

Unified Development Ordinance

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Title XV: UNIFIED DEVELOPMENT ORDINANCE

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Chapter 1: Purpose and Applicability

1.1 - Title

This ordinance shall be known and may be cited as the Town of Cape Carteret Unified Development Ordinance (UDO), and contains all land development regulations including zoning, subdivisions, waterways, signage and flood damage prevention. This ordinance may be referred to as “the Unified Development Ordinance” or “the UDO” and is referenced throughout as “this UDO” or “this Ordinance.”

1.2 - Authority

This ordinance is adopted pursuant to the authority contained in [North Carolina General Statutes § 153A-121](#) which states that a municipality may, by ordinance, define, prohibit, regulate, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the city, and may define and abate nuisances.

Zoning provisions enacted herein are under the authority granted to the Town by the General Assembly of the State of North Carolina, which extends to localities the authority to enact regulations which promote the health, safety, and general welfare of the community.

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

This UDO, which combines zoning and subdivision authority, is further enacted under the authority of [G.S. § 160D-103](#).

1.3 - Reference to NC General Statutes

Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.4 - General Purpose and Intent

This Unified Development Ordinance is created to protect the health, safety and general welfare of the residents of Cape Carteret; to protect the natural environment in the vicinity of the Town; and to create a single source of regulations concerning development in the Town.

The regulations are made with reasonable consideration as to the character of the Town, its suitability for particular uses, and with a desire to conserve the value of buildings and quality of life while encouraging the most appropriate use of land throughout the Town. This UDO is the primary instrument for the implementation of the Town's Comprehensive Plan.

The existing land development regulations of the Town relating to use of land, waterways, structures and buildings, zoning, flood damage prevention, stormwater management, and general development standards, are replaced by this UDO, effective September 13, 2021. The adoption of this UDO shall not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous land development ordinances of the Town which occurred prior to the adoption of this UDO.

1.5 - Applicability and Jurisdiction

The provisions of this ordinance shall apply to the development of land within the planning jurisdiction of the Town of Cape Carteret, comprised of all the land within the Town's corporate limits and its extraterritorial jurisdiction (ETJ), unless the development is expressly exempted by a specific section or subsection of this ordinance.

1.6 - Extraterritorial Jurisdiction

Pursuant to [G.S. 160D-202](#), the Town may exercise jurisdiction over defined geographical areas extending not more than one mile beyond its contiguous corporate limits. These areas shall be known as Extraterritorial Jurisdictions (ETJs). The Town will not exercise any power in the ETJs that it is not exercising within its corporate limits. The Town shall provide proportional representation, based on updated decennial census population estimates, by appointing at least one resident of the entire extraterritorial planning area to the Planning Board and Board of Adjustment. ([G.S. 160D-307](#)) For extension of extraterritorial jurisdiction (ETJ), the Town will provide mailed notice to all owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction, as shown on the County tax records. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the county tax records. The notice shall inform the

landowner of the effect of the extension of extraterritorial jurisdiction, of the landowners' right to participate in a legislative hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction, as provided in [G.S. 160D-303](#). The notice shall be mailed at least 30 days prior to the date of the hearing. The person or persons mailing the notices shall certify to the Board of Commissioners that the notices were sent by first-class mail, and the certificate shall be deemed conclusive in the absence of fraud. ([G.S. 160D-202\(d\)](#))

1.7 - No Development until Compliance with this Ordinance.

No land shall be developed without full compliance with the provisions of this ordinance and all other applicable Town, County, State and Federal regulations.

1.8 - Severability

It is hereby declared to be the intention of the Board of Commissioners that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentence, clauses, or phrases of this ordinance since the same would have been enacted without the incorporation into this ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

1.9 - Effective Date

This UDO was adopted on September 13, 2021 and became effective on at the time of adoption.

Chapter 2: General Regulations

2.1 - Private Property Rights.

Neither this Ordinance, nor any material included herein by reference nor material used for the administration of this Ordinance, are intended to, nor do they take any property, property right, nor property use, nor convert any of these to public use except by due process of law.

2.2 - Conflicts with other regulations

If any provisions of this UDO are inconsistent with similar provisions of State or Federal law, the more restrictive provision shall control, to the extent permitted by law. Conflicts and duplications among portions of this UDO shall be resolved in favor of the more stringent regulation.

2.3 - Conflicts with Prior Ordinances

(A) If the circumstances that constituted the violation under the previous ordinance do not constitute a violation under this Ordinance, then no further punitive or corrective action shall be taken with respect to the previous violation.

(B) If the situation that constituted the violation under the previous ordinance continues to constitute a violation under this Ordinance, then appropriate corrective or punitive action may be taken under this Ordinance.

(C) If a non-conforming situation or condition was created under the previous ordinance and it failed to be corrected, and if it is still not permissible under this Ordinance, then passage of this Ordinance shall not prevent enforcement to terminate the non-conforming situation, even if termination would not be required under this Ordinance.

2.4 - Interpretation and conflict

In interpreting and applying the provisions of this ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare. It is not intended by this ordinance to interfere with, abrogate, or annul any easements or covenants between parties; provided, however, that where this ordinance imposes a greater restriction upon land development, the use of land or 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 ordinance shall govern.

2.5 - Computation of Time

(A) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

(B) Unless otherwise specifically provided, whenever a person has the right or is required to do some act within a prescribed period after the

service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

2.6 - Relationship to Existing Zoning and Subdivision Ordinances

(A) To the extent that the provisions of this ordinance are the same in substance as the previously adopted provisions that they replace in the Town's zoning and subdivision ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this ordinance merely by the repeal of the previous ordinance(s).

(B) Any violation of the previous zoning ordinance or subdivision regulations shall continue to be a violation under this ordinance and any other applicable ordinances, laws, or statutes. Violations of this ordinance shall be subject to the penalties set forth herein, and any other applicable ordinances, laws, or statutes, unless the use, development, construction, or other activity complies with the express terms of this ordinance.

2.7 - Relationship to Comprehensive Plan

It is the intention of the Board of Commissioners that this ordinance implement the planning policies adopted by the Board for the Town and its extraterritorial planning area. That statement notwithstanding, neither this ordinance or any amendment thereto may be challenged on the basis of nonconformity with any adopted planning document.

2.8 - Relationship to Carteret County

All building, plumbing, electrical, wastewater and environmental inspection and permitting is performed by Carteret County in accordance with state law.

Chapter 3: Zoning Map

The boundaries of the zoning districts are hereby established as shown on a map entitled Official Zoning Map of the Town of Cape Carteret, North Carolina, adopted by the Board of Commissioners. The map and all explanatory matter thereon accompanies and is hereby made part of this chapter. The past and current maps shall be retained in the office of the Town Clerk and made available for public inspection (G.S. 160D-105). (1997 Code, § 44-32. 2016 Code § 156.016)

3.1 - Incorporation by Reference

The Official Zoning Map, and all the notations thereon, is incorporated herein by reference and made part of this Ordinance. When any state or federal agency maps are incorporated by reference into this ordinance, the reference will be to the most recent officially adopted version of that map which the Town will maintain in paper or digital format and make available for public inspection ([G.S. 160D-105](#)).

3.2 - Copies

Copies of the zoning district map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the local government 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. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d), [160D-105](#))

3.3 - Interpretation of District Boundaries

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

(A) Where district boundaries are indicated as approximately following the centerline of streets or highways, or natural waterways or the shoreline, the centerlines or shorelines shall be construed to be the boundaries.

(B) Where district boundaries are indicated as approximately following lot lines, those lot lines shall be construed to be the boundaries. (1997 Code, § 44-33. 2016 Code § 156.017)

3.4 - Interpretation of District Regulations

Regulations set forth by this chapter shall be minimum regulations. If the district requirements set forth in this section are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher standard shall govern. (1997 Code, § 44-34. 2016 Code § 156.018)

3.5 - Zoning Map Interpretation

Where uncertainty exists with respect to the boundaries of any district shown on the zoning map, the following rules shall apply:

(A) *Use of property lines.* Where district boundaries are indicated as approximately following street lines, alley lines, and lot lines, such lines shall be construed to be such boundaries. Where streets, highways, railroads,

water courses, and other linear features are indicated as the district boundary, the actual district boundary line shall be the centerline of such area.

(B) *Use of the scale.* In unsubdivided property or where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shall be determined by use of the scale appearing on the map.

(C) *Vacated or abandoned streets.* Where any street or alley is hereafter officially vacated or abandoned, the zoning regulations applicable to each parcel of abutting property shall apply to the centerline of such abandoned street or alley.

(D) *Split zoned parcels.* If a district boundary divides a parcel, the requirement for the district in which the greater portion of the parcel lies shall be extended to the remainder of the parcel, provided that such extension shall not include any part of such parcel which lies more than one hundred and fifty (150) feet beyond the existing 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.

(E) *Flood hazard boundaries.* Interpretations of the location of floodway and floodplain boundary lines shall be made by the UDO administrator.

(F) *Board of adjustment.* In case any further uncertainty exists, the board of adjustment shall interpret the intent of the map as to location of such boundaries.

3.6 - Changes to Zoning Map

Changes to the zoning map may be initiated by a) the Board of Commissioners, b) the Planning Board, or c) the property owner or authorized representative.

Chapter 4: Violation and Enforcement

4.1 - Notices of Violations

When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Ordinance, [G.S. Chapter 160D](#) or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation will 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 local government 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](#).

4.2 - Stop Work Orders

Whenever any work or activity subject to regulation pursuant to this Ordinance or [G.S. Chapter 160D](#) or other applicable local development regulation or any State law delegated to the local government 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 will 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 local government 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.

4.3 - Remedies

(A) Subject to the provisions of this UDO, any development regulation adopted pursuant to authority conferred by this Ordinance or [G.S. Chapter 160D](#) may be enforced by any remedy provided by [G.S. 160A-175](#) or [G.S. 153A-123](#). If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used or developed in violation of this UDO or of any

development regulation or other regulation made under authority of General Statutes, the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development; to restrain, correct or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises.

(B) When a development regulation adopted pursuant to authority conferred by General Statutes is applied or enforced in any area outside the planning and development regulation jurisdiction of the Town as set forth in G.S. 160D-202 the Town and the property owner shall certify that the application or enforcement of the city development regulation is not under coercion or otherwise based on representation by the city that the city's development approval would be withheld without the application or enforcement of the city development regulation outside the jurisdiction of the city. The certification may be evidenced by a signed statement of the parties on any development approval.

4.4 - Appeals and Penalties

4.4.1 - Appeals of Administrative Decisions

Except as provided in G.S. 160D-1403.1, appeals of administrative decisions made by the UDO Administrator or staff shall be made to the Zoning Board of Adjustment in accordance with Section 7.3.5 of this UDO.

4.4.2 - Penalty

(A) Any violation of any provision of this Ordinance shall subject the violator to a civil penalty in the amount set forth in the Fee Schedule adopted by the Board of Commissioners and posted on the Town website. A citation for the civil penalty shall be issued by the Police Department or the Town UDO Administrator. Each citation for a civil penalty must be paid within 72 hours of issuance.

(B) Every day that the violator continues in violation shall be a separate and distinct offense.

(C) Enforcement of the provisions of this Ordinance will be conducted by the UDO Administrator or their designee. (1997 Code, § 36-8) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2012-03-01, passed 3-19-2012) (2016 Code § 156.99)

4.5 - Transitional Provisions

4.5.1 - Violations Continue

Any violation of the previous zoning regulations, subdivision regulations, or any other land use regulation shall continue to be a violation under this Ordinance and any other applicable ordinances, laws, or statutes. Violations of this Ordinance shall be subject to the penalties set forth in Section 4.5 of this UDO, and any other applicable ordinances, laws, or statutes, unless the development complies with the express terms of this Ordinance or the other ordinances, laws, or statutes.

4.5.2 - Complete Applications Not Yet Approved

Any development application submitted and accepted as complete before the effective date of this UDO, but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted. No application shall be considered complete unless and until the entire application fee has been paid in accordance with the current fee schedule. To the extent such an application is approved and proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Section 4.6.4 of this UDO.

Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time the application is accepted as complete. If a development is approved but does not commence and continue within the required time frames, it shall expire, and future development of the property shall be subject to the requirements of this Ordinance.

An applicant with a pending complete application accepted before the effective date may opt to have the proposed development reviewed and decided under the standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance.

4.5.3 - Approved Applications Still Apply

Any development approval granted before the effective date of this Ordinance shall remain valid until their expiration date. Developments with valid approvals or permits may be carried out in accordance with the terms and conditions of approval and the development standards in effect at the time of approval, provided the permit or approval is valid and has not expired. If

the prior approval expires or is revoked (e.g., for failure to comply with the terms and conditions of approval), any subsequent development application for the site shall be subject to the procedures and standards of this Ordinance. To the extent a prior-approved application proposes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Section 4.6.4 of this UDO.

4.5.4 - 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. ([G.S. § 160D-108\(b\)](#))

4.5.5 - Nonconforming Uses

(A) Any building, structure or use of land legally existing at the time of the enactment of this Unified Development Ordinance, or any amendment thereto, may be continued subject to the following provisions.

(B) The uses shall not be:

- (1) Changed to another nonconforming use.
- (2) Enlarged or extended except in conformity with this UDO.
- (3) Reestablished after the discontinuance of the use for a period of 180 days or more unless the discontinuance is caused by damage, if the reconstruction is commenced within a reasonable time after the damage, and proceeds at a reasonable commercial rate to completion.

(1997 Code, § 44-43) (Ord. 2014-08-06, passed 8-18-2014) (2016 Code § 156.027)

Chapter 5: Administration and Procedures

5.1 - Summary Procedures Table

Type of Application	Step 1:	Step 2:	Public Hearing:	Final Approval:
Single Family Dwelling	Zoning Permit, Site Plan Review by UDO Administrator	Building Inspection, Cert. of Occupancy by Carteret County	N/A	UDO Administrator
Other By-Right Use	Zoning Permit, Site Plan Review by UDO Administrator	Building Inspection, Cert. of Occupancy by Carteret County	N/A	UDO Administrator
Special Use Permit Use	Meet with UDO Administrator	UDO Administrator and Planning Board Recommendation to Board of Commissioners	Board of Commissioners Meeting	Board of Commissioners

5.2 - Legislative and Quasi-judicial Decisions

Land use and zoning decisions are made by either Town staff, the Planning Board, the Board of Commissioners, the Board of Adjustment, or a combination as specified in this ordinance. Per [North Carolina General Statutes 160D-406](#), boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, certificates of appropriateness, variances, or any other quasi-judicial decision. ([160D-406](#))

5.3 - Notices in Writing

All notices of development decisions will be provided to the applicant and the owner of the property, if different from the applicant, in writing. Notice may be in paper or electronic format, provided that any electronic format is protected from further editing. Notice may be delivered by personal delivery, electronic mail, or by first-class mail. The notice shall be delivered to the last address listed for the owner of the affected property on the County tax abstract and to the address provided in the application or request for determination if the party seeking the determination is different than the owner. ([G.S. § 160D-403\(b\)](#))

5.4 - Fees

Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, subdivision plat approval, zoning amendments, variances, appeals and any other applicable land development permit. Fees will be used for these purposes and no other ([G.S. § 160D-402\(d\)](#)).

The amount of the fees charged shall be as set forth in the Town's budget or as established by resolution of the Board of Commissioners filed in the office of the Town clerk. Fees established by the Board of Commissioners shall be posted on the Town's website.

All fees shall be paid upon submission of a signed application and no application shall be considered complete without submission of the applicable fee.

Chapter 6: Administrative Decisions

6.1 - Staff

6.1.1 - Consolidation of Offices

In accordance with Section 32.02 of the Cape Carteret Code of Ordinances, the Board of Commissioners may in its discretion consolidate any two or more offices herein described and assign the duties of both offices to one or more persons. (1997 Code, Sec 2-92)

6.2 - Town Manager

The Town Manager or their designee shall act as the UDO Administrator, Code Enforcement Officer, Floodplain Administrator, and Stormwater Administrator.

6.3 - UDO Administrator

The Town Manager or their designee shall act as the UDO Administrator.

(A) The UDO Administrator's role will be conducted by the Town Manager or their designee, is hereby authorized and it shall be their duty to enforce the provisions of this Ordinance. This official shall have the right to enter upon the premises at any reasonable time necessary to carry out their duties. It is the intention of this Ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the

UDO Administrator and/or designated agent. Appeal of their decision may be made to the Board of Adjustment.

(B) In administering the provisions of this Ordinance, the UDO Administrator and/or designated agent shall:

- (1) Make and maintain records of all applications for permits, special uses, and requests listed herein, and records of all permits issued or denied, with notations of all special conditions or modifications involved.
- (2) File and safely keep copies of all plans submitted, and the same shall form a part of the records of their office and shall be available for inspection at reasonable times by any interested party.
- (3) Transmit to the Planning Board, Board of Commissioners, and/or the Board of Adjustment all applications and plans for which their review and approval is required.
- (4) Conduct inspections of premises and, upon finding that any of the provisions of this Ordinance are being violated, notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The UDO Administrator shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to ensure compliance with or to prevent violation of its provisions.

(C) In addition, the UDO Administrator shall have the following duties:

- (1) Prepare reports and recommendations for the Planning Board, Board of Adjustment, or Board of Commissioners as may be required
- (2) Provide administrative interpretations of the UDO.
- (3) Provide nonconformity determinations, including expansions of nonconforming uses and structures.
- (4) Review and approve zoning compliance permits.
- (5) Chair Boards and committees, as assigned by the Board of Commissioners.
- (6) Coordinate with Carteret County's Building Inspectors regarding issuance of certificates of occupancy.

- (7) Conduct concept meetings with applicants for development approval as necessary or appropriate.
- (8) Maintain the official zoning map and the public records of the Planning and Inspections Department, Planning Board, and Board of Adjustment.
- (9) Perform site inspections.
- (10) Perform preliminary site plan review for major development and make recommendations and reports to the Planning Board and Board of Commissioners.
- (11) Perform minor site plan reviews and approvals.
- (12) Perform preliminary subdivision review and make recommendations and reports to the Planning Board and Board of Commissioners.

6.4 - Enforcement Officer

(A) The UDO Enforcement Officer is hereby authorized, and it shall be his or her duty to enforce and administer the provisions of this chapter.

(B) The Town Manager shall from time to time appoint 1 or more UDO Enforcement Officers to enforce and administer the provisions of this chapter relating to zoning and land use regulation. Additionally, the UDO Administrator or their designee is authorized to enforce and administer the provisions of this chapter.

(C) The Town Manager may designate certain authority to members of the Cape Carteret Police Department to enforce the provisions of this ordinance. (1997 Code, § 44-186) (Am. Ord. 00-12-09, passed 12-18-2000) (2016 Code § 156.115)

6.5 - Town Clerk

The Town Clerk is authorized and tasked with the following duties, in addition to those duties set forth in Section 32.15 of the Cape Carteret Code of Ordinances:

(A) Recording minutes of all meetings of the Board of Commissioners, Planning Board and Board of Adjustment and making or causing to make said notes publicly available.

(B) Changing or causing to be changed the Official Zoning Map and making or causing to make the map publicly available.

(C) Making publicly available the adopted rules of procedure of the Board of Commissioners, Planning Board and Board of Adjustment.

6.6 - Conflict of Interest

No staff member shall make a final decision on an administrative decision required by this UDO if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person, or such other staff person as may be designated by the development regulation or other ordinance. ([G.S. § 160D-109](#))

Chapter 7: Administrative and Decision-making bodies

7.1 - Board of Commissioners

7.1.1 - Powers and Duties as Related to UDO

The powers and duties of the Board of Commissioners in relation to this ordinance shall be as follows:

- (A) Hear and decide amendments to this Ordinance.
- (B) Hear and decide amendments to the Official Zoning Map.
- (C) Appoint members to the Planning Board and Board of Adjustment.
- (D) Designate funds for the administration of this ordinance.
- (E) Hear and decide applications for Special Use Permits.
- (F) Hear and approve subdivision applications.

7.1.2 - Oath of office

All members elected to the Board of Commissioners shall, before entering their duties, qualify by taking an oath of office as required by [G.S. § 153A-26](#) and [G.S. § 160A-61](#). (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).) ([G.S. § 160D -309](#)).

7.1.3 - Conflict of interest

A Board of Commissioners member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Board of Commissioners member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or

the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. ([G.S. § 160D-109](#))

7.1.4 - Rules of Procedure

Rules of procedure that are consistent with the provisions of this G.S. Chapter 160D may be adopted by the governing board for any or all boards created under this Ordinance. In the absence of action by the governing board, each board created under this Ordinance is authorized to adopt its own rules of procedure that are consistent with the provisions of G.S. Chapter 160D. A copy of any adopted rules of procedure shall be maintained by the local government clerk or such other official as designated by ordinance and posted on the local government website. ([G.S. § 160D-308](#))

7.1.5 - Minutes

In accordance with [G.S. §160D-308](#), each board shall keep minutes of its proceedings. Minutes will be kept on file in the town hall and be made publicly available within seven calendar days of adoption.

7.2 - Planning Board

7.2.1 - Establishment

Pursuant to G.S. § 160D-301, there is hereby created a Planning Board of the town, to perform the functions and duties prescribed in this chapter. (1997 Code, § 26-31) (Ord.No.2021-02-01) (2016 Code § 152.15)

7.2.2 - Membership; Vacancies

(A) Beginning in February 2021, the Planning Board shall consist of 6 members. Five members shall be citizens and residents of the town and shall be appointed by the Board of Commissioners, 1 member shall be a citizen of the county who resides outside the town but within the extraterritorial jurisdiction of the town as specified by an extraterritorial boundary ordinance adopted pursuant to [G.S. §160D-202](#) and shall be appointed by the Board of County Commissioners. Of the five (5) members selected by the Town, seats one, two, and three shall serve three-year terms commencing in February 2021 and expiring in February every three years thereafter. Seats four and five shall serve until May 2023 and then thereafter serve three-year terms. The ETJ representative member shall serve a term of three years.

(B) Appointed members shall serve a maximum of two consecutive terms followed by a period of time of at least three years before they may serve on the Planning Board again.

