; or in the absence of

contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development or completed (sewerage, drainage, and the like). When construction is not a part of the use, **EXERCISED** shall mean that the use is in operation in compliance with the condition set forth in the permit.

(D) *Duration of special use.* Any conditions imposed in a special use authorized and exercised shall be perpetually binding upon the property unless expressly limited by the special use permit or subsequently changed or amended by the Town Board after an evidentiary public hearing.

(Ord. passed 2-12-1991, § 10.6)

**BOARD OF ZONING ADJUSTMENT**

**§ 152.175 CREATION.**

- (A) *Quantity.* The Board of Zoning Adjustment of the town shall consist of 7 members.
  
- (B) *Appointment of members.*
  - (1) Five members shall reside within the town limits and shall be appointed by the Town Board for 3-year terms. In addition, 2 members who shall reside within the town's extraterritorial jurisdiction shall be appointed by the Sampson County Board of Commissioners to serve 3-year terms.
  
  - (2) Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment.
  
- (C) *Conflicts of Interest.* A member of the board of zoning adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
  
- (D) Per G.S. 160D-309, all members appointed to the board of zoning adjustment under this section shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61.  
(Ord. passed 2-12-1991, § 11.1)

**§ 152.176 PROCEEDINGS.**

- (A) The Mayor shall appoint a chairperson and vice-chairperson from the members of the Board of Zoning Adjustment who shall serve for 1 year, at the end of which period they shall be reappointed or serve until their successors are appointed. The Board of Adjustment shall designate 1 of its members as secretary.
  
- (B) The Board of Adjustment shall adopt rules and bylaws to conduct its affairs and shall establish regular meeting dates. All meetings of the Board shall be open to the public, and a public record of all findings and decisions shall be maintained. The concurring vote of 4/5 of the members of the Board shall be necessary to grant a variance. A majority of the members shall be required to reverse any decision of the Administrative Officer or his or her representative [Administrative Appeal], or to decide in favor of the applicant on any matter upon which it is required to consider under any ordinance.  
(Ord. passed 2-12-1991, § 11.2)

**§ 152.177 APPEALS; HEARING; NOTICE.**

(A) *Filing procedure.* Appeals from the enforcement and interpretation of this chapter and requests for other Board of Zoning Adjustment action authorized in this chapter shall be filed with the Administrative Officer or his or her representative specifying the grounds thereof. The Administrative Officer shall transmit to the Board of Zoning Adjustment all applications and records pertaining to such appeals and requests for consideration at an evidentiary hearing.

(B) *Hearing the appeal.* The Board of Adjustment shall schedule a reasonable time for the evidentiary hearing of the appeal. Notice of an evidentiary hearing conducted pursuant to this Chapter shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board of zoning adjustment may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement..

(C) *Stay of proceedings by appeal.* An appeal stays all proceedings in furtherance of the action appealed from unless the Administrative Officer certifies to the Board of Zoning Adjustment that by reason of facts stated in the record, a stay would, in his or her opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by an order from the Sampson County Superior Court per G.S. 160D-406(h).

(Ord. passed 2-12-1991, § 11.3)

**§ 152.178 FEE.**

A fee as posted in the Town Clerk's office shall be paid to the town for each application for a variance or appeal to cover the necessary administrative costs and advertising. (Ord. passed 2-12-1991, § 11.4)

**§ 152.179 POWERS AND DUTIES.**

(A) The Board of Zoning Adjustment shall have the following powers and duties:

(1) *Administrative Appeal review.* To hear and decide administrative appeals where it is alleged there is error in any order, requirement, decision or determination made by the Administrative Officer in the enforcement of this chapter .

(2) *Variances.* Per G.S. 160D-705(d), this section is designed to authorize upon appeal in specific cases such variances from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the-terms of this chapter shall not be granted by the Board of Adjustment unless and until:

- (a) A written application for a variance is submitted demonstrating:
  - 1. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - 2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
  - 3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.;; and
  - 4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.
- (b) Notice of public hearing shall be given as in § 152.177 above .
- (c) The evidentiary public hearing shall be held in accordance with the quasi-judicial procedures of G.S. 160D-406. Any party may appear in person or by agent or by attorney.

(d) 1. In granting any variance the Board of Zoning Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter.

2. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter and punishable under §§ 152.031 and 152.999 of this chapter.

(e) Under no circumstances shall the Board of Zoning Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in the zoning district.