(C) Vacancies occurring for reasons other than expiration of terms shall be filled as they occur for the period of the unexpired term. (1997 Code, § 26-32) (Ord.No.2021-02-01) (2016 Code § 152.16)

7.2.3 - Attendance at Meetings

(A) Faithful attendance at the meetings of the Planning Board is considered a prerequisite for the maintenance of membership on the Planning Board. (1997 Code, § 26-33)

(B) The Board of Commissioners may declare that a vacancy exists in the Planning Board membership when any member, other than the ETJ representative has missed more than 3 meetings (whether regular, special or called meetings) within a 6-month period without having been excused by the Chairperson of the Planning Board. The Board of Commissioners shall appoint a new member to complete the remaining portion of the term wherein the vacancy exists. (Am. Ord. 2005-07-14, passed 7-18-2005) (Ord.No.2021-02-01) (2016 Code § 152.17)

7.2.4 - Organization; Rules; Records

The Planning Board shall elect a Chairperson and create and fill the other offices as it may determine. The term of the Chairperson and other officers shall be 1 year, with eligibility for reelection. The Planning Board shall adopt rules for transaction of its business and shall keep a record of its members' attendance and of its resolutions, discussions, findings and recommendations, which record shall be a public record. When agenda items exist for consideration Planning Board shall hold at least 1 meeting monthly to consider these items, and all of its meetings shall be open to the public. (1997 Code, § 26-34) (2016 Code § 152.18)

7.2.5 - Jurisdiction; Voting

(A) The 1 member appointed to the Planning Board by the Board of County Commissioners as representative of the extraterritorial area outside the town shall have equal rights, privileges and duties with the other members of the Planning Board in all matters pertaining to the regulation of the area, both in preparation of the original regulations and in consideration of any proposed amendments to the regulations.

(B) On all matters pertaining to the regulation of the area within the corporate limits, only those Planning Board members appointed by the Town Board of Commissioners to represent the area within the corporate limits shall vote.

(C) For taking action on any matter pertaining to the extraterritorial zoning area, there shall be present a quorum of 4 members, 1 of whom must be a representative from the extraterritorial zoning area.

(D) For taking action on any matter pertaining to the area within the corporate limits, there shall be present a quorum of 3 of the members appointed to represent the area. (1997 Code, § 26-35) (2016 Code § 152.19)

7.2.6 - Powers and Duties

It shall be the general duty of the Planning Board to:

(A) Acquire and maintain in current form basic information and materials as are necessary to an understanding of past trends, present conditions, and forces at work to cause changes in these conditions;

(B) Prepare and from time to time amend and revise a comprehensive and coordinated plan for the physical development of the area;

(C) Establish principles and policies for guiding action in the development of the area;

(D) Prepare and recommend to the Board of Commissioners ordinances promoting orderly development along the lines indicated in the comprehensive plan;

(E) Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and improvement of the area;

(F) Keep the Board of Commissioners and the general public informed and advised as to these matters; and

(G) Take responsibility for all citizen engagement processes associated with the creation of future plans; and

(H) Perform any other duties which may lawfully be assigned to it. (1997 Code, § 26-36) (2016 Code § 152.19)

7.2.7 - Comprehensive Plans

(A) The comprehensive plans, with the accompanying maps, plats, charts and descriptive matter, shall be and show the Planning Board's recommendations to the Board of Commissioners for the development of the area, including, among other things, the general location, character, and extent of streets, bridges, boulevards, parkways, playgrounds, squares, parks,

aviation fields, and other public ways, grounds and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, or water, power, gas, lights, sanitation, transportation, communication, and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use, or extension of any of the foregoing ways, buildings, grounds, open spaces, properties, utilities or terminals; and the most desirable pattern of land use within the area.

(B) The comprehensive plans and any ordinances or other measures to effectuate the plans shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the town and its environs that will, in accordance with present and future needs, best promote health, safety, morals and the general welfare, as well as efficiency and economy in the process of development, including, among other things, adequate provision for traffic, the promotion of safety from fire and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the promotion of good civic design and arrangement, the wise and efficient expenditure of public funds, and the adequate provision of public utilities, services and other public requirements. (1997 Code, § 26-38) (2016 Code § 152.22)

7.2.8 - Zoning Amendments

(A) The Planning Board shall prepare and submit to the Board of Commissioners for its consideration and possible adoption a zoning ordinance for the control of the height, area, bulk, location, and use of buildings and premises in the area, in accordance with the provisions of G.S. §§ [G.S. § 160D-604\(b\)](#)

(B) The Planning Board may initiate from time to time proposals for amendment of the zoning ordinance and map, based upon its studies and plans. In addition, it shall review and make recommendations to the Board of Commissioners concerning all proposed amendments to the zoning ordinance and map. (1997 Code, § 26-39) (2016 Code § 152.23)

(C) When conducting a review of proposed zoning text or map amendments or Special Use Permit 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 governing 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 governing 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. ([G.S. § 160D-604\(d\)](#))

(D) In accordance with [G.S. § 160D-604\(e\)](#), the Board of Commissioners must not handle the Planning Board duties to review and comment on zoning amendments.

7.2.9 - Subdivision Regulations

(A) The Planning Board shall review, from time to time, the existing regulations for the control of land subdivision in the area and submit to the Board of Commissioners its recommendations, if any, for the revision of those regulations.

(B) The Planning Board shall review and make recommendations to the Board of Commissioners concerning all proposed plats of land subdivision. (1997 Code, § 26-40) (2016 Code § 152.24)

7.2.10 - Conducting Public Hearings

The Planning Board may conduct public hearings as may be required to gather information necessary for the drafting, establishment and maintenance of the comprehensive plans. Before recommending any plans to the Board of Commissioners, the Planning Board shall hold at least one public hearing thereon. (1997 Code, § 26-43) (2016 Code § 152.27)

7.2.11 - Promoting Public Interest

The Planning Board shall have power to promote public interest in and an understanding of its recommendations, and to that end it may publish and distribute copies of its recommendations and may employ other means of publicity and education as it may determine. (1997 Code, § 26-44) (2016 Code § 152.28)

7.2.12 - Conflict of interest

Members of the Planning Board shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. ([G.S. § 160D-109](#))

7.2.13 - Oath of office

All members of the Planning Board shall, before entering their duties, qualify by taking an oath of office as required by [G.S. § 153A-26](#) and [G.S.](#)

[§ 160A-61](#). (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).)
([G.S. § 160D – 309](#))

7.2.14 - Minutes

In accordance with [G.S. § 160D-308](#) the Planning Board shall keep minutes of its proceedings. Minutes will be kept on file in the town hall and be made publicly available within seven calendar days of adoption.

7.3 - Zoning Board of Adjustment

7.3.1 - Establishment

(A) *Generally.* Pursuant to [G.S. § 160D-302](#), there is hereby established a Zoning Board of Adjustment of the town to perform the functions and duties prescribed in this section.

(B) *Membership.*

(1) The Zoning Board of Adjustment shall have 5 regular members. In addition to regular members, the Board of Commissioners shall appoint 2 alternate members. The senior alternate member, while attending any regular or special meeting of the Zoning Board of Adjustment, in the absence of a regular member, shall have and may exercise all the powers and duties of the regular member. If 2 regular members are absent, the second alternate member shall serve in the same fashion as the senior alternate, the senior alternate member being the prior appointee.

(2) Regular members and alternate members shall be residents of the town and shall be appointed to the Zoning Board of Adjustment by the Board of Commissioners. Additionally, the Zoning Board of Adjustment shall have 1 member who resides outside the town, but within the area specified by an extraterritorial boundary ordinance adopted pursuant to [G.S § 160D-202](#), and shall be appointed by the Board of County Commissioners in accordance with [G.S. § 160D-307](#). (Ord. No. 2021-02-02)

(C) *Terms.* Regular members, extraterritorial members and any alternate members, of the Zoning Board of Adjustment shall serve for terms of 3 years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the

Zoning Board of Adjustment. No members of the Planning Board or officials of the town shall be appointed to the Zoning Board of Adjustment.

(D) *Vacancies.* Notwithstanding the provisions of the division (C) above, the Board of Commissioners may declare that a vacancy exists in the Board of Adjustment membership when any individual regular or alternate member has missed more than 3 meetings in a row (whether regular, special or called meetings) without having been excused by the chairman of the Board of Adjustment. The Board of Commissioners shall appoint a new member to complete the unserved portion of the term wherein the vacancy exists. (1997 Code, § 44-151) (Am. Ord. passed 11-18-2002) (2016 Code § 156.095)

7.3.2 - Organization and Proceedings

(A) The Zoning Board of Adjustment shall elect a Chairperson and Vice-Chairperson from among its regular members. The Chairperson and Vice-Chairperson shall serve terms of 1 year beginning on January 1 or until they are reelected, or their successors are elected. The Board shall appoint a secretary, who may be a member of the Board or an employee of the town.

(B) The Board shall adopt rules and procedures in accordance with the provisions of this chapter. The Board shall meet monthly and at other times as the Board may determine. The Chairperson, or in his or her absence the Vice-Chairperson, may administer oaths. All meetings shall be open to the public. The Board shall keep minutes of its proceedings showing important facts pertaining to matters acted upon and a record of votes of each member on each question, including the names of those not voting or absent.

(C) Regular members may vote on all matters before the Board. Extraterritorial area members shall have equal rights, privileges and duties with other members of the Board in all matters pertaining to the extraterritorial area. Alternate members shall have equal rights, privileges and duties of the members they represent. (1997 Code, § 44-152) (2016 Code § 156.096)

7.3.3 - Powers and Duties

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

(A) *Administrative review.* The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the UDO Administrator in the enforcement of this chapter.

(B) *Variances.* In accordance with [G.S. § 160D-705\(d\)](#), the Board of Adjustments shall consider and permit variances as described in Section 8.18 of this UDO.

(C) *Zoning maps, lot lines.* The Board may interpret zoning maps and pass upon disputed questions of lot lines, district boundary lines and similar questions as they arise in the administration of this chapter.

(D) *Other matters.* In addition to zoning matters, the Board shall hear and decide matters referred to it upon which it is required to act by other ordinances of the town. (1997 Code, § 44-153) (2016 Code § 156.097)

7.3.4 - Decisions of the Zoning Board of Adjustment

The concurring vote of 4/5 of the Zoning Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the UDO Administrator, or to decide in favor of the applicant for a variance from the terms of this chapter. On all other matters brought before the Board, a majority vote of those present shall constitute the decision of the Board. On all appeals and applications brought before the Board, the Board shall inform in writing all parties involved of its decisions and the reasons therefor. (1997 Code, § 44-154) (2016 Code § 156.098)

7.3.5 - Appeals Submitted to the Zoning Board of Adjustment

(A) Appeals under § 7.3.3(A) may be brought by filing the required written notice of appeal by any person aggrieved by any appealable decision, or by the town. Any appeal must be filed within 30 days following the communication to the effective party of the decision that is the subject of the appeal. All papers constituting the record upon which the action appealed was taken shall forthwith be transmitted to the Zoning Board of Adjustment by the officer from whom the appeal is taken.

(B) An appeal stays all proceedings, including fines, in furtherance of the action appealed unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed that because of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by restraining order, which may be granted by the Board or by a court of record upon issuance of notice to the officer from whom the appeal is taken and upon due cause shown. [\(160D-405\)](#)

(C) Applications for a variance from the terms of this chapter shall be filed with the Board on forms provided by the Board. Applications shall be signed by the owner of the property or a lawful agent.

(D) The Zoning Board of Adjustment shall hear appeals or other matters within 45 days following the matter being referred to it, and give due notice thereof to the parties in interest and decide the same within 30 days following the hearing. Upon a hearing, any party may appeal in person or by agent or by attorney.

(E) The Board shall give public notice of the hearing of an appeal in a newspaper of general circulation in the town, by mail to the parties to the action under appeal, and by posting on the town bulletin board.

(F) The official or staff member who made the decision which is being appealed or the person currently occupying that position, if the decision maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness. [G.S. § 160D-406\(e\)](#) (1997 Code, § 44-155) (Am. Ord. 2005-11-16, passed 11-21-2005) (2016 Code § 156.099)

7.3.6 - Appeals from the Zoning Board of Adjustment

Any person aggrieved by any decision of the Zoning Board of Adjustment may, within 30 days after the filing of the decision in the office of the Board, but not thereafter, present to the court of competent jurisdiction a petition duly verified, setting forth that the decision is illegal, in whole or in part, specifying the ground of illegality, whereupon the decision of the Board shall be subject to review by certiorari as provided by law. (1997 Code, § 44-156) (2016 Code § 156.100)

7.3.7 - Fees for Variances or Appeals

(A) Applicants for a variance or appeal shall pay a fee to the town to cover administrative costs and advertising.

(B) The fee shall be as determined by the Board of Commissioners from time to time and included in the schedule of fees maintained on file in the town hall.

(C) Schedule of fees for the Board of Adjustment for a variance/appeal/text change shall be determined and adopted by the Board of Commissioners and posted on the Town website (1997 Code, § 44-157) (Am. Ord. passed 7-21-2003) (2016 Code § 156.101)

7.3.8 - Minutes

In accordance with [G.S. § 160D-308](#) the Board of Adjustments shall keep minutes of its proceedings. Minutes will be kept on file in the town hall and be made publicly available within 7 calendar days of adoption.

7.3.9 - Oath of Office

All members appointed to the Board of Adjustments shall, before entering their duties, qualify by taking an oath of office as required by [G.S. § 153A-26](#) and [G.S. § 160A-61](#). (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d).) ([G.S. § 160D-309](#))

7.3.10 - Conflict of interest

A Board of Adjustments member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Board of Adjustments member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. ([G.S. § 160D-109](#))

7.3.11 - Rules of Procedure

Rules of procedure that are consistent with the provisions of this [G.S. § 160D](#) may be adopted by the Board of Adjustment. In the absence of action by the governing board, each board created under this Ordinance is authorized to adopt its own rules of procedure that are consistent with the provisions of G.S. Chapter 160D. A copy of any adopted rules of procedure shall be maintained by the Town Clerk and posted on the Town website. ([G.S. § 160D-308](#))

7.3.12 - Minutes

In accordance with G.S. Chapter 160D, each board shall keep minutes of its proceedings. Minutes will be kept on file in the town hall and be made publicly available on the Town website within seven days of adoption. ([G.S. § 160D-308](#))

Chapter 8: Common Review Procedures

8.1 - General

The Town may establish regulations or guidelines which shall govern all applications under this Unified Development Ordinance after their adoption including: authority to file applications; application contents; application review procedures and schedules; application and review fees; pre-application and meeting requirements; and determinations of application

completeness. Any application for a development approval may be made by the landowner, a lessee or person holding an option or contract to purchase or lease the land, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is authorized by the easement. ([G.S. § 160D-403\(a\)](#))

8.2 - Complete/Incomplete applications

The UDO Administrator may refuse to process any application that the UDO Administrator determines to be incomplete unless and until the applicant has submitted any missing information or materials. If the UDO Administrator determines that an application is incomplete, he or she shall notify the applicant of the specific missing information or materials.

8.3 - Public hearings and public notice

Before adopting, amending, or repealing any ordinance or development regulation, the governing board shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than ten days nor more than 25 days before the date scheduled 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. ([G.S. § 160D-601](#))

8.4 - Ordinance Required

A development regulation adopted pursuant to this Chapter shall be adopted by ordinance. ([G.S. § 160D-601](#))

8.5 - Conditions of approval

The UDO Administrator, Planning Board or Board of Commissioners may approve development applications with conditions to ensure compliance with the general goals and intent of this Ordinance or using the standards outlined in this Ordinance in order to promote the health, safety and welfare of the community, mitigate negative impacts on surrounding properties or the natural environment and protect the value, use and enjoyment of property in the general vicinity.

All conditions must be attainable, precisely set forth in the permit approval, and proportionate to the impact the development would have on the surrounding property and environment.

8.6 - Development Approvals Run with the Land

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Ordinance and G.S. § 160D attach to and run with the land. ([G.S. § 160D-104](#))

8.7 - Zoning and Building Permits Required

(A) No residential or commercial use lasting more than 72 hours, nor shall any construction, nor the location of any structure, building or manufactured home, be allowed on any lot, nor shall a well or septic tank be installed on any lot, until the town has issued a zoning permit. The UDO Administrator shall issue a zoning permit upon application of the lot owner or his or her agent if the staff determines that the proposed use is in compliance with the provisions of this chapter. The application for a zoning permit shall be on a form approved by the Town and shall include information as may be necessary to enable the UDO Administrator to determine that the proposed activity is in compliance with this chapter.

(B) Building, plumbing, electrical, heating, air conditioning and refrigeration permits and any other permit required by the regulatory codes adopted in this chapter or any permits required by state law shall be obtained from the Building Inspector of Carteret County prior to beginning any construction, repair or alteration regulated by codes or state law.

(C) A zoning permit issued pursuant to this chapter shall expire 6 months after the date of issuance if work authorized by the permit has not been commenced. If after commencement the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any permit that has expired shall thereafter be performed until a new permit has been obtained. (1997 Code, § 44-187) (2016 Code § 156.116)

8.8 - Application for Zoning Permit

A zoning permit must be issued by the UDO Administrator prior to any structural addition or alteration to any building; prior to any construction, including earth moving; or where any work involves plumbing, electrical, heating, air conditioning, insulation, or refrigeration permits as may be required by the state building code.

For new construction, the application for a zoning permit must include the following:

(A) Survey stamped by a NC Licensed Surveyor.

- (B) Floor plans labeled with each of the rooms and any other applicable information.
- (C) Site plan drawn to scale.
 - (1) Site plan must include square footage of proposed structure
 - (2) Identify setbacks from property lines.
 - (3) Show driveway and indicate dimensions including culvert pipe size.
 - (4) Indicate septic tank location.
 - (5) Label name of street frontage.
 - (6) Identify any adjacent water bodies if applicable.
 - (7) Location and size of any accessory structures on lot.
 - (8) Show easements location.
- (D) Affirmation of intent to obtain a valid Septic Permit.
- (E) Affirmation of intent to obtain a CAMA Permit, if applicable.

For expansion or enlargement of existing structures in flood plain, the application for a zoning permit must include the following:

- (A) Survey stamped by a NC Licensed Surveyor.
- (B) Site Plan drawn to scale.
 - (1) Site plan must indicate square footage of proposed structure.
 - (2) Identify setbacks from property lines.
 - (3) Draw driveway and indicate dimensions.
 - (4) Indicate septic tank location.
 - (5) Label name of street frontage.
 - (6) Identify any adjacent water bodies.
 - (7) Location of any accessory structures on the lot.
 - (8) Show easement locations.
- (C) Floor plans labeled with each of the rooms and any other applicable information:
 - (1) Must show BFE + 2ft freeboard.
- (D) Must have a valid CAMA Permit.
- (E) Valid Septic Permit.

For accessory structures and decks, including sheds, generators, patios and decks, the application for a zoning permit must include the following:

- (A) Site plan drawn to scale.
 - (1) Dimensions of accessory structure.
 - (2) Location of property lines, streets, rights-of-way.
 - (3) Location of primary structure.

- (4) Location of septic tank / septic system.
- (B) Proposed use of structure.
- (C) Elevation Certification if applicable.
- (D) CAMA permit if applicable.

For new driveways, the application for a zoning permit must include the following:

- (A) Site plan drawn to scale.
 - (1) Dimensions of driveway.
 - (2) Identify any existing drainage ditches.
 - (3) Identify the location of the Town's right-of-way.
 - (4) Size of culvert.
 - (5) Contacted public works.
 - (6) NCDOT driveway permit, if applicable.

For new signs, the application for a zoning permit must include the following:

- (A) Rendering of proposed sign at proposed location.
- (B) Drawing of sign – must be to scale.
- (C) Illumination level of the sign in NITS – indicate daytime and nighttime if applicable.
- (D) Site plan depicting sign location.
 - (1) Show Town's right-of-way.
 - (2) Show property lines.
- (E) DOT encroachment agreement, if applicable.

For new fences, the application for a zoning permit must include the following:

- (A) Site plan drawn to scale.
 - (1) Identify height of fence.
 - (2) Location of utility easements that fence may block or impede.
 - (3) Identify Town's right-of-way.
 - (4) Type of fence.

8.9 - RVs and Campers as Temporary Dwellings Following Natural Disasters

Property owners may reside in an RV or Camper located on their lot while their home is being repaired following a natural disaster which has

caused their primary residence to become uninhabitable subject to the following requirements:

(A) A Zoning Permit is required for all RV's and Campers that will be utilized as a temporary dwelling unit subject to this ordinance.

(B) RV's or Campers shall not be used as temporary dwelling units for a period of time longer than six months; the Zoning Code Administrator may approve an extension of up to six months.

(C) RV's or Campers must be located on the property on which the principal building is being repaired or reconstructed.

(D) Only one RV or Camper is permitted per lot during the repair and reconstruction period.

(E) A Certificate of Occupancy shall not be issued until the RV or Camper has been disconnected from power, water, and the septic system.

(F) RV's or Campers must adhere to all applicable local, state, and federal laws and must obtain all applicable permits for the connection of power, water, and septic.

(G) RV's or Campers must be located within the property boundaries and must not be located in the Town's right-of-way.

(H) If an RV or Camper is re-connected to power, water, or a septic system at any point after the zoning permit issued in conjunction with this ordinance has expired; or if an RV or Camper is used in any manner inconsistent with this section the owner of the property where the violation has occurred shall be subject to a civil penalty in the amount of \$50 per day with each day that a violation continues constituting a separate and distinct offense. (Ord. 2018-11-01; passed 11-7-2018) (2016 Code § 156.127)

8.10 - Application for Building Permit

(A) A building permit must be issued by the Building Inspector of Carteret County prior to any structural addition or alteration to any building; prior to any construction, including earth moving; or where any work involves plumbing, electrical, heating, air conditioning, insulation, or refrigeration permits as may be required by the state building code.

(B) Each application for a building permit must follow all Carteret County requirements.

8.11 - Administrative Variance for Setbacks

(A) If the enforcement officer finds that any dimensional requirement in Appendix A has not been specifically adhered to, but that such deviation was the result of a good faith error and that said error would not

adversely impact an adjoining property, he may permit a dimension deviation up to and including one (1) foot on the front setback and four (4) inches on side or rear setback with a fee as specified in the Town of Cape Carteret Fee Schedule.

(B) Only one (1) dimension deviation per building may be allowed. A request for approval must be made on an application form provided by the town and be accompanied by an application fee in the amount specified in the Town of Cape Carteret Fee Schedule. (Ord. 2009-06, passed 4-20-2009) (2016 Code § 156.082)

8.12 - Lots of Record

(A) Where the owner, or his or her successor in title thereto, of a lot consisting of one (1) or more lots of official record in any district on July 15, 1974, the time of adoption of this chapter, or if later, the date the lot became subject to the zoning jurisdiction of the town, does not own sufficient adjoining land to enable him or her to conform to the minimum lot size requirements imposed by this chapter, the lot may be used as a building site, provided the other requirements of the district are complied with or a variance is obtained from the Zoning Board of Adjustment.

(B) The UDO Administrator upon receipt of an application for construction on a lot not conforming to the minimum lot size requirements, shall ascertain the ownership of the lot and adjoining lots on the dates specified in division (A) above. He or she shall not issue a building permit if at any time during the intervening period the lot of record and the adjoining property have had the same owner, unless the adjoining property is combined with the lot of record. (1997 Code, § 44-121) (2016 Code § 156.080)

8.13 - Runoff Prevention Policy

(A) It shall be the policy of the town to limit the runoff from any developed property to the amount of runoff that would naturally occur prior to the development of the property to the extent practicable.

(B) Prior to issuing a permit for any construction or land clearing, the appropriate Permit Officer shall examine the plans to determine whether or not the plans will likely result in stormwater, heat pump, sump pump or other induced runoff in an amount that may negatively impact adjoining properties, streets or rights-of-way or the water quality of receiving waters. If the Permit Officer determines there is reasonable likelihood to believe the adverse impact may occur, the Permit Officer shall require of the permit applicant a written report from a qualified engineer selected and employed by

the applicant describing the increase in runoff attributable to the proposed activity and any potential short-term or long-term problems to adjoining properties, streets or rights-of-way, or water bodies that might result from the activity. The engineering report shall further list alternatives for the disposition of stormwater to minimize impacts. Following receipt of the report, a permit for the requested activity shall be issued only if, upon the reasonable opinion of the Permit Officer, the following criteria are met:

- (1) The proposed activity or use has been designed in a way as to minimize any potential adverse impact from runoff; and
- (2) To deny the permit would deny the owner of the property unreasonably a right of utilization of the property for uses otherwise allowed under applicable ordinances of the town. (1997 Code, § 44-189) (2016 Code § 154.062)

8.14 - Certificate of Occupancy Required.

A certificate of occupancy, issued by Carteret County, shall be applied for when construction is completed, and all provisions of this chapter and the state building code have been complied with.

(1997 Code, § 44-191) (2016 Code § 156.120)

8.15 - Fees

All fees for development permits shall be as adopted by the Board of Commissioners and made publicly available on the Town website.

8.16 - CAMA Permit

CAMA permits shall be issued by the Division of Coastal Management or designated Carteret County Local Permit Officer for any development within a regulated Area of Environmental Concern as defined by G.S. § 113A-113.

8.17 - Implementation and Enforcement Program for Minor Development Permits in Areas of Environmental Concern

All implementation and enforcement for minor development in Areas of Environmental Concern is performed by Carteret County.

8.18 - Variances

(A) Variances. - When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

- (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.
- (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.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, ss. 17, 50(b), 51(a), (b), (d).)

8.19 - Special Use Permits

8.19.1 - About Special Use Permits

Special uses are land uses that are generally compatible with other land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration to evaluate and minimize the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district. Uses requiring a Special Use Permit are noted in the Table of Permitted and Special Uses (section 11.5 of this ordinance).

It is the intent of this section to only permit special uses that do not have adverse impacts on the health, safety, and general welfare of the Town, and that are consistent with the adopted Comprehensive Plan.

8.19.2 - Application Procedure

A Special Use Permit is a quasi-judicial procedure and must be conducted in accordance with General Statutes Chapter 160D-406.

(A) Pre-Application Meeting: Every applicant for a Special Use Permit is required to meet with the UDO Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.

(B) Required Application Information: An application for a Special Use Permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Each application for a Special Use Permit shall contain, at a minimum, a site plan as described in Section 8.8 of this UDO. Other information necessary to show that the use or structure complies with the standards set forth in this ordinance shall also be provided.

(C) Determination of Compliance: The UDO Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Board of Commissioners.

(1) Consideration on the matter. The UDO Administrator shall submit the report to the Board of Commissioners for their consideration. The Planning Board shall review the application materials and develop a Statement of Consistency that shall address the consistency or inconsistency of the proposed SUP with the Town's Comprehensive Plan. The Planning Board shall submit their Statement of Consistency to the Board of Commissioners in writing in advance of the public hearing at the Board of Commissioners meeting. Any Planning Board discussion at a public meeting will not constitute a public hearing on the SUP application. If no Statement of Consistency is received from the Planning Board within 45 days of its first consideration on the matter, the Board of Commissioners shall proceed in its consideration of the matter without a Statement of Consistency from the Planning Board.

8.19.3 - Consideration by the Board of Commissioners

(A) Public Notification: Notice of public hearing in advance shall be provided, consistent with Section 9.4 of this UDO.

(B) Review and consideration by the Board of Commissioners: Following receipt of a recommendation from the UDO Administrator, or after 45 days from the date that the complete application was submitted if no recommendation is received, the Board of Commissioners shall conduct a public hearing on the matter. Upon reviewing all of the pertinent information, the Board of Commissioners may approve, deny or approve with conditions the Special Use Permit.

(C) Review Period: The Board of Commissioners shall take action (approve, deny, or approve with conditions) within 65 days of the public hearing on the matter. Should the Board of Commissioners fail to act on the Special Use Permit application within the prescribed period, the application shall be considered approved.

(D) Findings of Fact: In addition to determining that the application meets all other requirements of this ordinance the Board of Commissioners must find the following in order to grant approval of a Special Use Permit:

- (1) The proposed special use conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site.
- (2) The proposed use will not cause undue traffic congestion or create a traffic hazard.
- (3) The proposed use will have the ability to obtain adequate connections to water, sewer, wastewater, drainage, electric and others as required.
- (4) The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke, or gas.
- (5) The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property.
- (6) The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety, or general welfare.
- (7) The proposed use will not substantially injure the value of adjoining or abutting property.
- (8) The proposed use is consistent with the officially adopted plans and policies of the town.

(E) Additional Standards for Special Uses in Special Flood Hazard Area: Applications for Special Use Permits in Special Flood Hazard Areas as defined in Chapter 15 of this Ordinance shall be subject to the following additional standards of review:

- (1) The Board of Commissioners shall determine the specific flood or erosion hazard of the site and shall evaluate the suitability of the proposed use in relation to the flood hazard.
- (2) In passing upon such applications, the Board of Commissioners shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance and:
 - a) The danger that material may be swept onto other lands to the injury of others.
 - b) The danger to life and property due to flooding or erosion damage.
 - c) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - d) The importance of the services provided by the proposed facility to the community.
 - e) The necessity to the facility of a waterfront location, where applicable.
 - f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.
 - g) The compatibility for the proposed use with existing development anticipated in the foreseeable future.
 - h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
 - i) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

- k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(F) Additional Conditions: The Board of Commissioners may place conditions on the use as part of the approval to assure that mitigation measures are associated with the use. The conditions shall become part of the Special Use Permit approval and shall be included in the final site plan application.

8.19.4 - Standards for the Conduct of Quasi-Judicial Proceedings

(A) Contact with Board of Commissioners Members: Contact with any members of the Board of Commissioners prior to the public hearing by any individual regarding the matter is prohibited.

(B) Conflicts of Interest: A member of the Board of Commissioners shall not participate in or vote on a quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(C) All Participants to be Sworn In: All participants in the public hearing shall be duly sworn in prior to the submission of any testimony.

(D) Competent Evidence Required: All decisions shall be based on competent evidence entered in as part of the record. The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) the evidence was admitted without objection, or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

- (1) The use of property in a particular way would affect the value of other property.

- (2) The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.
- (3) Matters about which only expert testimony would generally be admissible under the rules of evidence.
- (E) Cross-Examination Permitted: The cross-examination of witnesses submitting testimony shall be permitted upon request.

8.19.5 - Standards for Decisions

The Board of Commissioners shall ensure that the rights of petitioners have not been prejudiced because of the Board's findings, inferences, or conclusions. In addition such decision shall not be:

- (A) In violation of constitutional provisions, including those protecting procedural due process rights.
- (B) In excess of the statutory authority conferred upon the town or the authority conferred upon the Board by ordinance.
- (C) Inconsistent with applicable procedures specified by statute or ordinance.
- (D) Affected by other error of law.
- (E) Unsupported by substantial competent and material evidence in view of the entire record.
- (F) Arbitrary and capricious.

8.19.6 - Record of Decision

- (A) The following shall become part of the official record of decision:
 - (1) Documents and exhibits submitted as part of the application or during testimony
 - (2) Meeting minutes
- (B) Transcript of Audio/Video of Meetings: Any party may request, at their expense, a transcript of the proceedings from any recorded audio/video.

8.19.7 – Notice and Effect of Decisions

- (A) Notice of the decision of the Board of Commissioners regarding the Special Use Permit application shall be reduced to writing and signed by the chair or other duly authorized member of the Board. The decision is effective upon filing the written decision with Town Clerk. The decision of the Board shall be delivered within a reasonable time by personal

delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The Clerk shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

(B) Appeals: An appeal from the decision of the Board of Commissioners regarding a Special Use Permit application may be made by an aggrieved party and shall be made to the Superior Court of Carteret County in the nature of certiorari. Any such petition shall be filed with the clerk of the superior court within 30 days after the decision of the Board is filed with the Town Clerk, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the secretary or chairman of the Board at the time of its hearing of the case, whichever is later. The decision of the Board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

(C) Permit Validity: Special Uses that have been granted approval must begin site development within 2 years following approval or the approval becomes invalid.

(D) Permit Extension: The Board of Commissioners may grant one extension of this time period of up to one year upon submittal by the applicant of sufficient justification for the extension. Sufficient justification may include, but is not limited to, delays in other outside agency permits, financing institution delays, or other similar reasons beyond the control of the applicant.

8.19.8 - Modifications to Special Use Permit

(A) Substantial Changes: Any substantial change to a Special Use Permit as noted below shall be reviewed by the UDO Administrator and approved or denied by the Board of Commissioners as an amended a Special Use Permit. The following changes to a Special Use Permit shall require approval by the Board of Commissioners:

- (1) Modification of special performance criteria, design standards, or other requirements specified by the Special Use Permit.
- (2) A change in land use or development type beyond that permitted by the approved Special Use Permit.
- (3) When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access.

- (4) When there is an increase in the total number of residential dwelling units originally authorized by the approved Special Use Permit.
- (5) When the total floor area of a commercial or industrial classification is increased more than 10% beyond the total floor area last approved by Board of Commissioners. Changes of less than 10 percent may be approved by the UDO Administrator.
- (6) Any change which alters the basic development concept of the Special Use Permit.

(B) Minor Changes: Minor changes to an approved Special Use Permit may be approved administratively, by the UDO Administrator, in accordance with [G.S. § 160D-705\(c\)](#), provided that the minor changes do not constitute a change in use or density, nor any modification that must be approved by the Board of Commissioners.

8.19.9 - Written Consent of Applicant

The applicant and property owner must provide written consent to the Town ensuring that any and all terms incorporated into the Special Use Permit are acceptable and will be complied with before the final Permit is issued. ([G.S. § 160D-1402\(k\)](#) and [G.S. § 160D-1403.2](#))

8.19.10 - Severability

Any Special Use Permit granted under the provisions of this UDO will not be severable; if any part of any Special Use Permit is deemed invalid the rest of the Permit will be invalid.

8.20 - Conditional Zoning

The Planning Board may recommend for approval to the Board of Commissioners a conditional zoning on a property provided the rezoning is consistent with the provisions of [G.S. § 160D-703 \(b\)](#).

8.21 - Administrative Site Plan Review for Permitted Uses

(A) *Site plan required.* Prior to any ground-disturbing activity on any vacant lot, tract or other parcel of land; or prior to the expansion or enlargement of the conditioned space of an existing building or commercial development, the owner, general contractor, or authorized agent shall submit, for review by the UDO Administrator a site plan in accordance with the terms of this section;

(B) *Fire hydrants and fire prevention.*

- (1) The applicant shall provide for the installation of at least one fire hydrant located within 300 feet of the principal structure, unless such a fire hydrant already exists.
- (2) If no fire hydrant exists within 300 feet of the principal structure, the applicant shall cause such hydrant to be installed.
- (3) If the size of water lines located within 300 feet of the principal structure are less than six inches in diameter then the applicant shall be relieved of the requirement to install a fire hydrant.
- (4) All applicants shall coordinate with the Western Carteret Fire Department and any other applicable or successor agency that now has or hereafter acquires fire protection and prevention authority over the area containing the subject property to determine the applicable fire suppression requirements of the North Carolina Fire Code.
- (5) Except in cases of hardship as certified by the Town UDO Administrator, all new water lines shall be at least 8 inches in diameter and configured in a closed loop design.

(C) *Proposed sewage treatment and disposal facilities.* Before any proposed site plan may be approved, the applicant shall affirm to the UDO Administrator their intent to gain approval of the proposed sewage treatment and disposal facilities by the Carteret County Department of Environmental Health or the North Carolina Department of Environment and Natural Resources, as applicable.

(D) *Dredging and filling permits.* Before any proposed site plan may be approved, the applicant shall demonstrate to the UDO Administrator tentative approval of any dredging and filling permits required by law.

(E) *Inspections.* Inspections of sites involving public rights-of-way and inspections of any on-site construction shall be made by the town, in addition to any other appropriate governmental and/or other regulatory agency having jurisdiction.

(F) *Parking and loading.*

- (1) No required off-street parking space, including adjacent parking access lanes or maneuvering space, shall be located within the existing or proposed right-of-way of the road, including sidewalk areas.
- (2) Off-street parking areas shall be designed with sufficient distance separating parking spaces and access lanes,

such that vehicles can be maneuvered into and out of parking spaces without impeding traffic in such access lanes.

a) As used in this section, **ACCESS LANE** means a street or other right-of-way, or portion thereof, designed primarily to connect parking lanes to one another or to streets or other general rights-of-way.

b) As used in this section, **PARKING LANE** shall mean a lane designed primarily to provide vehicular access from an access lane to parking spaces.

c) All off-street parking shall be designed in such a manner as to eliminate the need for vehicular traffic to back into any adjacent street or right-of-way except a parking lane.

(3) No provision of this section may be construed to reduce the number of off-street truck loading/unloading spaces required under any provision of the code.

(4) No part of any off-street truck loading or unloading space may be located within any street or road right-of-way, or within any other easement unless such other easement specifically permits such loading and unloading in the document granting such easement.

(5) Off-street truck loading and unloading spaces shall be located and designed such that any turning, backing or other maneuvering required for such trucks to move into such loading or unloading space can occur on the subject property, and not on any portion of a street or road.

(G) *Right-of-way improvements and restrictions.*

(1) In addition to all other requirements of this section or any other portion of the code, the town may, as a condition of site plan approval, require the installation of specific directional, regulatory or advisory signs or pavement markings at designated locations on the site.

(2) Any site plan that provides temporary stopping space or maneuvering space for vehicles of customers or patrons seeking service at a roadside business establishment shall be located so that the stopping or maneuvering space is off the existing right-of-way or road.

(3) No part of the right-of-way of a street or road may be used for the conduct of private business. For purposes of this section, **PRIVATE BUSINESS** includes, without limitation,

any building, sales or merchandise displays, signs, vegetation, parking areas, service equipment or any other appurtenance of any such business.

- (4) Right-of-way improvements shall be made in accordance with the standards and specifications of this code or the North Carolina Department of Transportation.

(H) *Connection permits.* With its application for site plan approval pursuant to the terms of this section, the applicant shall submit true copies or other evidence satisfactory to the UDO Administrator that the applicant has obtained all connection permits required by the North Carolina Department of Transportation (DOT), and all other permits required by DOT or any other agency for improvements and/or connections to any public street, highway or other public right-of-way.

(I) *Lighting and markers.*

- (1) Appropriate lighting shall be provided.
- (2) Appropriate markers shall be shown and installed at all property corners, points of tangents, and any angle point along a given course of the property. The applicant shall ensure that the person installing such markers shall use the most permanent type of marker practicable under the circumstances.

(J) *Signage*

- (1) All signage shall be subject to the provisions of Chapter 16 of this UDO.

(K) *Site plan requirements.*

- (1) Two paper copies and one electronic copy of the site plan shall be submitted to the Town Clerk prior to commencement of review.
- (2) All site plans submitted pursuant to this section shall contain the information described herein, and shall be subject to the limitations set out herein.
 - a) Any site plan submitted shall be drawn at a scale not smaller than one (1) inch equals 50 feet, and not larger than one (1) inch equals ten (10) feet
 - b) Any site plan submitted pursuant to this section shall be prepared, signed and sealed by a licensed professional engineer, registered land surveyor or other appropriate professional licensed to practice in the State of North Carolina, and shall include the name and address of the applicant and the owner, and the name,

address and title of the person preparing the plan, maps and accompanying data.

c) Property and ownership information to be included:

- (3) Present record owner(s), lot, block and section number and map book and page reference of the subject property, per any recorded plat(s) or map(s) thereof. If there is not a recorded plat or map of the property, then the book and page number of all deeds or other instruments through which the present record owner(s) claim(s) any interest in the subject property shall be provided, along with a legible photocopy of such deeds or other instruments, including the recording information thereon.
- (4) Present record owners, lot, block and section numbers and map book and page reference of each adjacent parcel, per any recorded plat(s) or map(s) thereof. If there are not such recorded plat(s) or map(s) of the adjacent parcels, then the book and page number of all deeds or other instruments through which the adjacent record owner(s) acquired any interest in the subject property shall be provided, along with a legible photocopy of such deeds or other instruments, including the recording information thereon.
- (5) The name/proposed name of the development, date of plan preparation or revision, true north arrow, and a graphic representation of the scale used in the plan.
- (6) A sketch vicinity map showing the entire site development and its relationship to the surrounding area.
- (7) The designation of the zoning district in which the subject property is located, as well as the zoning designation of all tracts abutting the subject property.
- (8) The acreage of the site to be developed to the nearest tenth of an acre.
- (9) Boundary survey of the subject property, with courses and distances of each boundary segment/arc illustrated on the plan, along with the courses and distances of each segment of all streets and other easements and rights-of-way within the subject property, as well as the courses and distances of all segments of streets, other easements and rights-of-way abutting the subject property.

- (10) The nature of all existing and proposed streets, easements and other rights-of-way.
- a) Evidence satisfactory to the UDO Administrator that the applicant has complied with the requirements of this section concerning the installation of fire hydrants on and/or serving the subject property.
 - b) Existing and proposed features information to be included:
 - i. The locations, names, pavement and right-of-way width of all existing and proposed streets, and all easements, curbs, curb cuts, hike-bike trails and sidewalks abutting the property or properties in question, and within 200 feet thereof.
 - ii. Topographic contours at five (5) foot intervals, and any physical conditions or features reasonably likely to have any significant effect on the site.
 - iii. The location of all existing and proposed setback dimensions, landscaped areas and fencing.
 - iv. The location of proposed utilities and facilities, including (without limitation) fire hydrants and fuel storage tanks, showing connections to existing supply and disposal systems, where applicable.
 - v. The location of all existing and proposed signs, traffic control devices, lighting standards and utility poles on or abutting the subject property.
 - vi. Flood zone(s) boundaries as determined by the latest FEMA flood insurance rate map, and the notation "Flood zones subject to change by FEMA."
 - vii. Location of areas subject to U.S. Army Corps of Engineers 404 wetlands protection.
 - viii. Delineation of any and all Areas of Environmental Concern (AEC) as defined by the Coastal Area Management Act (CAMA), G.S. Ch. 113A, Art. 7.

- ix. All watercourses, wetlands or estuarine waters within the subject site and within 600 feet in any direction from the property.
- c) Site improvements to be included:
 - i. The location of existing and proposed principal building(s) or structure(s) and all accessory buildings or structures, if any, and finished grade elevations at all corners of such buildings, along with an indication of whether those existing building(s) and/or structure(s) will be retained or removed.
 - ii. The proposed building type (e.g., brick, concrete or frame), number of floors and dimensions.
 - iii. Finished grades for the entire site.
 - iv. The size and location of all water mains and connections to existing water supply system.
 - v. Existing and proposed sanitary sewerage facilities serving the site, including the location, size and slope of all sanitary sewer lines, pumping stations, connections to existing facilities, location of any proposed sanitary sewerage treatment plants and septic treatment facilities.
 - vi. Storm drainage systems, including the following: all existing or proposed storm sewer lines within or adjacent to the site, and the location of each catch basin, inlet and manhole; the location and extent of any proposed dry well, ground water recharge basins, retention and infiltration basins or other water conservation devices.
 - vii. The location, type, capacity and size of all existing and proposed inlets, catch basins, storm drainage facilities, and utilities, plus all required design data supporting the adequacy of the existing and/or proposed facility to handle future storm flows.
 - viii. When a brook or stream is proposed for alteration, improvement or relocation, or when a

structure or fill is proposed over, under, in or along a stream, evidence of submission of an application for the proposed work to the North Carolina Department of Environment and Natural Resources (DENR) shall accompany the site plan, or evidence that such an application is not required.

- ix. When ditches, streams, brooks or water courses are to be altered, improved or relocated, the method of stabilizing slopes and measures to control erosion and siltation, as well as typical ditch sections and profiles, shall be shown on the site plan.
- x. The location, type and size of all existing and proposed curbs, curb cuts, sidewalks, driveways, fences, retaining walls, signs, parking space areas, and the layouts thereof, and all off-street loading areas, together with the dimensions of all the foregoing on the site in question; including without limitation all information required pursuant to § 12.11.
- xi. A tabulation of the total number of dwelling units of each type in the project (e.g., 25 single-family dwelling units, 12 duplex dwelling structures [24 units], and 3 condominium dwelling structures with 5 units each [15 units]), and the overall project density in dwelling units per acre.

(L) *Determination of completeness/written notification.*

- (1) An application for development shall not be determined to be formally submitted until the required number of plans, application forms, plan details and all other information required by this section have been submitted to the UDO Administrator.
 - a) The time period for its approval, approval with conditions, or denial of such application shall not commence until such time as the UDO Administrator has accepted the application as a being complete.
- (2) Within 21 days after the first meeting between the UDO Administrator and the applicant, and after the filing of

additional or supplemental information requested by the UDO Administrator to complete an incomplete application as described below, the UDO Administrator shall notify the applicant in writing, whether the application is complete or incomplete, and the date of such determination.

- a) Such notifications may be given in any manner reasonably calculated to come to the attention of the applicant and the municipal approval authority, including electronic mail, provided that any notice provided exclusively by electronic mail shall be protected from further editing once issued.
- b) First class mail addressed to the applicant at the address provided in the application shall be conclusively presumed to be a manner reasonably calculated to come to the attention of the applicant.
- c) The applicant's receipt of such notification shall be deemed to have occurred on the earliest of the following dates:
 - i. The date the applicant is notified in person; or
 - ii. Five days after mailing by first class mail to any address within the state; or
 - iii. Ten days after mailing by first class mail to any out-of-state address within the United States of America.
 - iv. Twenty-four hours after the sending of notice by electronic mail.

(3) If the UDO Administrator finds the application to be incomplete, its notification of that fact to the applicant and the municipal approval authority shall include a list of all information required to complete the applicant's application.

- a) The applicant may then either abandon the application or provide the additional information requested by the UDO Administrator.
- b) If the applicant chooses to provide such additional/supplemental information, then the procedure described in this section shall apply to the UDO Administrator's determination of whether the application is complete or not.