(B) In exercising the above-mentioned powers, the Board of Zoning Adjustment may, so long as action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly or may modify the order, requirement, decision or determination as ought to be made and to that end shall have powers of the Administrative Official from whom the appeal is taken.

(Ord. passed 2-12-1991, § 11.5)

#### **§ 152.180 APPEAL FROM THE BOARD OF ZONING ADJUSTMENT.**

Appeal from the decision of the Board of Adjustment may be taken to the Sampson County Superior Court within a period of 30 days following the decision.

(Ord. passed 2-12-1991, § 11.6)

## **ZONING TEXT AND MAP AMENDMENTS**

### **§ 152.190 ACTION BY APPLICANT.**

(A) The Town Board may change the zoning text regulations [text amendment] and official zoning map district lines [map amendment] according to the following procedures.

(B) The following actions shall be taken by the applicant:

(1) *Initiation of Amendments.* Proposed changes or amendments may be initiated by the Board of Commissioners, Planning Board, Board of Adjustment, or by the owner(s) or their agent, or property within the area proposed to be changed.

(2) *Application.* Application for any change or amendment shall be filed with the Administrative Official at least 25 days prior to the Planning Board meeting at which the application is to be considered. The application shall contain a description of the proposed amendment and the names and addresses of property owners directly affected by the proposed change.

(3) *Fee.* The Town Board shall set a fee payable to the Town of Garland, North Carolina, to cover the necessary administrative costs and advertising of each application for a change or amendment. The set fee shall be posted in the Town Clerk's office.

(4) *Notice of legislative public hearing.*

(a) *Newspaper Notice.* Per G.S. 160D-601(a), before action on the amendment, the Town Board shall hold a legislative public hearing. A notice of the hearing shall be given once a week for two consecutive calendar weeks in a newspaper have general circulation in the area. The notice shall be published the first time not more than 25 nor less than ten days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

(b) *Mail Notice.* When zoning regulations are changed or property is rezoned (zoning map amendment), the owner of that parcel affected by such rezoning parcels of land as shown on the county tax listing and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public the hearing on a proposed zoning map amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are “abutting” even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at

least 10 but not more than 25 days prior to the date of the public hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-602, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

(c) *Posting property.* The property shall also be posted at least ten days but not more than 25 days before the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons.

(Ord. passed 2-12-1991, § 12.1)

#### **§ 152.191 RECOMMENDATION BY THE PLANNING BOARD.**

(A) The Planning Board shall consider and make recommendations to the Town Board concerning each proposed zoning text or map amendment.

(B) Per G.S. 160D-604(d), the following policy guidelines shall be followed by the Planning Board concerning zoning text or map amendments. When conducting a review of a proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the Town Board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the town board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

#### **§ 152.193 ACTION BY THE BOARD OF COMMISSIONERS.**

(A) *Notice and public hearing.* No amendment shall be adopted by the Town Board until after public notice of the legislative hearing is provided as listed in Section § 152.190(B)(4).

(B) *Board of Commissioners action.* Before making a legislative decision as it may deem advisable, the Town Board shall consider the Planning Board 's recommendation on each proposed zoning text or map amendment. If no recommendation is received from the Planning Board within 30 days after public hearing by the Town Board, the proposed

amendment shall be deemed to have been a recommendation of approval by the Planning Board.

(C) *Plan Consistency.* Per G.S. 160D-605, when adopting or rejecting any zoning text or map amendment, the town board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the town board that at the time of action on the amendment the town board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the town board shall provide a statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(D) *Additional Reasonableness Statement for Rezoning.* When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the town board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the town board statement on reasonableness may address the overall rezoning.

(C) *Citizen Comment.* If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to this ordinance to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Town Board. Any resident or property owner who submits a written statement of citizen concern may withdraw their written statement any time prior to the meeting at which the item will be considered.

(D) *Reconsideration; 1-year limitation.* Whenever an application requesting an amendment has been acted on and denied by the Town Board, the application, or one substantially similar, shall not be reconsidered sooner than 1 year after the previous denial.

(Ord. passed 2-12-1991, § 12.3)

**§ 152.999 PENALTY.**

Any person, firm, or corporation who violates the provisions of this chapter shall upon conviction be guilty of a misdemeanor and shall be fined not exceeding \$50 and/or imprisoned not exceeding 30 days. Each day of violation shall be considered a separate offense.

(Ord. passed 2-12-1991, § 3.2)