(M) *Board of Commissioners action.*

- (1) The following procedures shall apply after such time as the UDO Administrator finds the application to be complete; provided, however, the UDO Administrator's certification that the application is complete shall not be construed to prohibit it requiring the submission of additional information in support of the application, regardless of whether or not such additional information is required with an original application.
- (2) Within 60 days from the date the UDO Administrator certifies that the applicant's application is complete, the UDO Administrator shall complete its review of the application and, shall notify the governmental approval authority of its recommendations on the application.
 - a) The UDO Administrator may recommend to the governmental approval authority either approval, conditional approval (with all recommended conditions being specifically set out in the UDO Administrator recommendation), or rejection (with all reasons for its recommendation of rejection being specifically set out in the UDO Administrator's recommendation) of any proposed site plan.
- (3) The UDO Administrator may approve, approve with specific conditions, or disapprove any site plan within 60 days after its receipt of the notice from the UDO Administrator, as described in division (2)(a) above.
 - a) A rejected site plan may be resubmitted in accordance with this section, when revised to meet the specifications of this chapter, and upon payment of a site plan review fee as required in the most recently adopted fee schedule.

(N) *Changes after approval.*

- (1) When approval is granted, no changes or alterations shall be made in any portion of the plan without approval of such changes or alterations by UDO Administrator; or
- (2) After approval of a site plan, minor changes in the plan may be approved in writing by the UDO Administrator; provided that the changes do not prevent the spirit and intent of a condition of approval from being met, or a provision or requirement of an ordinance from being executed, except as provided in § 9.9.

(O) *Successor agencies.* Where this section refers to any agency of federal, state or local government or any other governmental entity, such reference shall be deemed to also apply to any successor agency thereof. (Ord. 2006-1, passed 2-20-2006; Am. Ord. 2006-12, passed 8-21-2006; Am. Ord. 2006-13, passed 8-21-2006; Am. Ord. 2013-12-05, passed 12-9-2013; Am. Ord. 2015-10-10, passed 10-12-2015) (Ord. 2017-08-04; passed 8-21-2017) (2016 Code § 156.124)

8.22 - Determining Status of Unlisted Uses

The list of permitted and special uses in the various districts in the UDO are considered to be specific in regard to the types of uses intended for each of the districts. When a proposed use is not specifically listed in the Table of Permitted and Special Uses, the UDO administrator may determine the most similar use, in relation to the use's impacts, in the Table of Permitted and Special Uses and classify the proposed use in the same manner with respect to whether it is permitted or prohibited in a specific district, as well as for the purpose of applying any additional required standards to such use. When a determination cannot be made a zoning text amendment may be considered by the Planning Board and Board of Commissioners, or the applicant may appeal the UDO Administrator's interpretation to the Board of Adjustment.

Chapter 9: Changes and amendments

9.1 - Amendments

This Ordinance, including the zoning map, may be amended from time to time; but no amendment shall become effective unless it shall have been proposed by or shall first have been submitted to the Planning Board for review and recommendation. The application for a zoning change shall be on an application form approved by the Town Board. The Planning Board shall have 45 days within which to submit its report. If the Planning Board fails to submit a report within the 45-day period, it shall be deemed to have approved the proposed amendment. A public hearing shall be held by the Board of Commissioners before adoption of any proposed amendment to this chapter. A notice of the public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper of general circulation in the town. The notice is to be published or posted for the first time not less than ten (10) days prior to the date established for the public hearing. (2016 Code § 156.121)

9.2 - Consistency with Adopted Plans

In accordance with [G.S. § 160D-605\(a\)](#), when adopting or rejecting any zoning text amendment, the Board of Commissioners 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 a Board of Commissioners meeting that at the time of action the 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 governing 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 action taken.

9.3 - 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 Board of Commissioners. 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 Board of Commissioners' statement on reasonableness may address the overall rezoning.

9.4 - Notice of Public Hearing on Zoning Map Amendments

(A) In the case of any zoning amendment, notice will be provided by first class mail to the owners of any neighboring properties, including those abutting the subject property and any properties separated from the subject

property by street, railroad or other transportation corridor. The notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing.

(B) When a zoning map amendment is proposed, the Town will prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning amendment, a posting on each individual parcel is not required but the Town shall post sufficient notices to provide reasonable notice to interested persons.

(C) 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-202](#), 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.

(D) When a zoning map amendment is proposed, the Town may require communication by the person or persons proposing the map amendment to neighboring property owners and residents and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents. ([160D-602](#))

9.5 - Citizen Comments

In accordance with [G.S. § 160D-603](#), if any person who resides in or owns property in the Town submits a written statement regarding a proposed amendment, modification or repeal to a zoning regulation, including a text or map amendment that has been properly initiated as provided in [G.S. § 160D-601](#), to the clerk of the board at least two business days prior to the proposed vote on such change, the clerk shall deliver such written statement to the governing board.

9.6 - Protest Against Amendment

(A) In the case of a protest against an amendment, supplement, change, modification or repeal signed by the owners of 20% or more, either of the area of the lots included in the proposed change, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of 3/4 of all members of the Board

of Commissioners. (1997 Code, § 44-192) (Am. Ord. 2005-11-15, passed 11-21-2005) (2016 Code § 156.121(b))

9.7 - Down-Zoning

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

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

(B) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage. ([G.S. § 160D-601\(d\)](#))

9.8 - Remedies

In case any structure, building or manufactured home or business is placed, erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this chapter, the UDO Administrator or any other appropriate authority, or any persons who would be damaged by the violation, in addition to other remedies, may institute injunctive mandamus or other appropriate action and proceeding to prevent the violation. (1997 Code, § 44-193) (2016 Code § 156.122)

9.9 - Vested Rights

9.9.1 - Purpose

The purpose of this chapter is to implement the provisions of G.S. [§160D-108.1\(c\)](#) pursuant to which a statutory zoning vested right is established upon the approval of a site-specific vesting plan. (1997 Code, § 44-121)

9.9.2 - Establishment of a Zoning Vested Right

(A) A zoning vested right shall be deemed established upon the valid approval or conditional approval by the Board of Commissioners or Board of Adjustment, as applicable, of a site-specific development plan, following notice and public hearing.

(B) The approving authority may approve a site-specific vesting plan upon the terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.

(C) Notwithstanding divisions (A) and (B) above, approval of a site-specific vesting with the condition that a variance be obtained shall not confer a zoning vested right unless the necessary variance is obtained.

(D) A site-specific vesting plan shall be deemed approved upon the effective date of the approval authority's action relating thereto.

(E) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the town, including but not limited to building, fire, plumbing, electrical and mechanical codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific development plan upon the expiration or termination of the vested right in accordance with this chapter

(F) A zoning vested right is not a personal right but shall attach to and run with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner shall be entitled to exercise the right while applicable.

(1997 Code § 44-223) (2016 Code § 156.137)

9.9.3 - Procedures and Approval Authority

(A) Except as otherwise provided in this section, an application for site-specific vesting plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

(B) Notwithstanding the provisions in this section, if the authority to issue a particular zoning or land use permit or approval has been delegated by ordinance to a Board, committee or administrative official other than the Board of Commissioners, Board of Adjustment, or other Planning Agency designated to perform any or all of the duties of the Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Board of Commissioners, following notice and a public hearing as provided in G.S. § [160D-601\(a\)](#).

(C) In order for a zoning vested right to be established upon approval of a site-specific vesting plan, the applicant must indicate at the time

of application, on a form to be provided by the town, that a zoning vested right is being sought.

(D) Each map, plat, site plan or other document evidencing a site-specific vesting plan shall contain the following notation: “Approval of this plan establishes a zoning vested right under G.S. § [160D-108 and 160D-108.1](#). Unless terminated at an earlier date, the zoning vested right shall be valid until ____.”

(E) Following approval or conditional approval of a site-specific vesting plan, nothing in this chapter shall exempt a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval provided that the reviews and approval are not inconsistent with the original approval.

(F) Nothing in this chapter shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this chapter.

(1997 Code, § 44-224) (2016 Code § 156.138)

9.9.4 - Duration.

(A) A zoning right that has been vested as provided in this chapter shall remain vested for a period of 2 years unless specifically and unambiguously provided otherwise pursuant to division (B) below. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(B) Upon issuance of a building permit, the expiration provisions of G.S. § [160D-108](#) and the revocation provisions of G.S. § [160D-403](#) shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding.

(C) **Multi-Phased Development.** - A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this Ordinance remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. (1997 Code, § 44-225) (2016 Code § 156.138) ([G.S. 160D-108\(f\)](#))

9.9.5 - Termination

A zoning right that has been vested as provided in this chapter shall terminate:

(A) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(B) With the written consent of the affected landowner;

(C) Upon findings by the Board of Commissioners, by ordinance after notice and a public hearing, that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety and welfare if the project were to proceed as contemplated in the site-specific development plan;

(D) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including but not limited to all fees paid in consideration of financing, and all architectural, planning, marketing, legal and other consultant's fees incurred after approval by the city, together with interest thereon at the legal rate until paid; compensation shall not include any diminution in the value of the property which is caused by the action;

(E) Upon findings by the Board of Commissioners, by ordinance after notice and a hearing, that the landowner or his or her representative intentionally supplied inaccurate information or made material misrepresentation that made a difference in the approval by the approval authority of the site-specific development plan; or

(F) Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site-specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and hearing. (1997 Code, § 44-226) (2016 Code § 156.140)

9.9.6 - Voluntary Annexation

A petition for annexation filed with the town under G.S. §§ 160-31 or 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to petition has been established under G.S. §§ [160D-108\(c\)](#). A statement that declares that no zoning vested right has been established under G.S. §§ [160D-108\(c\)](#), or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner; and any zoning vested right shall be terminated. (1997 Code, § 44-227) (2016 Code § 156.141)

9.9.7 - Limitations

Nothing in this chapter is intended or shall be deemed to create any vested right other than those established pursuant to G.S. § 160D-1007.(1997 Code, § 44-228) (2016 Code § 156.142) Repealer (1997 Code, § 44-229)

9.9.8 - Penalty.

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum specified in the fee schedule as approved and adopted by the Board of Commissioners and posted on the Town website. A citation for the civil penalty shall be issued by the Police Department or the UDO Administrator. Each citation for a civil penalty must be paid within 72 hours of issuance.

(B) Every day that the violator continues in violation shall be a separate and distinct offense.

(C) (1997 Code, § 44-5) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2012-03-01, passed 3-19-2012) (2016 Code § 156.999)

Chapter 10: Building and Building Regulations

GENERAL PROVISIONS

10.1 - Land Disturbing Activity; Deposit Required Before Commencement of Work

(A) For the purpose of this section, **LAND DISTURBING ACTIVITY** is defined as the use of any type logging equipment, commercial clearing equipment, bulldozers, backhoes, ditch diggers, cement or mixer trucks, logging trucks, or other heavy type equipment. Specifically excluded are bushhogs, riding mowers, lawn mowers or garden type tractors.

(B) Prior to any land disturbing activities on any lot or parcel within the zoning jurisdiction of the town, a security deposit, the amount to be determined by the Board of Commissioners, must be posted to cover any damages or problems that may occur as a result of the land disturbing activity. This sum shall be deposited with the Town Finance Officer. If the land disturbing activity is in connection to a project for which a building permit is in place, no deposit will be required.

(C) The UDO Administrator will check the property both before and after the land disturbing activity. Upon his or her certification that the street, shoulder and right-of-way have suffered no damages or that the damages have been corrected and that no drainage problems that may require culverts have been created, the security deposit will be refunded. Where culverts are needed to ensure proper drainage, a minimum 12-inch culvert

shall be properly installed. Should damages or drainage problems not be corrected to the satisfaction of the UDO Administrator this sum will be forfeited and the owner billed for any additional charges. In the event a building permit is in place for the project, a certificate of occupancy or compliance will not be issued until any damages have been corrected. (1997 Code, § 6-1) (Am. Ord. 99-08-06, passed 8-16-1999; Am. Ord. 2009-02, passed 2-16-2009) (2016 Code § 150.01)

10.2 - Building Inspection

All building permits and inspection services in the Town of Cape Carteret are provided by the Carteret County Planning and Development Department and are conducted in accordance with the North Carolina Building Code. Fire inspections in the Town are provided by Western Carteret Fire and EMS.

10.3 - Tennis Courts

All tennis courts that are within 35 feet of the property line must have, at a minimum, a 10-foot fence on all sides that face the property line. (Ord. 00-12-08, passed 12-18-2000) (2016 Code § 150.04)

10.4 - Swimming Pools and Spas

(A) All swimming pools and spas with a depth greater than 18 inches shall be surrounded by a 4-foot barrier or enclosure; unless the swimming pool or spa has a lockable cover, in which case a barrier or enclosure is not required. A house or other structure located adjacent to the swimming pool or spa may be considered part of the barrier or enclosure. A barrier is not required on the waterside of a waterfront lot.

(B) If the swimming pool or spa is located above ground and is 4 feet or taller on its exterior sides, then the structure itself shall be considered a barrier sufficient to meet the requirements of the preceding paragraph. Any steps or ladder used to access the above ground swimming pool or spa must, however, be made inaccessible from the swimming pool or spa when not in use. (Ord. 00-12-08, passed 12-18-2000) (2016 Code § 150.05)

10.5 - Application of Regulations and Codes

The provisions of this chapter and of the regulatory codes adopted in this chapter shall apply to the following:

(A) The location, design, materials, equipment, construction, reconstruction, alteration, repair, moving, demolition, removal, use and occupancy of every building or structure or any appurtenances connected or attached to the building or structure;

(B) The installation, erection, alteration, repair, use and maintenance of plumbing systems consisting of house sewers, building drains,

waste and vent systems, hot and cold water supply systems, and all fixtures and appurtenances thereof;

(C) The installation, erection, alteration, repair, use and maintenance of mechanical systems consisting of heating, ventilating, air conditioning and refrigeration systems, fuel-burning equipment and appurtenances thereof;

(D) The installation, erection, alteration, repair, use and maintenance of electrical systems and appurtenances thereof; and

(E) The installation, alteration, maintenance or repair of all insulating materials. (1997 Code, § 6-31) (2016 Code § 150.20)

10.6 - Adoption of State Building Code by Reference

The North Carolina State Building Code, as adopted by the North Carolina State Building Code Council and as amended, is hereby adopted by reference as fully as though set forth in this section as the building code of the town.

(1997 Code, § 6-32) (2016 Code § 150.21)

10.7 - Manufactured Homes

10.7.1 - Compliance with State Regulations

(A) All manufactured homes hereafter erected, enlarged, altered, repaired or otherwise constructed or reconstructed within the town shall be completed in accordance with the most recent edition of the State of North Carolina Regulations for Manufactured Homes and Appendices as adopted and published by the North Carolina Building Code Council and as amended. (1997 Code, § 44-86) (Am. Ord. 2015-01-02, passed 1-12-2015) (2016 Code § 156.060) ([G.S. 160D-702\(c\)](#))

10.7.2 - Manufactured Home as a Principal Use

In no case shall a manufactured home be allowed on a lot occupied by another manufactured home, another dwelling or another principal use.

(1997 Code, § 44-87) (2016 Code § 156.061)

10.7.3 - Label of Compliance

Because manufactured homes are completed units prior to delivery to the town, and thus cannot be locally inspected to be certain that all applicable building codes have been complied with, all manufactured homes hereafter located within the town shall bear a label of compliance that ensures that the manufactured home was constructed in compliance with State Home Standard A119.1. (1997 Code, § 44-88) (2016 Code § 156.062)

10.7.4 - Foundations for Manufactured Homes

Foundations for manufactured homes shall be in compliance with State Home Standard A119.1.

(1997 Code, § 44-89) (2016 Code § 156.063)

10.7.5 - Underpinning and/or Skirting

All manufactured homes shall be underpinned or skirted with concrete blocks, bricks or other durable material manufactured for this purpose within a period of 90 days after being placed on the property. Underpinning must be acceptable workmanship and be aesthetically compatible with the home.

Ventilation shall be in accordance with the state building code.

(1997 Code, § 44-90) (2016 Code § 156.064)

10.7.6 - Structural Additions

All structural additions will require a building permit and must be constructed in accordance with the state building code. (2016 Code § 156.065)

(1997 Code, § 44-91)

10.7.7 - Parking of Manufactured Home

A manufactured home shall not be parked on a lot for a period that exceeds 7 days without complying with the requirements of this chapter.

(1997 Code, § 44-92) (2016 Code § 156.066)

10.7.8 - Permit Required

(A) Whenever an owner desires to place a manufactured home within the town, he or she shall apply to the Building Inspector of Carteret County for an individual manufactured home permit. The permit shall state the following:

- (1) The name of the owner, his or her address, and the proposed location of the manufactured home;
- (2) The size of the manufactured home;
- (3) The manufacturer of the manufactured home;
- (4) The serial number of the label of compliance;
- (5) The year of manufacture;
- (6) The type of water and sewer system to be used; and
- (7) The size of the lot on which the manufactured home is to be placed.

(B) The issuance of a permit does not in itself guarantee approval of the manufactured home.

(C) If the Building Inspector finds that the owner will be in compliance with this section and with all other applicable laws when the manufactured home is ready for occupancy, he or she shall issue a manufactured home permit, which shall authorize the placement of the manufactured home in the town. The Building Inspector shall charge a fee, the amount to be set by the Board of Commissioners, for issuance of the permit.

(D) Thereafter the owner, when the manufactured home is ready for occupancy, shall notify the Building Inspector, who shall make a final inspection of the foundations, tie downs and other inspections which he or she deems necessary. He or she shall use state regulations on manufactured homes to guide him or her in his or her inspection. If the owner is found to be in compliance with this section, all state and federal regulations and all other ordinances of the town, the Building Inspector shall issue an occupancy permit, which shall authorize occupancy of the manufactured home. No electrical power shall be applied to the manufactured home until the occupancy permit has been issued, and the manufactured home shall not be used for its intended purpose, temporary or permanent, until the occupancy permit is issued.

(1997 Code, § 44-93) All regulations and procedures regarding building inspection and issuance of permits will be defined and executed by Carteret County. (2016 Code § 156.067)

Chapter 11: Zoning Districts

11.1 - Authority and Enactment

The Board of Commissioners, in pursuance of the authority granted by G.S. §§ [160D-702](#) *et seq.*, hereby ordains and enacts into law the following sections as set forth in this chapter. (1997 Code, § 44-1) (2016 Code § 156.001)

11.2 - Short Title

This chapter shall be known and may be cited as the zoning code of the town.

(1997 Code, § 44-2) (2016 Code § 156.002)

11.3 - Jurisdiction

(A) *Generally.* This chapter shall apply to all land within the corporate limits of the town and within any present or future extraterritorial area of the town.

(B) *Bona fide farms exempt.* This chapter shall in no way regulate, restrict, prohibit or otherwise deter any bona fide farm and its related uses; except that any use of property for non-farm purposes shall be subject to regulation. (1997 Code, § 44-3) (2016 Code § 156.003)

11.4 - Establishment of Base zoning districts

For the purpose of this chapter, the town is hereby divided into 8 districts as follows:

- (A) R-10 single-family residential district;
- (B) R-10M multifamily residential district;
- (C) R-13 single family residential district;
- (D) R-20 single-family residential district;
- (E) R-30 single-family residential district;
- (F) B-10 business and professional offices;
- (G) B-20 retail sales and shopping centers; and
- (H) B-30 light industrial.

(1997 Code, § 44-31) (Ord. 2009-11, passed 4-20-2009) (2016 Code § 156.015)

11.5 - Table of Permitted and Special Uses

P = Permitted by right in the zoning district

SUP = Permitted by Special Use Permit in the zoning district

P* = Permitted by right in the zoning district and subject to further provisions of this UDO

**Parking Category	Permitted Uses	R-10	R-10M	R-13	R-20	R-30	B-10	B-20	B-30
	Accessory uses and buildings incidental to any permitted use which will not create a nuisance or hazard	P*	P*	P*	P*	P*	P*	P*	P*

D	Alcoholic beverage store							P	
C	Ambulance service								P
C	Automobile and other vehicles sales and service								P
C	Automobile service stations								P
C	Bakeries, retail sales							P	P
C	Banks, savings and loans							P	P
	Batting cages							P	
D	Building materials and supplies and yards								P
E	Building trades contractor shops							P	P
	Bumper boats							P	
C	Bus stations and taxi stands							P	
C	Business and professional offices, including architect, real estate, legal, engineering firms, accountants							P	P
E	Car washes								P
E	Cartage and express facilities including truck rentals								P
A	Churches, including church cemeteries	P	P	P	P	P	P	P	P
A	Clubs and lodges, civic and fraternal							P	P
A	Community centers and halls							P	P
C	Convenience stores (including gasoline sales)								P
B	Day care facilities		P					P	P
C	Doctors and dentists							P	P
	Dog training facility								SUP
	Driving ranges								SUP
C	Dry cleaning pick up and drop off and laundry, less than 1,000								P

	square feet and self-service								
F	Dwellings, duplexes		P						
F	Dwellings, multifamily		P						
F	Dwellings, single-family	P	P	P	P	P			
	Family Amusement and Entertainment Venues on a site that is greater than 10 acres of land and that consist of any combination of the following: outdoor and/or indoor facilities for family entertainment and amusement including but not limited to bowling, mini-golf, dining, outdoor recreational activities, outdoor/indoor dining, driving ranges, go cart closed track racing, and other assorted family-centered activities typically associated with these venues.								SUP
D	Farm equipment sales and service								P
E	Farmers produce and craft markets							P	
C	Feed and seed sales								P
E	Fire and rescue stations	P	P	P	P	P	P	P	P
C	Food stores, excluding the killing or dressing of fowl or flesh except for seafood							P	
	Food Trucks						P	P	
C	Funeral homes						P	P	

D	Furniture Manufacturing and Woodworking							SUP	P
	General contracting office						P	P	
	Go-cart tracks							SUP	
E	Golf courses and associated facilities	P	P	P	P	P	P	P	
C	Greenhouses and nurseries (commercial)								P
E	Heavy equipment parking and storage, including truck and trailer rigs								P
	Home child daycare			P*	P*	P*			
	Home improvement center							P	
	Home occupations	P*	P*	P*	P*	P*			
C	Hotels and motels							P	
E	Laboratories, including scientific, research, testing and medical								P
C	Libraries and museums						P	P	P
E	Light manufacturing								P
	Local government uses including facilities, buildings and parks	P	P	P	P	P	P	P	P
E	Machine shops								P
C	Mail order catalog stores						P	P	
F	Manufactured (mobile) homes, one per lot as primary residence	P							
D	Manufactured (mobile) home parks								SUP
C	Manufactured (mobile) home sales								P
	Marina	P	P	P	P				
	Massage establishment/therapist						P	P	
C	Media offices and studios, including newspaper, radio and television						P	P	

C	Medical facilities and services, including hospitals, clinics and medical labs						P	P	
	Miniature golf							P	
C	Mobile offices, as permitted						P	P	P
A	Movie theaters, indoor							P	
D	Pet Daycare and Boarding Facilities							SUP	
F	Planned residential development	SUP	SUP	SUP	SUP	SUP			
C	Public buildings						P	P	P
C	Public utility offices						P	P	P
E	Public utility substations, carrier stations, water tanks and towers and similar facilities, as permitted	P	P	P	P	P	P	P	P
C	Recreation, private indoor, including movie or live theaters, pool rooms, health spas, gyms, bowling alleys and skating rinks							P	
E	Recreation, private outdoor, including tennis courts, swimming pools and club houses	SUP							
E	Recreation, public, other than commercial, including parks, playgrounds, swimming pools, tennis courts and picnicking	P	P	P	P	P	P	P	P
C	Rental service stores							P	
A	Restaurants							P	P
C	Retirement homes							P	
C	Sales, retail							P	P
C	Sales, wholesale and associated storage								P

	Satellite parking for church and governmental uses	P	P	P	P	P	P	P	P
B	Schools, fine arts, including art, music, drama, dance						P	P	P
B	Schools, private elementary, secondary and colleges	P	P	P	P	P	P	P	P
B	Schools, public, elementary, secondary and colleges	P	P	P	P	P	P	P	P
B	Schools, trade and professional including beauty, barber, nursing and business							P	P
C	Services, including micro-pigmentation, beauty shops and barbershops, caterers, locksmiths, photographers, reducing salons, and repair shops for shoes, small appliances and watches							P	P
	Signs	P*							
D	Upholstery shops							P	P
D	Vehicle and farm equipment, rental and leasing								P
D	Veterinary Offices and their associated ancillary uses							P	
E	Warehouses as an accessory to other allowed uses								P

**NOTE: Parking category definitions are as follows:

11.6 - Parking Category Definitions

<i>Parking Category</i>	Parking Requirements
A	1 space for each 4 seats in the principal place of assembly.
B	1 space for each room or office plus 1 space for each 3 students over 16 years of age.
C	1 space for each 200 square feet of gross floor area.
D	1 space for each 600 square feet of gross floor area
E	Requirement shall be determined on an individual basis based on type of commercial activity.
F	See parking requirements §§ 11.8.1 through 11.8.5 for these uses as designated in each of the zoning districts.

***NOTE: See § ~~156.043(B)~~ 11.8.4(B) for applicable conditions. (1997 Code, Ch. 44, App. B) (Am. Ord. 8-76, passed 12-20-1999; Am. Ord. 00-04-01, passed – -; Am. Ord. passed 4-18-2005; Am. Ord. 2007-02, passed 2-12-2007; Am. Ord. 2011-01, passed 2-21-2011; Am. Ord. 2010-12-06, passed 12-13-2010; Am. Ord. 2012-10-04, passed 10-15-2012) (Ord. 2017-06-01; passed 6-12-2017) (Ord. 2017-08-03; passed 8-21-2017) (Ord. 2018-05-01; passed 5-14-2018) (Ord. 2018-07-01; Passed 7-9-2018) (Ord. 2018-07-06); passed 7-9-2018)

11.7 - Overlay Districts

In accordance with [Chapter 160D-703\(a\)\(4\)](#) of the North Carolina General Statutes, overlay districts may be created in which different requirements are imposed on certain properties within one or more underlying conventional, conditional, or form-based districts.

11.8 – Residential Base Zoning Districts

11.8.1 - R-10 Single-Family Residential District

(A) Within the residential district R-10, the only uses permitted shall be those uses denoted as permitted in Section 11.5 of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

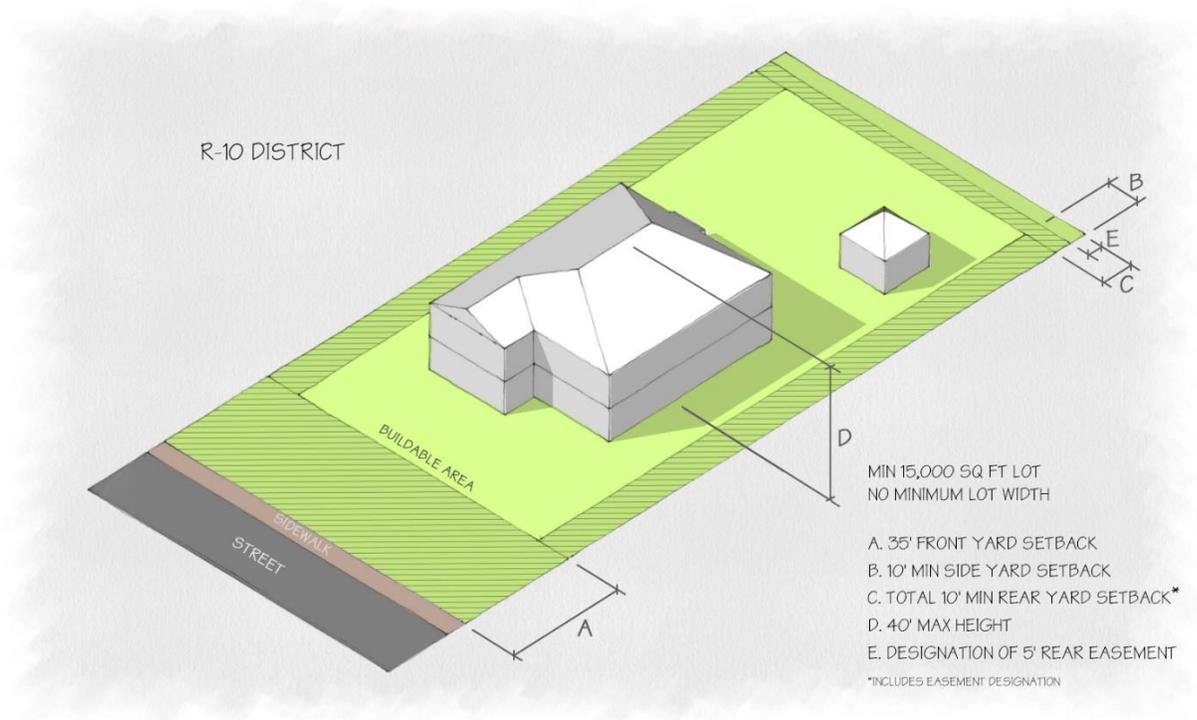
- a) A manufactured home shall be allowed only on a lot that contains 15,000 square feet or more.
- b) The minimum lot size for a church shall be 5 acres.
- c) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 10.4 and 10.3 respectively.

- d) No school engaged in commercial or industrial trade education shall be permitted.
- e) All recreational facilities must be operated on a nonprofit basis.
- f) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:
 - i. The facilities are essential to the service of the immediate area;
 - ii. The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;
 - iii. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;
 - iv. All dangerous apparatus or equipment shall be enclosed by a chain link fence at least 8 feet in height;
 - v. There shall be a densely planted and maintained buffer strip, as required in § 12.10, along all property lines other than those adjacent to a street right-of-way; and
 - vi. All accessory buildings or structures must be located at least 50 feet from any street right-of-way and 5 feet from any side or rear property line.
- g) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 12.10, along all property lines abutting residential districts.

(2) *Accessory buildings or structures.*

- a) Accessory buildings or structures shall be located 10 feet or more behind the front building line of the principal building and 5 feet from the side property line.
- b) For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.
- c) All accessory structures shall adhere to a 10-foot rear yard setback.

- (3) *Off street parking requirements.* Two spaces shall be required for each dwelling unit, and additional spaces shall be provided as required in Section 11.6 of this chapter. (1997 Code, § 44-61) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. passed 5-10-2004; Am. Ord. 2013-12-05, passed 12-9-2013) (2016 Code § 156.040)



11.8.2 - R-10M Multi-Family Residential District

(A) Within the residential district R-10M, the only uses permitted shall be those uses denoted as permitted in Section 11.5 of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions*

- a) The minimum lot size for a church shall be 5 acres.
- b) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 10.4 and 10.3 respectively.
- c) No school engaged in commercial or industrial trade education shall be permitted.

- d) All recreational facilities must be operated on a nonprofit basis or by a governmental entity.
- e) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:
 - i. The facilities are essential to the service of the immediate area;
 - ii. The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;
 - iii. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;
 - iv. All dangerous apparatus or equipment shall be enclosed by a chain link fence at least 8 feet in height;
 - v. There shall be a densely planted and maintained buffer strip, as required in § 12.10, along all property lines other than those adjacent to a street right-of-way; and
 - vi. All accessory buildings or structures must be located at least 50 feet from any street right-of-way and 5 feet from any side or rear property line.
- f) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 12.10, along all property lines abutting residential districts.

(2) *Accessory buildings or structures.*

- a) Accessory buildings or structures shall be located 10 feet or more from the front line of the principal building and 5 feet from the side property line.
- b) For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.
- c) All accessory structures shall adhere to a 10-foot rear yard setback.

(3) *Off street parking requirements.* Two spaces shall be required for each dwelling unit, and spaces for other uses in the

R-10M zoning district shall be provided as required in Section 11.5 and 11.6 of this chapter.

Parking spaces for multi-family dwellings shall be provided in the garage associated with each individual unit and/or incorporated into individual driveways serving each individual unit, either in the front or rear of the individual units. Common parking lots are not permitted for multi-family dwellings.

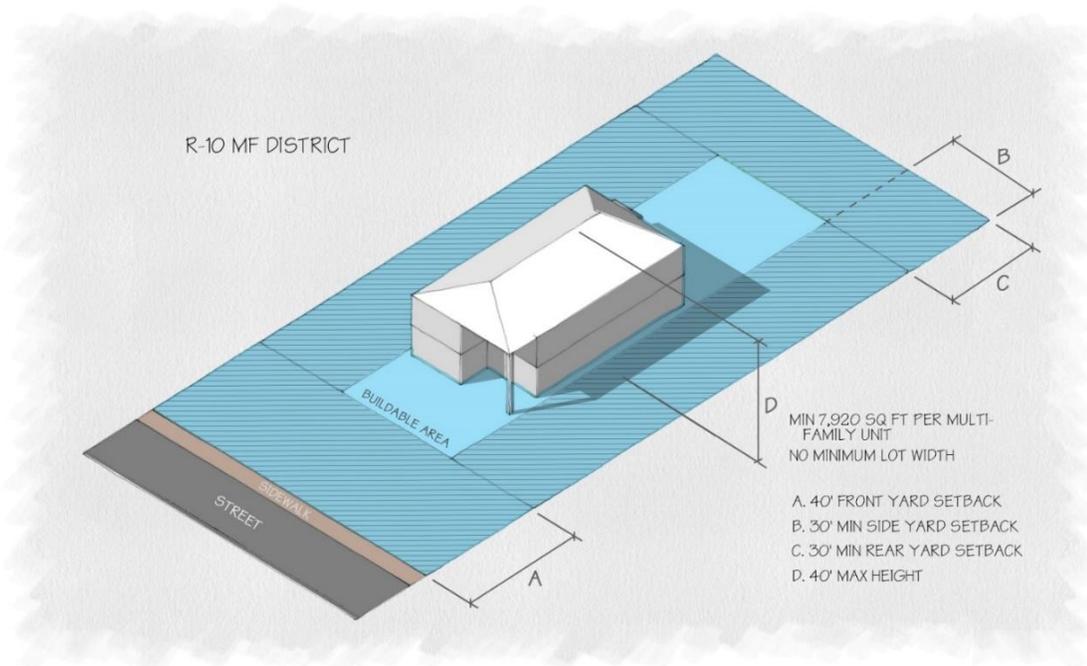
- (4) *Buffer strip required.*
 - a) There shall be a minimum 20 ft. wide landscaping buffer consisting of existing native vegetation and/or new plantings and landscaping features in a specifically and intentionally delineated landscape design along all property lines. The 20 ft. wide landscaping buffer replaces and supersedes other buffer requirements outlined in Section 12.9.
- (5) *Water and sewer requirements.* Each R-10M development must provide a state approved water system and sewage treatment facility. Connection to an existing system having excess capacity would satisfy this requirement if approved by the state.
- (6) *Additional standards for multi-family dwellings.*
 - a) The minimum lot size for a parcel developed with multi-family dwellings shall be 2 acres.
 - b) The maximum density for multi-family dwellings shall be 5.5 units per acre
 - c) There shall be no more than 4 individual connected dwellings in any structure containing multi-family dwelling units.
 - d) The minimum required width for individual connected dwellings in any structure containing multi-family dwelling units is 22 ft.
 - e) The minimum required setback between structures containing multi-family dwelling is 40 ft.

(7) *Preparation and Approval Procedure*

a) For multi-family dwellings projects constructed in the R10-M zoning district that will remain under single ownership, the preparation and approval process outlined in Section 8-21 shall apply, with review and a recommendation provided by the UDO Administrator and final approval of the project site plan reserved for the Board of Commissioners. Provided, however, that the Planning Board shall also review the project site plan after the UDO Administrator review and recommendation, and the Planning Board shall also provide its recommendation to the Board of Commissioners.

b) For multi-family dwelling projects constructed in the R10-M zoning district that will include the subdivision, recording, and conveyance of individual units, the preparation and approval process outlined in Section 13.9 and 13.10 shall apply. The preliminary plat shall delineate the boundaries of individual units to be recorded and conveyed, and the associated common areas to be owned and maintained by a property owners' association. The developer shall submit documentation outlining the creation of the property owners' association, the governance of the association, the responsibilities of the association, and the projected dues, revenues, and expenses to properly maintain the project in perpetuity.

(1997 Code, § 44-62) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. passed 5-10-2004; Am. Ord. 2013-12-05, passed 12-9-2013) (2016 Code § 156.041); Am. Ord. 10-10-2022



11.8.3 - R-13 Single-Family Residential District

(A) Within the Residential District R-13, the only uses permitted shall be those uses denoted as permitted in Section 11.5 of this chapter.

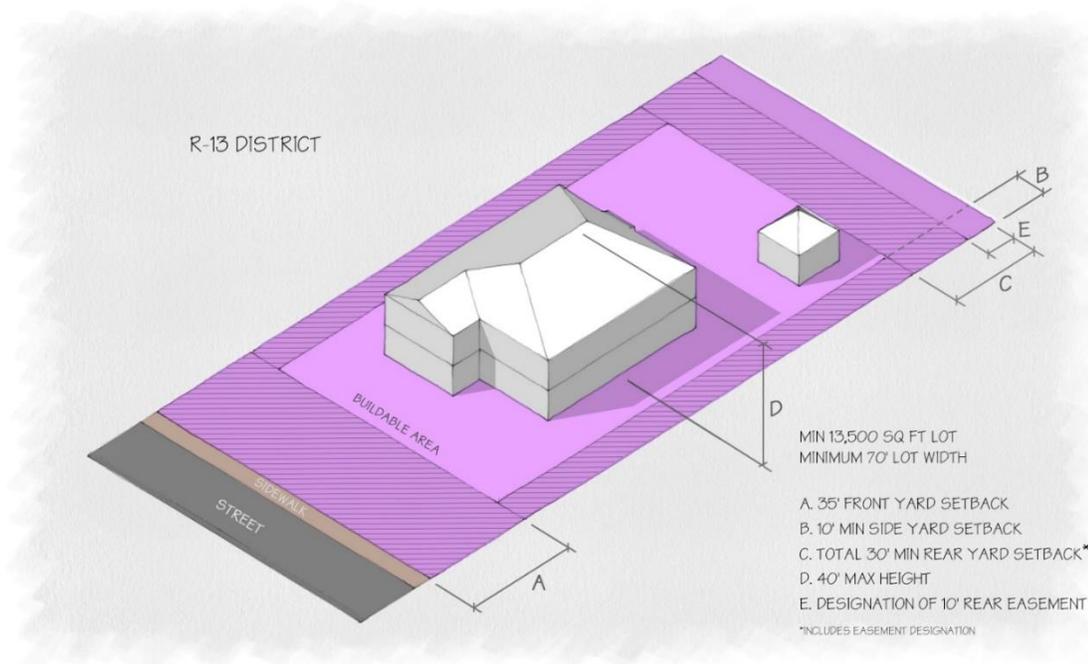
(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

- a) The minimum lot size for a church shall be 5 acres.
- b) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 10.4 and 10.3 respectively.
- c) No school engaged in commercial or industrial trade education shall be permitted.
- d) All recreation facilities must be operated on a nonprofit basis or by a government entity.
- e) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:
 - i. The facilities are essential to the service of the immediate area;
 - ii. The site is not used for storage of vehicles or materials and contains no office except for a fire station office;

- iii. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;
 - iv. All dangerous apparatus or equipment shall be enclosed by a chain link fence at least 8 feet in height;
 - v. There shall be a densely planted and maintained buffer strip, as required in § 12.10, along all property lines other than those adjacent to a street right-of-way; and
 - vi. All accessory buildings or structures must be located at least 50 feet from any street right-of-way and 5 feet from any side or rear property line.
- f) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 12.10, along all property lines abutting residential districts.
- (2) *Accessory buildings or structures.*
- a) Accessory buildings or structures shall be located 10 feet or more behind the front building line of the principal building and 5 feet from the side property line.
 - b) For the purpose of this chapter, eaves, steps and open porches shall be considered a part of the building.
 - c) All accessory structures shall adhere to a 10-foot rear yard setback.
- (3) *Off street parking requirements.* Two spaces shall be required for each dwelling unit, and additional spaces shall be provided as required in Section 11.6 of this chapter.

(Ord. 2009-11, passed 4-20-2009; Am. Ord. 2013-12-05, passed 12-9-2013)
 (2016 Code § 156.042)



11.8.4 - R-20 Single-Family Residential District

(A) Within the residential district R-20, the only uses permitted shall be those uses denoted as permitted in Section 11.5 of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

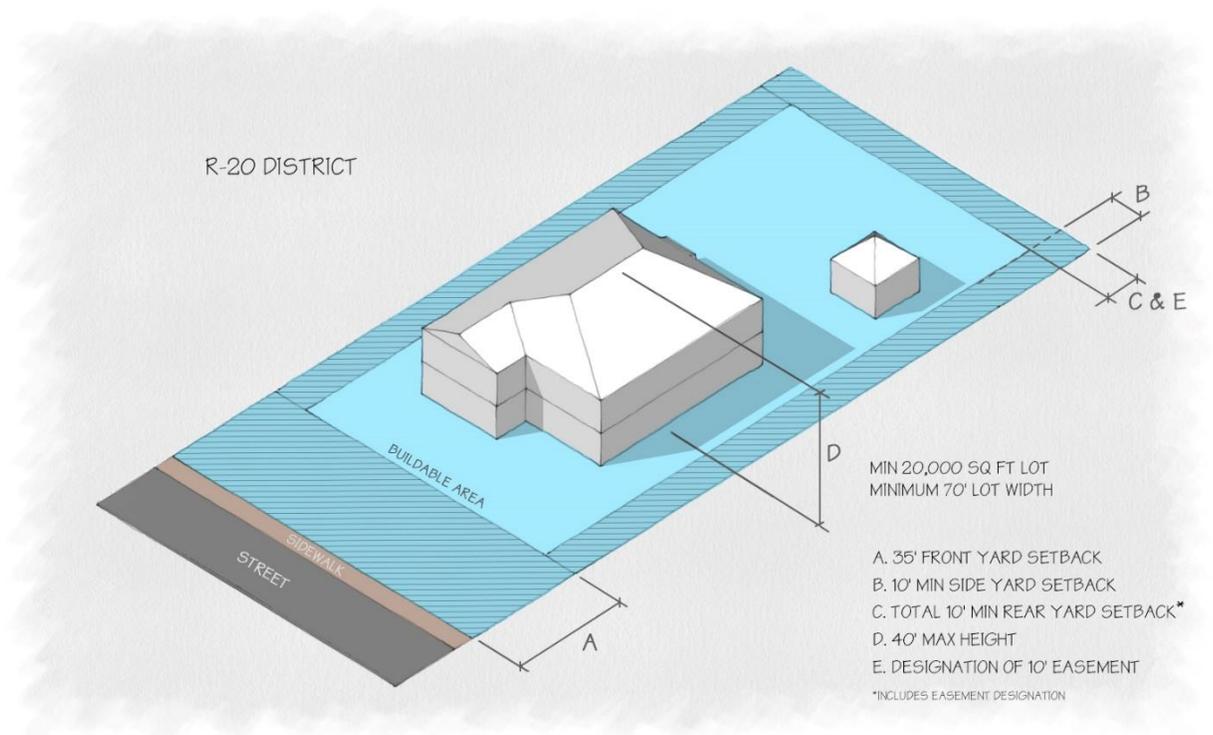
- a) The minimum lot size for a church shall be 5 acres.
- b) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 10.4 and 10.3 respectively.
- c) No school engaged in commercial or industrial trade education shall be permitted.
- d) All recreation facilities must be operated on a nonprofit basis or by a governmental entity.
- e) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:
 - i. The facilities are essential to the service of the immediate area;
 - ii. The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;

- iii. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;
 - iv. All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;
 - v. There shall be a densely planted and maintained buffer strip, as required in § 12.10, along all property lines other than those adjacent to a street right-of-way; and
 - vi. All accessory buildings or structures must be located at least 50 feet from any street right-of-way and 5 feet from any side or rear property line.
- f) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § 12.10, along all property lines abutting residential districts.
- (2) *Accessory buildings or structures.*
- a) Accessory buildings or structures shall be located 10 feet or more behind the front building line of the principal building and 5 feet from the side property line.
 - b) For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.
 - c) All accessory structures shall adhere to a 10-foot rear yard setback.
- (3) *Off street parking requirements.* Two spaces shall be required for each dwelling unit, and additional spaces shall be provided as required in Section 11.6 of this chapter.
- (4) *Satellite parking requirements.* Satellite parking (parking on premises not contiguous with the principal use) is permitted in residential district R-20 provided all of the following conditions are met.
- a) The satellite parking lot shall be located within 200 feet of the church or governmental principal use property.
 - b) The satellite parking lot shall have a 10-foot planted (living) screen buffer as defined in § 12.10 (E)(1), provided that the buffers are not required on

property lines that abut a street or right-of-way. Notwithstanding the language contained in § 12.10 concerning non-residential districts, the screening required in this division shall comply with all of the provisions of § 12.10 applicable to planted (living) screen(s).

- c) There shall be no lighting in the satellite parking lot except security lighting placed on bollards or similar supporting structures, but in any event, there shall be no light fixture nor any part thereof at a height of more than 4 feet above grade at the location of the light.
- d) There shall be no overnight parking allowed in any satellite parking lot.
- e) The satellite parking lot shall be used for no other purpose than parking for persons attending meetings or other legitimate functions at the site of the principal use to which the satellite parking lot is appurtenant.
- f) The owner/operator of the principal use to which the satellite parking lot is appurtenant shall provide to the Code Enforcement Officer of the town a written statement with the notarized signatures of all adjacent property owners or their duly authorized agents clearly evidencing their consent to the use requested by the owner/operator of the principal use.
- g) The owner/operator of the principal use to which the satellite parking lot is appurtenant shall ensure through the use of permeable surface materials, use of on-premises storm water catch basin(s) and/or other methods satisfactory to the Town's Code Enforcement Officer that all storm water runoff will be retained on the site of the satellite parking lot.

(1997 Code § 44-63) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. passed 5-10-2004; Am. Ord. passed 4-18-2005; Am. Ord. 2013-12-05, passed 12-9-2013) (2016 Code § 156.043)



11.8.5 - R-30 Single-Family Residential District

(A) Within the residential district R-30, the only uses permitted shall be those uses denoted as permitted in Section 11.5 of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

- a) The minimum lot size for a church shall be 5 acres.
- b) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 10.4 and 10.3 respectively.
- c) No school engaged in commercial or industrial trade education shall be permitted.
- d) Except for full-length golf courses and facilities and activities associated with them, including a clubhouse, all recreation facilities must be operated on a nonprofit basis or by a governmental entity.
- e) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:

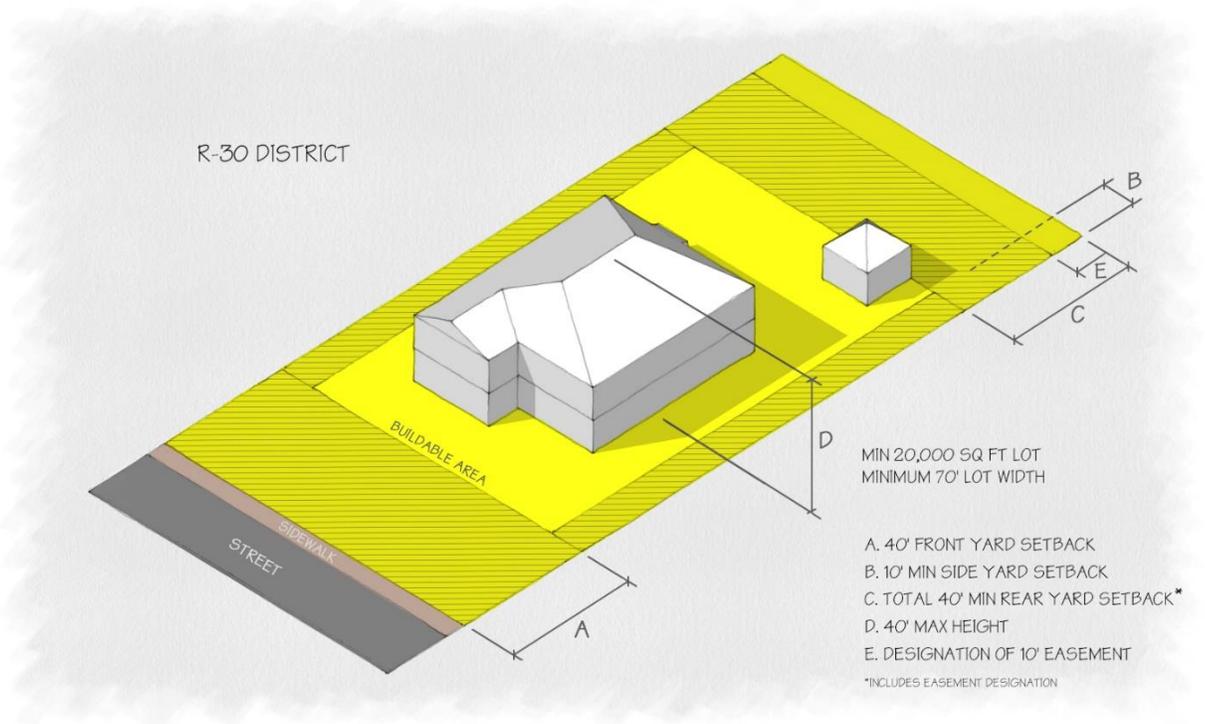
- i. The facilities are essential to the service of the immediate area;
 - ii. The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;
 - iii. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;
 - iv. All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;
 - v. There shall be a densely planted and maintained buffer strip, as required in § 12.10, along all property lines other than those adjacent to a street right-of-way, and
 - vi. All accessory buildings or structures must be located at least 50 feet from any street right-of-way and 5 feet from any side or rear property line.
- f) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § § 12.10, along all property lines abutting residential districts.

(2) *Accessory buildings or structures.*

- a) Accessory buildings or structures shall be located 20 feet or more behind the front building line of the principal building and ten feet from the side property line.
- b) For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.
- c) All accessory structures shall adhere to a 10 foot rear yard setback.

(3) *Off-street parking requirements.* Two spaces shall be required for each dwelling unit, and additional spaces shall be provided as required in Section 11.6 of this chapter.

(1997 Code § 44-64) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. passed 5-10-2004; Am. Ord. 2013-12-05, passed 12-9-2013) (2016 Code § 156.044)



11.9 - Nonresidential Use Base Districts

11.9.1 - B-10 Business and Professional Offices District

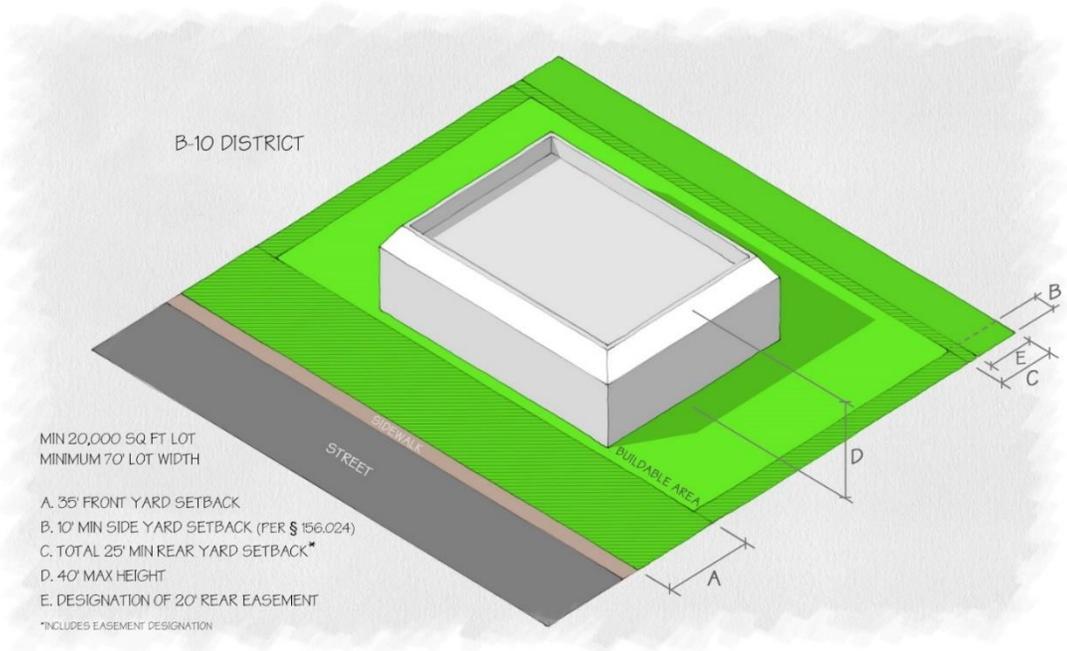
Within the business district B-10, the only uses permitted shall be those uses denoted as permitted in Section 11.5 of this chapter, and the following provisions shall apply to those uses:

(A) *Restrictions.*

- (1) The minimum lot size for a church shall be 3 acres.
- (2) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 10.4 and 10.3 respectively.
- (3) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:
 - a) The facilities are essential to the service of the immediate area;
 - b) The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;
 - c) All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;
 - d) All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;

- e) There shall be a densely planted and maintained buffer strip, as required in § § 12.10 along all property lines other than those adjacent to a street right-of-way; and
 - f) All accessory buildings or structures must be located at least 50 feet from any street right-of-way and 6 feet from any side or rear property line.
- (4) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § § 12.10, along all property lines abutting residential districts.
- (B) *Accessory uses, buildings or structures.*
- (1) Accessory uses, buildings or structures are permitted provided they are clearly incidental to a permitted use and will not create a nuisance or hazard.
 - (2) Accessory buildings or structures shall be located 50 feet or more from the minimum building setback line and 6 feet from the side property line. For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.
- (C) *Off-street parking requirements.*
- (1) Permanent off-street parking shall be constructed and provided, at the time of the erection of any building, or at the time any principal use is expanded or enlarged, or at any time the principal use of a lot changes, as specified hereinafter; except that this section shall not be applicable to any single-family dwelling.
 - (2) The number of off-street parking spaces shall be provided as required in Section 11.6 of this chapter.
- (D) *Buffer.* There shall be a densely planted and maintained buffer strip, as required in § §12.10, along all property lines adjacent to a residential district.
- (E) *Mobile accommodations.*
- (1) At the time a permit for a temporary mobile accommodation is applied for, plans for a permanent structure and removal of the temporary accommodation must be presented.
 - (2) Permits for temporary buildings shall expire a maximum of 18 months following issuance, and the temporary building must be removed prior to the expiration of the permit.

(1997 Code, § 44-65) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. 2007-01, passed 2-12-2007; Am. Ord. 2013-12-05, passed 12-9-2013) (2016 Code § 156.045)



11.9.2 - B-20 Business Retail Sales and Shopping Center District

Within the business district B-20, the only uses permitted shall be those uses denoted as permitted in Section 11.5 of this chapter, and the following provisions shall apply to those uses:

- (A) *Restrictions.*
 - (1) The minimum lot size for a church shall be 3 acres.
 - (2) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 10.4 and 10.3 respectively.
 - (3) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:
 - a) The facilities are essential to the service of the immediate area;
 - b) The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;
 - c) All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;

- d) All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;
 - e) There shall be a densely planted and maintained buffer strip, as required in § § 12.10, along all property lines other than those adjacent to a street right-of-way; and
 - f) All accessory buildings or structures must be located at least 50 feet from any street right-of-way and 6 feet from any side or rear property line.
- (4) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § § 12.10, along all property lines abutting residential districts.
- (B) *Accessory uses, buildings or structures.*
- (1) Accessory uses, buildings or structures are permitted provided they are clearly incidental to a permitted use and will not create a nuisance or hazard.
 - (2) Accessory buildings or structures shall be located 50 feet or more from the minimum building setback line and 6 feet from the side property line. For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.
- (C) *Off-street parking requirements.*
- (1) Permanent off-street parking shall be constructed and provided at the time of the erection of any building, or at the time any principal use is expanded or enlarged, or at any time the principal use of a lot changes, as specified hereinafter, except that this section shall not be applicable to any single-family dwelling.
 - (2) The number of off street parking spaces shall be provided as required in Section 11.6 of this chapter.
- (D) *Buffer.* There shall be a densely planted and maintained buffer strip, as required in § § 12.10, along all property lines adjacent to a residential district or to a B-10 district.
- (E) *Mobile accommodations.*
- (1) At the time a permit for a temporary mobile accommodation is applied for, plans for a permanent structure and removal of the temporary accommodation must be presented.

- (2) Permits for temporary buildings shall expire a maximum of 18 months following issuance, and the temporary building must be removed prior to the expiration of the permit.

(F) *Development requirements.*

- (1) The site must be adjacent to a major or minor thoroughfare.
- (2) The street and highway system serving the area shall be adequate to handle expected traffic generated by the development, without creating undue hazards to safety or unreasonable impediments to the flow of other traffic.
- (3) The site shall not extend across any major highway.
- (4) Total ground area occupied by all buildings shall not exceed 40% of the gross land area.
- (5) Utilities must be adequate to serve the development.

(G) *Sexually oriented businesses.* Sexually oriented businesses, only those businesses defined and provided for in this section and the Town of Cape Carteret code of ordinances, and provided the following conditions are met:

- (1) Sexually oriented businesses shall not be located in a building or on a premises where alcohol or alcoholic beverages are sold or in a building or on a premises that allows alcohol or alcoholic beverages to be consumed.
- (2) No sexually oriented businesses shall be permitted in any building which is:
 - a) Located within 1,000 feet in any direction from a building used as a dwelling in the B-20 Zoning District.
 - b) Located within 1,000 feet in any direction from a residential zoning district.
 - c) Located within 1,000 feet in any direction from a building in which a sexually oriented business is located.
 - d) Located within 1,000 feet in any direction from a building in which a religious complex is located.
 - e) Located within 1,000 feet in any direction from a building in which a library, school, or a state licensed child day care center is located.
 - f) Located within 1,000 feet in any direction from any lot or parcel on which a public playground, public

swimming pool, public ocean or estuarine access, or public park is located.

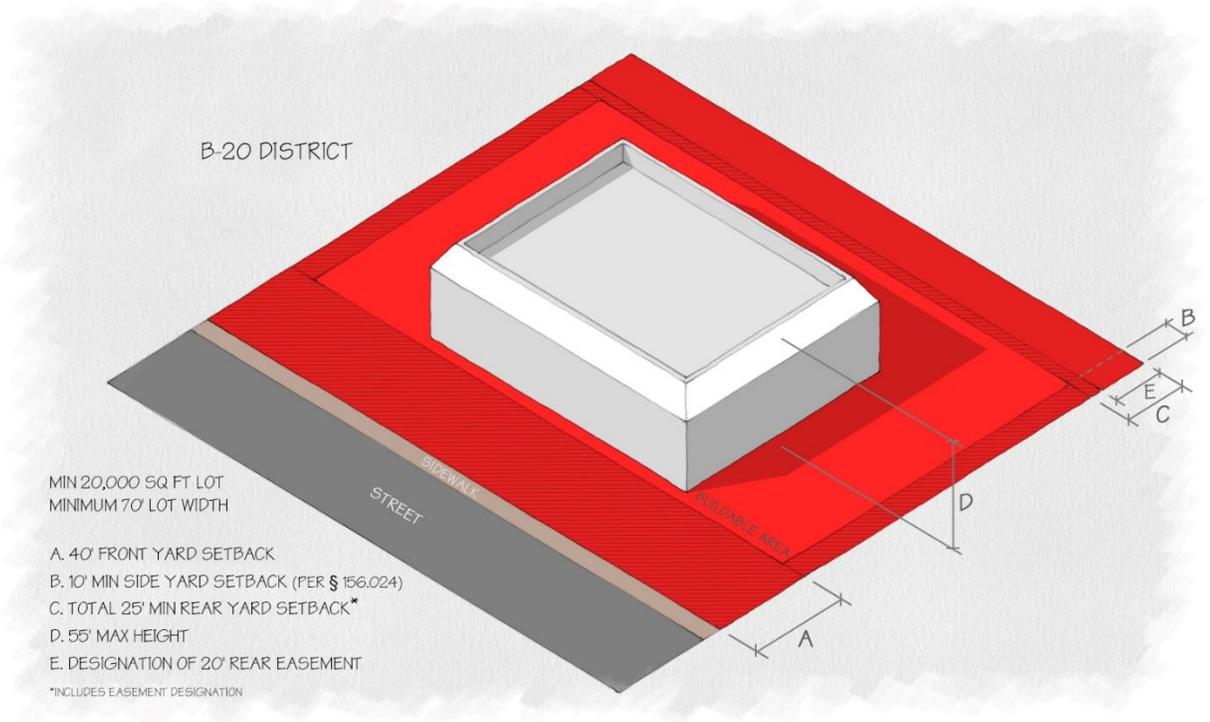
- (3) Measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as the part of the premises where a sexually oriented business is conducted to the nearest portion of a building or structure of a use listed above.
- (4) Signs are allowed, as permitted by this chapter, but may not include promotional displays, flashing lights, or photographs, silhouettes, drawings, or pictorial representations of any manner depicting sexual activity, themes or nudity.
- (5) That the applicant(s) obtain a license in accordance with the Town of Cape Carteret code of ordinances.

(1997 Code, § 44-66) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. passed 11-18-2002)

(H) *Home center.*

- (1) A Home Center's inventory shall be generally maintained within the building and any fenced area attached to the building; however, seasonal inventory such as gas and/or charcoal grill, lawn and garden equipment, plants, and the like may be displayed outside the building and its fences area, and inventory which is too large to be displayed practicably within the building, including by way of illustration and not by way of limitation, outdoor storage sheds (or models thereof), dog pens, utility trailers and the like, may also be displayed outside the building and the attached, fenced area. If such inventory is displayed outside the building and fenced area, the operator of the business shall ensure that it is so displayed as not to interfere with vehicular traffic flow and not to render unusable any required parking spaces, fire lanes, vehicular travel lanes and the like.
- (2) The attached, fenced area, if any, shall be entirely surrounded by fencing at least 20 feet tall.

(Ord. 2007-01, passed 2-12-2007; Am. Ord. 2013-12-05, passed 12-9-2013)
(2016 Code § 156.046)



11.9.3 - B-30 Light Industrial Business District

(A) Within the business district B-30, the only uses permitted shall be those uses denoted as permitted in Section 11.5 of this chapter.

(B) The following provisions shall apply to those uses:

(1) *Restrictions.*

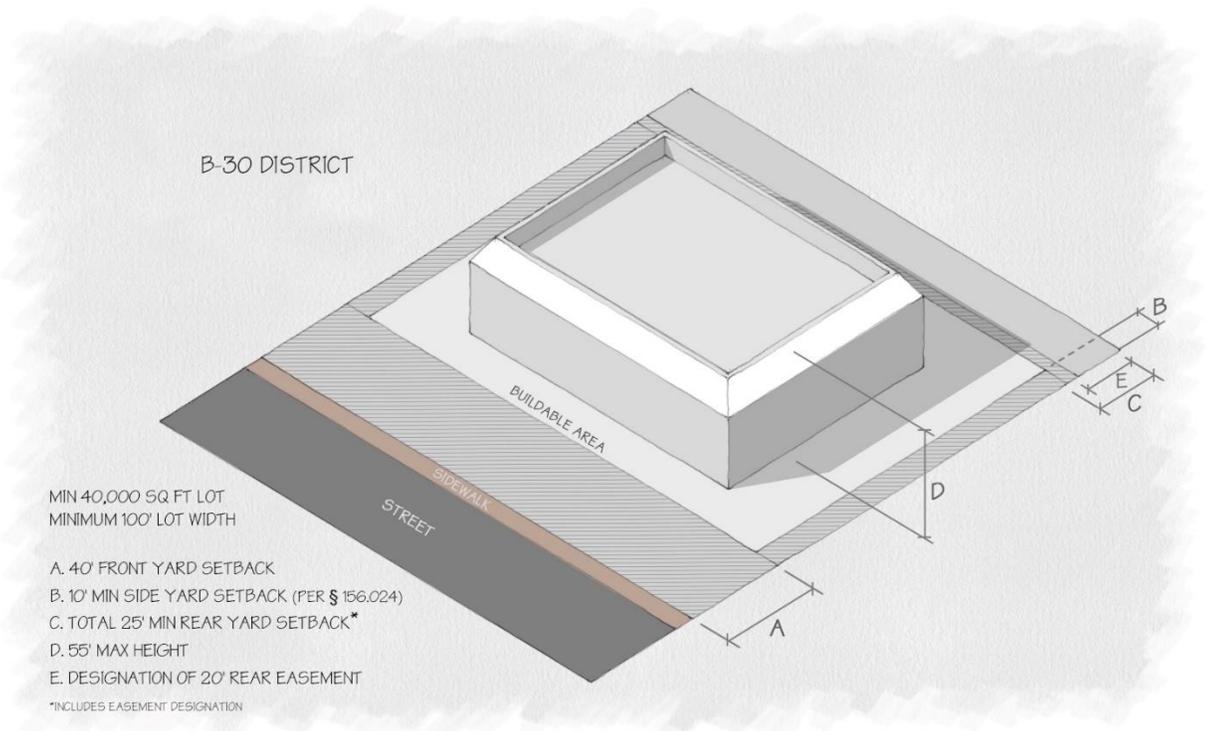
- a) The minimum lot size for a church shall be 3 acres.
- b) All swimming pools, spas and tennis courts shall meet those requirements set forth in §§ 10.4 and 10.3 respectively.
- c) Public utility substations, carrier stations, water tanks and towers and similar facilities shall be permitted only if:
 - i. The facilities are essential to the service of the immediate area;
 - ii. The site is not used for storage of vehicles or materials and contains no offices except for a fire station office;
 - iii. All buildings and parking areas shall be set back at least 20 feet from all adjoining property lines;

- iv. All dangerous apparatus or equipment shall be enclosed by a chainlink fence at least 8 feet in height;
 - v. There shall be a densely planted and maintained buffer strip, as required in § § 12.10, along all property lines other than those adjacent to a street right-of-way; and
 - vi. All accessory buildings or structures must be located at least 50 feet from any street right-of-way and 6 feet from any side or rear property line.
- d) Fire and rescue stations shall be permitted only if there shall be a densely planted and maintained buffer strip, as required in § § 12.10, along all property lines abutting residential districts.
- (2) *Accessory uses, buildings or structures.*
- a) Accessory uses, buildings or structures are permitted provided they are clearly incidental to a permitted use and will not create a nuisance or hazard.
 - b) Accessory buildings or structures shall be located 50 feet or more from the minimum building setback line and 6 feet from the side property line. For the purpose of this chapter, eaves, steps and open porches shall be considered as a part of the building.
- (3) *Off street parking requirements.*
- a) Permanent off street parking shall be constructed and provided, at the time of the erection of any building, or at the time any principal use is expanded or enlarged, or at any time the principal use of a lot changes, as specified hereinafter; except that this section shall not be applicable to any single-family dwelling.
 - b) The number of off street parking spaces shall be provided as required in Section 11.6 of this chapter.
- (4) *Buffer.* There shall be a densely planted and maintained buffer strip, as required in § § 12.10, along all property lines adjacent to a residential district or to a B-10 district.
- (5) *Mobile accommodations.*
- a) At the time a permit for a temporary mobile accommodation is applied for, plans for a permanent

structure and removal of the temporary accommodation must be presented.

- b) Permits for temporary buildings shall expire a maximum of 18 months following issuance, and the temporary building must be removed prior to the expiration of the permit.

(1997 Code, § 44-66) (Am. Ord. 00-12-08, passed 12-18-2000; Am. Ord. 2007-01, passed 2-12-2007; Am. Ord. 2013-12-05, passed 12-9-2013) (2016 Code § 156.047)



11.9.4 - PRD Planned Residential Development

(A) Within designated zoning districts within the town, planned residential developments are allowed as shown in Section 11.5 to this chapter. Planned residential developments (PRDs) shall be affixed, in accordance with the provisions and procedures set out hereinafter, to specific tracts of land upon application submitted by the owner of the tract. PRD designation shall be approved by the town only for properties meeting the specific requirements as more fully set out hereafter, and only when a decision is made by the town that the designation would provide, because of the flexible design criteria, development of benefit to the town.

(B) There shall be no requirement that any property be designated as a PRD, the designation being available only upon voluntary request by the owner of the property, and approval of the designation in accordance with the procedures more fully set out in this chapter.

(1) *Restrictions.*

- a) The property for which the request for PRD is submitted, whether owned by 1 or more individuals, shall be of a minimum size of 6 acres.
- b) No structure constructed within a PRD shall exceed 50 feet in height.
- c) Uses shall be limited to residential uses and noncommercial recreational uses, except that no more than 15% in total land area of the PRD may be utilized for uses allowed in the B-10 and B-20 zone.
- d) There shall be no more than 8 living units allowed per residential acre within the PRD. Residential acre shall mean the total PRD acreage less that portion of the acreage approved for uses other than residential and recreational.
- e) Prior to construction of any improvements within an approved PRD, state approval of the water and sewage facilities for the development must be provided to the town. Each PRD must have established for its benefit a homeowners' association or other entity with the binding legal obligation to maintain all streets, roads and common areas within the PRD, and the association must have the right to assess the ultimate owners or users of structures within the PRD moneys for the maintenance and upkeep.

- (2) *Signs.* Within the area designated for uses other than residential and recreational, the only signs permitted are signs allowed in the B-10 district for equivalent uses. Within the rest of the PRD, signs are permitted as allowed in the R-10 district for equivalent uses.
- (3) *Accessory uses, buildings or structures.* Accessory uses, buildings or structures shall be allowed to the extent reasonably necessary to service the other allowed uses within the PRD.
- (4) *Parking.* Two off street parking spaces shall be required for each dwelling unit, and guest or overflow parking facilities shall be required on the basis of 1 space for every 5 living units. Parking for allowed recreation and commercial uses shall be as specified in Section 11.6.
- (5) *Open spaces.* A minimum of 25% of the total land area shall be utilized for open spaces or outdoor recreational uses, excluding streets or roads, and excluding land restricted in use to the owners of particular, designated structures.
- (6) *Application and review process.*
 - a) *Application.* An application to establish a PRD must be submitted, with 10 copies, to the Town Clerk for submission to the Chairperson of the Planning Board for review at its next regularly scheduled meeting occurring 10 days or more following the submission of the completed application to the Chairperson of the Planning Board. A request for a PRD will only be considered if application is made by the owner of the property or his authorized agent. The application must include the following information and supporting data:
 - i. A boundary survey showing the total acreage, present zoning classification, date and north arrow;
 - ii. The name of each owner, with their address, and the tax parcel numbers of all abutting properties as shown on the tax records of the county;
 - iii. All known and existing easements, reservations and rights-of-way encumbering the tract;

- iv. A narrative description of the proposed use of the land and structures, including the total number of proposed living units and the approximate square footage of all other proposed structures;
 - v. A plan showing the approximate location of all living units and other structures, including traffic, parking and circulation plans, and the interconnection of all streets and roads to those adjoining;
 - vi. The approximate height of each structure;
 - vii. The proposed method of provision of all required utility services to the tract;
 - viii. The proposed building materials; and
 - ix. The proposed phasing, if any, and approximate completion time of each phase of the project.
- b) *Review and approval.*
- i. In considering an application for the establishment of a PRD, the town may attach reasonable and appropriate conditions to the location, nature and extent of the proposed use and the proposed structures. All conditions shall relate to the relationship of the proposed uses and structures to surrounding property and the interrelation among the proposed uses and structures within the tract. Approval, if given, shall specify the conditions attached, and the approval relates only to the proposed uses and structures as approved. Any substantial modification of the uses or structures, or any substantial deviation from the phasing or timing of construction, shall only be permitted after review by the Board of Commissioners and the Planning Board. Other, minor modifications shall not require review by the Planning Board as a whole unless the Board of Commissioners and the Planning Board Chairman believe that the proposed change alters the fundamental character of the approved PRD, in which event the request for modification shall be submitted

by the Board of Commissioners for review by the Planning Board.

- ii. The Planning Board shall submit a recommendation to the Board of Commissioners within 35 days following the date it first reviews an application. A copy of the recommendation shall be provided to the applicant. The Board of Commissioners shall consider the proposed application at its next meeting following receipt of the recommendation of the Planning Board, and shall either approve or disapprove, or approve with conditions, the application. If approval is made with conditions, the conditions shall be submitted to the applicant; and the applicant shall have 30 days in which to respond, in writing, to the approval. The applicant may either accept the approval with the attached conditions, or the applicant may reject the PRD, in which event the PRD shall not attach to the tract, or the petitioner may request modification of the proposed conditions. If modifications are requested, the Board of Commissioners shall consider the modifications at its next meeting following receipt of the requested modifications; if no changes are made in the requested conditions, the applicant shall have 10 days following the meeting to elect, in writing, to accept the PRD with the attached conditions, or to reject the same. If any applicant fails or refuses to respond within the time allowed, it shall be deemed that the conditions have been rejected and the PRD zone shall not attach. The town shall cause notice of its actions, and the required time for response by the applicant, to be given in writing to the applicant at his or her address as shown on the application within 3 working days following any action taken by the Board of Commissioners.

- c) *Effect of approval.*
 - i. If an application is approved, the PRD is established and all conditions which have been attached to the approval are binding on the property. All subsequent development and use of the property must be in accordance with the approved plan and conditions. The intent of this zone is to provide an alternative procedure for specific development proposals. It is intended that all property be zoned PRD only in accordance with firm plans to develop. It is also intended that PRD be an elective zone established only upon request of the owner of property, and that the zone be established only with conditions approved by the owner of a tract. However, once approved, the zoning shall be binding on the tract, and all subsequent owners thereof, until the time as the approval shall expire.
 - ii. The PRD shall expire and the property designated PRD shall revert to its previously existing zone unless the development of the parcel is proceeding substantially in accordance with the approved phasing schedule submitted at time of approval of the PRD or unless the Board of Commissioners (without necessity of review by the Planning Board) extends for an additional period of time the approval, which extension shall only be granted upon review and approval of a revised phasing and construction schedule as submitted by the applicant. The applicant shall submit a schedule within 30 days following request to do so by the town.

(7) *Setbacks.* There shall be no required setbacks relating to structures within the PRD, or from private streets within the PRD. Private streets, roads and driveways are specifically permitted. Setbacks from adjoining properties shall be based upon the proposed use of that portion of the property proximate to each neighboring tract and shall be based upon the setback that would be required within that zoning district most

equivalent to the proximate use, as determined by the Board of Commissioners.

- (8) *Minimum lot size.* There shall be no minimum lot size.
- (9) *Documentation.* Project documentation creating the homeowners' association or other management entity must be submitted for review by the town and its legal counsel prior to the issuance of any building permit for any portion of the property. The applicant shall reimburse to the town the moneys expended by the town in causing the documents to be reviewed and commented by town legal counsel.

(1997 Code, § 44-68) (2016 Code § 156.048)

11.9.5 *Conditional Use District*

(A) *Purpose.*

- (1) This section contains regulations which establish zoning districts and assign land uses to 1 or more of those districts. The section also provides standards for development which regulate lot size, yards, parking and open space. There are, however, certain circumstances which occasionally arise when a general zoning district designation would not be appropriate for a certain property, but a specific use permitted under the district would be consistent with the objectives of this section. In order to accommodate this situation, this section establishes the conditional use zone and describes the rezoning process relating to the conditional use zone.
- (2) The conditional use district is established to address those situations involving a rezoning when a particular use may be acceptable, but the general classification which would allow that use would not be acceptable. It allows the Board of Commissioners to approve a rezoning proposal for a specific use with reasonable conditions to assure the compatibility of the use with surrounding properties and with the land use plan. Any use permitted in a conditional use zone must be a permitted use in a general zoning district of the town. At a minimum, the land use restrictions in the general zoning classification allowing the proposed use must be complied with in all particulars prior to approval of a conditional use zone. Where the use is allowed in more than 1 general zoning district, the most restrictive provisions shall apply.

(3) This proceeding is a voluntary proceeding which may only be instituted at the request of a property owner. It is not intended to be utilized except where specific development criteria have been established for a particular piece of property by its owner, and the owner is prepared to commence construction within 6 months following approval of the conditional use rezoning application.

(B) *Application and review process.*

(1) *Application.* Rezoning petitions to establish a conditional use district must be submitted to the Planning Board and will be processed in accordance with the procedure for processing zoning amendments to the extent not in conflict with the provisions of this section. A conditional use district classification will be considered only if the application is made by the owner of the property or his or her agent or any person holding a contract to purchase the land contingent upon approval of the application. All applications must include a schematic plan drawn to scale and any supporting text for the ordinance amendment. The application should include at least the items listed below:

- a) A boundary survey showing the total acreage, present zoning classification, date and north arrow;
- b) The owners' names, addresses and the tax parcel numbers of all abutting properties as shown on the tax records of the county;
- c) All existing easements, reservations and rights-of-way and all yards required for the zoning district applicable;
- d) Proposed use of land and structures.
 - i. For residential uses, this should include the number of units and an outline of the area where the structures will be located.
 - ii. For nonresidential uses, this should include the approximate square footage of all structures and an outline of the area where the structures will be located.
- e) Traffic, parking and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets.

- (2) *Additional requirements.*
- a) It may be necessary to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Planning Board and/or Board of Commissioners may request additional information as they deem necessary. This information may include but is not limited to the items listed below:
- i. Proposed screening, including walls, fences or planting areas, as well as treatment of any existing natural features;
 - ii. Proposed architectural design of structures;
 - iii. Delineation of areas within the regulatory flood zone as shown on the official FEMA flood zone maps for the county;
 - iv. Existing and proposed topography at 2-foot contour intervals or less;
 - v. Generalized information on the number, height, size and the location of structures;
 - vi. Proposed number, size and location of signs; and
 - vii. Proposed phasing, if any, and approximate completion time of the project.
- b) The application for a conditional use district must contain information and/or site plans which indicate all of the principal accessory uses which are proposed to be developed on the site. Subsequent to the approval of a conditional use district, only those principal and accessory uses indicated on the approved plan may be constructed on the site. Any substantial modifications to an approved plan, including any changes in the permitted principal or accessory uses, must comply with the provisions of division (B)(2)(a)(5).
- (3) *Review and approval.*
- a) In evaluating an application for the establishment of a conditional use district, the Board of Commissioners shall consider the following:
- i. The policies and objectives of the land use plan;

- ii. The potential impacts on surrounding property values and utilization;
 - iii. Traffic impacts;
 - iv. Environmental impacts;
 - v. The conditions of other properties owned by the applicant; and
 - vi. Any other factors deemed reasonably relevant by the Board of Commissioners.
- b) The Board of Commissioners may attach reasonable conditions to any approval relating in any way to the location, appearance or utilization of the proposed use. Those conditions may include reasonable mechanics for determining compliance with the conditions after issuance of the permit, and may include a procedure for revoking a permit if any conditions are not met after reasonable notice and opportunity to comply.
- c) The approval, with attached specific conditions, shall be given to the applicant in writing within 30 days following the vote by the Board of Commissioners approving the conditional use zone. The applicant shall have 30 days after the notice of approval with conditions has been forwarded to him or her, postage prepaid, return receipt requested, to consent to all conditions. Failure to consent in writing to all conditions shall render the approval null and void.
- (4) *Documentation and effect of approval.*
- a) Following approval of an application and acceptance of conditions by the applicant, the applicant shall cause to be prepared restrictive covenants incorporating all agreed restrictions, which covenants shall name the town as a beneficiary of the covenants, with full right of enforcement of the conditions, with all cost of enforcement to be borne by the applicant or his or her successors and assigns. A draft of restrictive covenants shall be provided to the town for review by its legal counsel. Following approval of the covenants, these covenants shall be recorded in the office of the Register of Deeds of the county and a copy of the recorded covenants shall be provided to the town. At

the time as a copy of the recorded restrictive covenants are provided to the town, a zoning permit may be issued upon a request of the applicant. The conditional use district and conditions attached thereto shall be binding on the property and all subsequent owners of the property.

b) The Building Inspector of Carteret County shall inspect the property 1 year from date of issuance of the zoning permit. If satisfactory progress has not been made towards construction of the permitted improvements, the Building Inspector shall provide to the Board of Commissioners a written report specifying the status of progress, and the owner's stated intent towards completion of the project. The Board of Commissioners shall review the report, gather any additional information it deems relevant, and may, after giving notice to the owner and an opportunity for the owner to speak before the Board of Commissioners, terminate the conditional use district designation if reasonable progress has not been made towards completion. Upon the termination, the property shall revert to its zoning classification as it existed immediately prior to the approval of the conditional use zone.

(5) *Alterations to an approved conditional use district.*

Changes to approved plans and conditions of development will be processed the same as changes to the zoning map and will be processed as an amendment. However, minor changes in the detail of the approved plan that will not alter the basic relationship of the proposed development to adjacent property, that will not alter the uses permitted or increase the density or intensity of development, and that will not decrease the off street parking ratio or reduce the yards provided at the boundary of the site may be reviewed by the Planning Board and approved by the Board of Commissioners without going through the amendment process.

(6) *Issuance of a zoning permit for conditional zoning.* A zoning permit shall be issued by the UDO Administrator of the town, which permit shall specify the conditions imposed upon approval of the conditional use district, at the request of the

owner of the property assigned the conditional use zone in accordance with the procedures contained herein.

(C) *Zoning map designations.* Following Board of Commissioners approval of a conditional use district, the property so zoned will be identified on the zoning maps by the appropriate parallel conditional use district designation. This designation is the general zoning district designation plus the letters CU.

(1997 Code, § 44-69) (Ord. 2016-09-01, passed 9-19-2016) (2016 Code § 156.049)

Chapter 12: General Development Standards

USE

No building or land, residential or commercial, shall hereafter be used or occupied and no building or structure or part thereof shall be erected, moved or structurally altered except with a valid zoning permit, in conformity with the regulations of this UDO, or amendments thereof, for the district in which it is located.

(1997 Code, § 44-35) (2016 Code § 156.019)

12.1 - Height or Density

No building shall hereafter be erected or altered so as to exceed the height or density regulations of this chapter for the district in which it is located.

(1997 Code, § 44-36) (2016 Code § 156.020)

12.2 - Lot Size

No lot may have its size changed unless the change complies with the provisions of Chapter 13 and the lot, once altered, meets all minimum lot size requirements of this UDO.

(1997 Code, § 44-37) (2016 Code § 156.021)

12.3 - Yard Use Limitations

No portion of any lot may be used simultaneously to comply with any requirements of this UDO as it relates to more than 1 principal building.

(1997 Code, § 44-38) (2016 Code § 156.022)

12.4 - One Principal Building on Any Lot

Only 1 principal building and its customary accessory buildings may hereafter be erected on any residential lot; no buildings shall be erected on any lot which does not have access to a street.

(1997 Code, § 44-39) (2016 Code § 156.023)

12.5 - Elevated Structures

All structures located on pilings, or otherwise elevated, shall have all ductwork, plumbing supply and drain lines, and insulation, concealed so that they are not visible from the right-of-way or adjoining properties.

(Ord. 2009-08, passed 4-20-2009) (2016 Code § 156.032)

12.6 - Water Connection

All new construction shall be required to connect to the public water supply for potable water.

(Ord. 2009-10, passed 4-20-2009) (2016 Code § 156.033)

12.7 - Specifications for Accessory Structures

All accessory structures located within the residential zoning districts of the Town shall not be used as dwelling units, sleeping quarters, and the like. The following shall be prohibited within accessory structures toilets, showers, bathtubs, sleeping quarters, and kitchens. Accessory structures for the purpose of this section includes sheds, garages, pool houses and other structures that are subordinate to the principal structure.

(Ord. 2019-02-01; passed 2-11-2019) (2016 Code § 156.035)

12.8 - Fences and Walls

All fences and walls located within the residential zoning districts of the Town are limited to a height of 8 feet measured from the interior adjacent grade of the lot where the fence is located. A zoning permit must be obtained prior to the construction of a fence or wall. The following conditions shall apply to all fences and walls:

(A) Fences and walls must be maintained in a safe condition by the property owner, fences and walls must be either repaired or replaced within 30 days of damage

(B) Fences and walls shall not be constructed within any Town Right-of-Way or within any utility easement

(C) Fences and walls must be constructed in a manner that does not obstruct or divert the flow of flood or rain water onto adjacent properties

(D) Fences and walls shall be limited to a height of 4 feet if located in the front yard

(E) Fences and walls shall not obstruct sight visibility on corner lots or on areas located near residential driveways

(F) The individual responsible for enforcing the Town's Code of Ordinances may limit or prohibit fences and walls in certain locations if a hazard would be created as a result of the construction of a fence or wall

(G) Violations of this section shall subject offenders to a civil penalty in the amount of \$50 per day with each day that the violation occurs representing a separate and distinct offense

(Ord. 2019-02-02; passed 2-11-2019) (2016 Code § 156.036)

12.9 - Required Screening and Buffer Zone

(A) *Between residential and nonresidential districts.* Any person owning real property located in a nonresidential district adjoining or contiguous to the boundary line of a residential district shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the residential zone, when the owner either proposes new construction for his or her tract of land, or proposes a substantial change in use. As used herein, residential district shall include the following districts: R-10, R-10M, R-13, R-20 and R-30.

(B) *Between R-10M and single-family residential districts.* Any person owning real property located in an R-10M district adjoining or contiguous to the boundary line of any single-family residential district, and who proposes to construct multifamily units in excess of 4, shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the single-family residential district.

(C) *Between B-20 or B-30 district and B-10 district.* Any person owning real property located in a B-20 or B-30 district that adjoins or is contiguous to the boundary line of any B-10 district, and who proposes new construction for his or her tract of land, shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the B-10 zone.

(D) *On town main streets.* Any person owning commercial real property abutting W.B. McLean Drive (N.C. Highway 24), Taylor Notion Road, or N.C. Highway 58, and who proposes new construction for his or her tract of land, shall be required to either leave or plant a buffer strip along the street (roadway) a minimum of a 20 foot wide strip of green or natural area, consisting of shrubs not exceeding 3 feet in height, grass, flowers, and trees. Branches of mature trees retained or established in the 20 foot buffer may be trimmed or limbed up to a maximum of 10 feet, as authorized by the Zoning Officer. Additionally, the Zoning Officer may require that trees be retained or established every 15 lineal feet in this area.

(E) *Buildings prohibited in buffer areas.* No building or structure of any kind shall be placed within a buffer area.

(F) *Sidewalks and hike-bike trails.* Sidewalks and hike-bike trails may be placed in the buffer area only when there is insufficient space in the street right-of-way to accommodate these pedestrian and bike paths. The burden shall be on the property owner to demonstrate that there is insufficient space in the right-of-way to meet the requirements of this section. In such case, the owner of the property shall dedicate such portion of the buffer area as is used for sidewalks and hike-bike trails to public use for those purposes, in such form as the town may require and shall record such dedication in the County Registry in a form acceptable to the town.

(G) *Types of screening.* The following standards shall be used to protect affected property. The highest elevation of any two (2) properties at their common property line shall be used in determining the minimum height of a screening buffer. The degree of effectiveness for opacity shall be judged from the property being screened.

(1) *Planted (living) screen.* The minimum width of a planted screen shall be ten (10) feet. The minimum height of a planted screen shall be four (4) feet at initial planting, and at least 10 feet within 3 years thereafter. The minimum height of shrubbery in a planted screen shall be at least three (3) feet at initial planting. A planted screen shall afford 100% visual opacity at maturity.

(2) *Combination screens (screens using opaque fencing and plants).* The minimum width of a combination screen shall be 15 feet. The planted portion of a combination screen shall be placed on the side of the fence opposite to the improvements on the lot, shall be a minimum height of three (3) feet at initial planting, and shall afford at least 50% opacity to a minimum height of ten (10) feet within three (3) years after planting. The minimum height of the solid portion of the fence portion of such a screen shall be 8 feet.

(3) *Required amount of screening and buffering width.* The minimum acceptable screening and buffering width required to provide adequate protection to affected properties is variable with the individual site. The amount of screening and buffering width is based on the intensity of the uses allowed within each zoning district and the extent of development, as determined by the total amount of principal building floor

space per lot. The minimum acceptable screening and buffering width shall be as follows:

<i>Intensity</i>	Extent	Amount	Buffers
Zoning District	Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)	Minimum Acceptable Screening	Minimum Width
R-10M and B-10	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000	Three-row screen	20 feet
B-20	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000 and 50,000 or less	Three-row screen	20 feet
	More than 50,000	Three-row screen plus additional 10 feet in depth of landscaped open space for each 100,000 square feet of commercial floor space, or part thereof, over the first 100,000 square feet. The open space shall be between the screen and the property line.	30 feet plus 10 feet for every additional 100,000 square feet of space, or part thereof, over the first 100,000. (Example: 125,000 square feet requires buffer of 40 feet)
B-30	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000 and 50,000 or less	Three-row screen	20 feet
	More than 50,000	Three-row screen plus additional 10 feet in	30 feet plus 10 feet for every additional

<i>Intensity</i>	Extent	Amount	Buffers
Zoning District	Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)	Minimum Acceptable Screening	Minimum Width
		depth of landscaped open space for each 100,000 square feet of commercial floor space, or part thereof, over the first 100,000 square feet. The open space shall be between the screen and the property line.	100,000 square feet of space, or part thereof, over the first 100,000. (Example: 125,000 square feet requires buffer of 40 feet)
Public works, public utility facilities, and fire and rescue facilities		Two-row screen	15 feet

(H) *Maintenance.* All planted living screening material shall be maintained by the owner of the property on a continuing basis for the life of the property, or on a continuing basis for the life of the development. Nonliving screening buffers shall be maintained, cleaned and repaired by the owner of the property on a continuing basis for the life of the development. The buffers shall be kept free of litter and advertising.

(I) *Administration and enforcement.*

- (1) Prior to the issuance of a zoning permit for any construction, renovation or alteration of any structure for which a screening buffer must be provided, a plan indicating the type, amount and location of screening buffer and any required landscaped open space, prepared in conformance with the provisions of this section, shall be submitted by the property owner to the UDO Administrator.
- (2) No certificate of occupancy for any construction or renovation shall be approved by the Building Inspector of Carteret County until the required screening buffer is completed in accordance with the approved plan.

- (3) The UDO Administrator may modify or waive the requirements of this section, where it can be demonstrated by the property owner that the specific screening buffer and/or landscaped open space is not needed for the protection of surrounding residential areas because of intervening streets, roadways, drainageways, or other factors such as natural or topographic features, or where there already exists on the same property natural growth of sufficient height and density to serve the same purpose as the required screening buffer.

(1997 Code, § 44-40) (Am. Ord. 2006-16, passed 10-30-2006; Am. Ord. 2009-11, passed 4-20-2009) (2016 Code § 156.024)

12.10 - Off-Street Parking

(A) *When required.* There shall be constructed and provided, at the time of the erection of any building, or at the time any principal use is expanded or enlarged, or at any time the principal use of a lot changes, permanent off street parking as specified hereinafter, with the exception that this section shall not be applicable to any single family dwelling.

(B) *General provisions.*

- (1) Each parking space shall have a minimum width of 10 feet and a minimum depth of 20 feet.
- (2) Handicap parking shall be provided as required in the handicapped section of the State Building Code.
- (3) All off-street parking lots subject to this section, and all driveways and all planted areas that are elements thereof, shall be curbed, which shall be integrated with the curbing (or the lack thereof) on adjacent streets and developments.

(C) *Planted areas.*

- (1) *Purpose and intent.* The objective of this section is to protect and promote the public health, safety and general welfare by requiring the landscaping of parking lots, which will serve to reduce wind and air turbulence, heat and noise, and the glare of automobile lights; to act as a natural drainage system and thereby reduce stormwater drainage problems; to reduce the level of carbon dioxide; to provide shade; to conserve and stabilize property values; and to otherwise facilitate the creation and continuation of a convenient, attractive and harmonious community through relief of the blighted appearance of parking lots by preserving a healthful and pleasant environment through the community.

- (2) *Landscape and parking lot plan.* All sketch plans submitted pursuant to this UDO shall be drawn to scale and clearly delineate the existing and/or proposed parking spaces, access aisles, driveways, curbs and the location and description of landscape areas and materials.
- (3) *Interior planting requirements.* Not less than 6% of the interior of a parking facility shall be reserved for planting deciduous trees and shrubbery. The reserve planting areas shall be reasonably dispersed throughout the parking facility. Trees and shrubbery shall be planted in the proper manner, according to the sketch plan submitted pursuant to this section, prior to the parking facility being ready for use. Trees and shrubs shall be maintained and replaced as required as long as the parking facility continues in use.
- (4) *Peripheral planting requirements.* A peripheral planting strip with a minimum width of 10 feet shall be located along any side of a parking facility that abuts adjoining property that is not a right-of-way. One evergreen tree for each 15 feet, or fraction thereof, and appropriate shrubbery shall be properly planted within the peripheral planting strip. Trees and shrubbery shall be planted in a proper manner prior to the parking facility being ready for use. Trees and shrubs shall be maintained and replaced as required as long as the parking facility continues in use.
- (5) *Street planting requirements.* A street planting buffer strip shall be located along any side of a parking facility that abuts a street, roadway or any other right-of-way. The buffer strip shall be at least 20 feet wide abutting W.B. McLean Drive (N.C. Highway 24), Taylor Notion Road or N.C. Highway 58, and a minimum width of 10 feet along other town streets, roadways or any other rights-of-way. This green or natural area shall be designed, installed and maintained consistent with the requirements of § § 12.10, with shrubs not exceeding 3 feet in height, grass, flowers and trees. Vegetation may be left bordering the street (roadway) and/or planted in order to provide the required buffer. Branches of mature trees retained or established in the buffer may be trimmed or limbed up to a maximum of 10 feet as authorized by the Zoning Officer. Additionally, the Zoning Officer may require that trees be retained or established every 15 lineal feet in this area. Trees

and shrubbery shall be planted in a proper manner prior to the parking facility being ready for use. Trees and shrubs shall be replaced as required as long as the parking facility exists.

(D) *Parking space required.* Parking spaces shall be provided in all zoning districts as required in Section 11.6 of this UDO.

(E) *Sketch plan required.* No off-street parking facility, parking lot, traffic aisle or traffic drive consisting of 10 or more spaces and/or at least 2,500 square feet shall be constructed, reconstructed or enlarged until a sketch plan for that facility has been reviewed and approved by the Planning Board for compliance with this section.

(1997 Code, § 44-42) (Am. Ord. 2006-17, passed 10-30-2006) (2016 Code § 156.026)

12.11 - Driveway Regulations

(A) *General provisions.*

- (1) Any person owning real property located in a residential district shall be required to design, install and maintain a driveway in conformity with the regulations contained herein.
- (2) All driveways proposed to connect to roads maintained by the State of North Carolina shall be governed by regulations as promulgated by the North Carolina Department of Transportation in addition to the requirements contained herein.
- (3) All driveways shall be so located as to avoid undue interference with or restriction of the free movement of normal traffic on town roads. In accordance with this principal, driveways should be constructed where the road alignment and profile are favorable, i.e., where there are no sharp curves or steep grades and where sight distance is adequate for safety.

(B) *Driveway width.* The minimum driveway width shall be 10 feet flared to a minimum width of between 1.5 to 2.0 times the driveway width at its intersection with the town road. A cleared area of at least 2 feet shall be provided on each side of the driveway within the town's right of way to provide adequate clearance for delivery trucks.

(C) *Driveway angle.* Driveways shall be constructed as near to 90 degrees to the town road as sight conditions will permit; with a normal minimum of 60 degrees.

(D) *Driveway profile contours.*

- (1) Vertical curves on driveways should be flat enough to prevent the dragging of a vehicle's undercarriage.
- (2) Every driveway connected to a town road shall be level to or as near level as possible to the town road.

(E) *Driveway cross sections.* The cross section of a driveway shall be graded so as to insure that water runoff from the driveway is directed to the edges of the driveway to minimize the amount of runoff entering town roads from driveways.

(F) *Drainage.*

- (1) Drainage at the edge of the shoulder area shall not be interrupted. The condition and size of existing ditches shall be preserved when constructing a driveway which connects to a town road. The use of a swale or a pipe underdrain for proper drainage is required.
- (2) If a culvert is required, the owner of a lot who constructs a driveway therein which connects to a town road shall be responsible for installing and maintaining a culvert of suitable size to prevent any accumulation of runoff or erosion on the town road.
- (3) Where a ditch or swale exists at the point where the driveway meets the road, and a pipe is required, the minimum pipe underdrain shall be 12 inches or as specified by the Town Public Works Supervisor.

(Ord. 00-07-02, passed 7-17-2000; Am. Ord. passed 11-18-2002)

12.12 - Sidewalk Regulations

(A) *Residential subdivisions.* Any person who subdivides any property otherwise than as excepted by § 13.6 shall install sidewalks in accordance with § 13.7.2 and other applicable sections of this code.

(B) *Commercial development.* Any person who develops or performs any other construction, reconstruction, addition, or otherwise constructs any substantial improvements on any commercial property, shall install sidewalks in accordance with § 13.7.2 and other applicable sections of this code.

(Ord. 2006-13, passed 8-21-2006) (2016 Code § 156.029)

12.13 - Street access

No building shall be erected on a lot which does not abut a street or have access to a public street by means of an unobstructed permanent access easement of record or private street. For the purposes of this ordinance, an easement of record shall mean that the easement is recorded in the county register of deeds office and made a part of the deed for the property it is on.

12.14 - Visibility of Intersections

On a corner lot in any district, no planting, structure, fence, wall or obstruction to vision more than 3 feet in height measured from the centerline of the street shall be placed or maintained within the triangular area formed by the intersecting street lines and a straight-line connecting points on the street lines, each of which is 25 feet distance from the point of intersection. (1997 Code, § 44-122) (2016 Code § 156.081)



12.15 - Offensive Lighting Prohibited

It shall be unlawful for any person on private, residential or commercial, property to install, aim, locate, direct, or maintain any permanent or portable outdoor lighting in such a manner as to present a hazard to drivers or pedestrians by impairing their ability to safely traverse, or so as to create a nuisance by projecting or reflecting objectionable light onto a neighboring

property such that it interferes with the privacy of persons residing therein, bothers or affects the ability of persons residing therein to sleep, or interferes with or affects the ability of the persons residing therein to carry on normal household duties or actions. Violations of this article shall subject the offender to a civil penalty in the amount of fifty dollars (\$50).
(Ord. 2018-10-04; passed 10-8-2018) (2016 Code § 156.050)

12.16 - Stormwater Management.

All new commercial development and/or redevelopment shall install stormwater measures as specified in this section.

(A) *Retention Standard.* The applicant is required to demonstrate that sufficient area is reserved to provide at least 16.67 cubic feet of storage capacity for every 100 sq. ft. of new or replaced impervious surface proposed. All features intended to receive stormwater runoff from the proposed impervious surfaces on site shall be described and their location identified on the site plan. The design of such features shall meet the criteria specified in division (C).

(B) *Other Permits.* When a development, or redevelopment project is required to obtain a stormwater permit by the North Carolina Department of Environmental and Natural Resources, the applicant shall provide a copy of the approved permit and plans to the town. These plans should indicate a minimum of 2 inches of stormwater retention capacity.

(C) *Stormwater Design.* The design of stormwater features must be prepared by a North Carolina registered design professional and shall indicate compliance with North Carolina Department of Environmental and Natural Resources design standards. Residential projects are not required to employ a design professional where the applicant can provide plans indicating compliance with division (B) above.

(D) *Compliance.* When plans have been prepared by a design professional, a letter sealed by the design professional shall be submitted indicating compliance with the approved stormwater plans prior to the issuance of a certificate of occupancy. Residential projects will have all stormwater features installed prior to issuance of a certificate of occupancy.

(E) *Exception.* When the applicant can demonstrate that an alternative system would provide equal or better protection than the requirements of this section to receiving waters in terms of water quality, including but not limited to reductions in water velocity, nutrient loading, and bacterial content, as well as increased sediment removal, a plan and detailed letter sealed by a North Carolina registered design professional may be

accepted in lieu of compliance with the retention standard referenced in division (B) above.

(Ord. 2009-07, passed 4-20-2009; Am. Ord. 2010-04, passed 6-21-2010)
(2016 Code § 156.031)

12.17 - Water Runoff Conditions.

No person shall cause or allow the discharge of any water onto any street right-of-way so as to cause damage to the street or right-of-way, or adjoining property, so as to cause traffic hazards or unsafe conditions or so as to cause water quality degradation to receiving waters from the drainage from the street or right-of-way. Any person found by the UDO Administrator to be in violation of this section shall be given written notice of the violation by the UDO Administrator. The party receiving the notice shall have 30 days to discontinue the utilization of the property resulting in the practice if the notice given specifies that a traffic or safety hazard is being created; otherwise, the party receiving the notice shall have 6 months from the date of the notice to correct the condition creating the runoff.

(1997 Code, § 44-44) (Am. Ord. 2013-12-05, passed 12-9-2013) (2016 Code § 156.028)

12.18 - Runoff Prevention Policy

It shall be the policy of the town to limit the runoff from any developed property to the amount of runoff that would naturally occur prior to the development of the property to the extent practicable. Prior to issuing a permit for any construction or land clearing, the appropriate Permit Officer shall examine the plans to determine whether or not the plans will likely result in stormwater, heat pump, sump pump or other induced runoff in an amount that may negatively impact adjoining properties, streets or rights-of-way or the water quality of receiving waters. If the Permit Officer determines there is reasonable likelihood to believe an adverse impact may occur, the Permit Officer shall require of the permit applicant a written report from a qualified engineer selected and employed by the applicant describing the increase in runoff attributable to the proposed activity and any potential short-term or long-term problems to adjoining properties, streets or rights-of-way or water bodies that might result from the activity. The engineering report shall further list alternatives for the disposition of stormwater to minimize impacts.

(A) Following receipt of the report, a permit for the requested activity shall only be issued if, upon the reasonable opinion of the Permit Officer, the following criteria are met:

- (1) The proposed activity or use has been designed in such a way as to minimize any potential adverse impact from runoff; and
- (2) To deny the permit would deny the owner of the property unreasonably a right of utilization of the property for uses otherwise allowed under applicable ordinances of the town.

(1997 Code, § 36-108) (2016 Code § 156.118)

Chapter 13: Subdivisions

13.1 - General Provisions

13.1.1 - Short Title

This chapter shall be known as the subdivision regulations of the town, and may be cited as the subdivision regulations.

(1997 Code, § 36-1) (2016 Code § 156.002 et seq)

13.1.2 - Purpose

(A) The purpose of this chapter is to establish procedures and standards for the regulation and control of the subdivision of land within the present and future jurisdiction of the town in order to promote the public health, safety and general welfare of the community.

(B) These procedures and standards are designed to:

- (1) Promote the orderly layout and development of land;
- (2) Provide for the coordination and dedication of land for recreation areas serving residents of the subdivision and of rights-of-way or easements for street and utility purposes;
- (3) Ensure adequate provision for transportation facilities, sewers, water supply, schools, parks, playgrounds and other public facilities;
- (4) Ensure the proper distribution of population and traffic to avoid congestion and overcrowding;
- (5) Provide adequate light, air and open space;
- (6) Ensure greater safety from fire, flood and other dangers; and
- (7) Ensure proper legal description, identification, monumentation and recording of subdivision properties.

(1997 Code, § 36-2)

13.1.3 - Authority

This chapter is hereby adopted under the authority of provisions of G.S. §§ 160D-801 *et seq.*
(1997 Code § 36-3)

13.1.4 - Jurisdiction

This chapter shall govern each subdivision of land within the corporate limits of the town, and within any present and future extraterritorial area of the town.

(1997 Code § 36-4)

13.2 - Prerequisite to Plan Recordation

After the effective date of the ordinance from which this chapter derives, each individual subdivision plat of land within the town's corporate limits and within any extraterritorial areas of the town requires the Board of Commissioners' approval following the recommendation of the Planning Board.

(1997 Code, § 36-6)

13.6 - Exceptions

(A) A subdivision shall not include the following:

- (1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as shown by the regulations prescribed by this chapter or by other municipal ordinances.
- (2) The division of land into parcels of 10 acres or greater where no street right-of-way dedication is involved.
- (3) The division of a tract in single ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the town as shown by the regulations prescribed in this chapter, or any other ordinance of the town.

(B) Prior to a combination, recombination or division of land pursuant to this section of the code, the owner(s) of the property shall present to the Town's UDO Enforcement Officer a recordable plat of the proposed combination, recombination or division, the plat having been prepared by a duly registered North Carolina land surveyor, and the UDO Administrator

shall certify upon the face of the plat that the combination, recombination or division being accomplished is excepted by this section.
(1997 Code, § 36-7) (Am. Ord. passed 11-18-2002; Am. Ord. 2006-7, passed 4-17-2006)

13.7 - Administration

13.7.1 - Duty of Register of Deeds

The town shall file this chapter with the register of deeds of the county. The register of deeds shall not thereafter file or record a plat of any subdivision located within the jurisdiction of the town, as defined in § 13.4, without the written approval of the Board of Commissioners as required in this chapter. The filing or recording of a plat of a subdivision without the approval of the Board of Commissioners as required by this chapter shall be null and void.

(1997 Code, § 36-36)

13.7.2 - Variances

Where topography or other existing physical conditions are that compliance with the requirements of this chapter would cause an unusual and unnecessary hardship on the subdivider above and beyond what other subdividers would meet, the Board of Adjustment may authorize a variance, so that the subdivider may develop his or her property in a reasonable manner. A variance, however, will be granted only if the public welfare and interests of the town are protected and the general intent and spirit of this chapter are preserved. Any variance thus authorized is required to be entered in writing in the minutes of the Board of Adjustment with reasoning on which the departure was justified set forth.

(1997 Code, § 36-37)

13.7.3 - Amendments

The Town Board may from time to time amend this chapter, but no amendment shall become effective unless it shall have been proposed by or shall have been submitted to the Planning Board for review and recommendations. The Planning Board shall have 45 days within which to submit a report. If the Planning Board fails to submit a report within the specified time, it shall be deemed to have approved the amendment.

(1997 Code, § 36-38)

13.7.4 - Compliance with Official Plans

Where a tract to be subdivided embraces any part of a proposed major or minor thoroughfare, or state highway as designated in official maps and plans, the proposed way should be platted and dedicated by the subdivider and in the location and at the width specified.

(1997 Code, § 36-39)

13.7.5 - Conflicting Requirements

Where the requirements of this chapter conflict with the requirements of other lawfully adopted rules, regulations or ordinances of the town, the more stringent or higher requirements shall govern.

(1997 Code, § 36-40)

13.8 - Community Design

13.8.1 - Suitability of Land

(A) *Land unsuited for residential use.* Land subject to flooding, improper drainage, erosion or that is for topographical or other reasons unsuitable for residential use shall not be platted for residential use nor for any other uses that will continue or increase the danger to health, safety or property unless the hazards can be and are corrected.

(B) *Prevention of flood damage.* Lands known to be within a floodplain or any area known to be subject to flooding shall be so identified on the preliminary plat. Appropriate deed restrictions shall be filed for those lands subject to flooding prohibiting their development for dwelling or other uses unless the sites are flood protected as follows:

- (1) No structures or fill shall be placed in the floodway that would interfere with the natural watercourse;
- (2) Streets and utilities lines and structures may be placed within the floodplain only if their elevation is raised above maximum flood heights or if they are otherwise flood protected;
- (3) Dwellings and self-contained sewage disposal units, if used, shall be built at an elevation above maximum flood heights; and
- (4) The subdivision drainage system shall be designed to prevent increased flood flows due to newly developed impervious surfaces and other factors.

(C) *Fill areas.* Areas that have been used for disposal of solid waste shall not be subdivided into commercial or residential building sites.

This shall include those areas that have been used for the disposal of trash, demolition waste and other waste materials.

(1997 Code, § 36-66)

13.8.2 - Design of Lots and Streets

(A) The arrangement of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features, and natural surface and surface drainage. The system of streets and lot layout should also take advantage of the visual qualities of the site and preserve natural features such as tree masses and large individual trees. The design of all lots, structures and utilities shall comply with the applicable areas of environmental concern (AEC) standards in accordance with state guidelines of AECs.

(B) Each subdivision plan shall, where appropriate, allow for the creation of either public or private access roads, which roads shall be designed so as to allow utilization by adjoining properties. Where requested by the town, a subdivider shall provide with his or her subdivision plan a report of a qualified traffic engineer certifying that the design as suggested by the subdivider meets good traffic engineering standards.

(C) Direct access to any major streets and highways shall be limited as follows:

- (1) One entrance for each 500 feet of frontage on the major street or highway, or any portion thereof, within any residential subdivision; and
- (2) One entrance for each 750 feet of frontage on the major street or highway, or any portion thereof, within any nonresidential subdivision.

(1997 Code, § 36-67)

13.8.3 - Traffic Patterns

Circulation shall be provided in accordance with the following design principles:

(A) Each subdivision shall provide for the continuation of all major and minor streets as shown on the town's official street system map.

(B) Minor streets shall be designed to provide access to each parcel of land within residential neighborhoods in a manner which discourages use by through traffic.

(C) Collector streets shall be designed to provide a direct route from other minor streets to major streets.

(D) Ingress to and egress from residential properties shall be provided by minor streets wherever possible.
(1997 Code, § 36-68)

13.8.4 - Development Standards

Minimum standards for development are contained in Chapter 11 of this UDO, the town's zoning code, the state building code, and this chapter. It is not the intent of the town to condone and encourage minimum standards of development that will lead to a monotonous urban setting, but rather to encourage a subdivision design of quality.
(1997 Code, § 36-69)

13.8.5 - Alleys

(A) Alleys shall be provided in commercial districts, except that the Planning Board may waive this requirement where other definite and assured provisions are made for service access, off-street loading and unloading and parking consistent with and adequate for the uses proposed.

(B) Alleys serving commercial areas shall not be less than 30 feet in width.

(C) Alley intersections and sharp changes in alignment shall be avoided; but where necessary, corners shall be cut sufficiently to permit safe vehicular movement.

(D) Dead end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Planning Board.

(E) No alley shall have access from a major road or highway but shall have its access points confined to minor streets.

(F) Alleys are not permitted in residential districts except when the Planning Board determines special conditions warrant a secondary means of access.

(1997 Code, § 36-70)

13.8.6 - Blocks

Blocks shall be laid out with special attention given to the type of use contemplated.

(1997 Code, § 36-71)

13.8.7 - Required Screening and Buffer Areas

(A) *Nonresidential property adjoining residential property.* Any person owning real property located in a nonresidential district that adjoins or is contiguous to the boundary line of a residential district shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the residential zone, when the owner either proposes new construction for his or her tract of land, or proposes a substantial change in use. As used herein, residential district shall include the following districts: R-10, R-10M, R-13, R-20 and R-30.

(B) *Multifamily property adjoining single-family property.* Any person owning real property located in an R-10M district adjoining or contiguous to the boundary line of any single-family residential district, and who proposes to construct multifamily units in excess of 4, shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the single-family residential district.

(C) *Property in B-20 or B-30 district adjoining B-10 district.* Any person owning real property located in a B-20 or B-30 district that adjoins or is contiguous to the boundary line of any B-10 district, and who proposes new construction for his or her tract of land, shall be required to design, install and maintain a buffer strip along the boundary line of the property adjoining the B-10 zone.

(D) *On main streets.* Any person owning real property that has been or is being subdivided for residential use, and which abuts W.B. McLean Drive (N.C. Highway 24), Taylor Notion Road or N.C. Highway 58, and who proposes new construction for his or her tract, shall be required either to leave bordering the street or roadway, or to design, install and maintain, consistent with the requirements of §12.10, a buffer strip of green or natural area along such street(s)/roadway(s) at least 20 feet wide, and consisting of shrubs not exceeding 3 feet in height, trees, grass and flowers. Branches of mature trees retained or established in the 20 foot buffer may be trimmed or limbed up to a maximum height of ten (10) feet, as authorized by the Zoning Officer. Additionally, the Zoning Officer may require that trees be retained or established every 15 lineal feet in this area.

(E) *Buildings, structures prohibited.* No building or structure of any kind shall be placed within a buffer area.

(F) *Sidewalks and hike-bike trails.* Sidewalks and hike-bike trails may be placed in the buffer area only when there is insufficient space in the street right-of-way to accommodate the sidewalks and hike-bike trails. The burden shall be on the property owner to demonstrate that there is insufficient space in the right-of-way to meet the requirements of this section. In such

case, the owner of the property shall dedicate such portion of the buffer area as is used for sidewalks and hike-bike trails to public use for those purposes in such form as the town may require and shall record such dedication in the County Registry in a form acceptable to the town.

(G) *Types of screening.* The following standards shall be used to protect affected property. The highest elevation of any two (2) properties at their common property line shall be used in determining the minimum height of a screening buffer. The degree of effectiveness for opacity shall be judged from the property being screened.

(1) *Planted (living) screen.* The minimum width of a planted screen shall be ten (10) feet. The minimum height of a planted screen shall be four (4) feet at initial planting, and at least ten (10) feet within three (3) years thereafter. The minimum height of shrubbery in a planted screen shall be at least three (3) feet at initial planting. A planted screen shall afford 100% visual opacity at maturity.

(2) *Combination screens (screens using opaque fencing and plants).* The minimum width of a combination screen shall be 15 feet. The planted portion of a combination screen shall be placed on the side of the fence opposite to the improvements on the lot shall be a minimum height of three (3) feet at initial planting, and shall afford at least 50% opacity to a minimum height of ten (10) feet within three (3) years after planting. The minimum height of the solid portion of the fence portion of such a screen shall be eight (8) feet.

(H) *Required amount of screening and buffering width.* The minimum acceptable screening and buffering width required to provide adequate protection to affected properties is variable with the individual site. The amount of screening and buffering width is based on the intensity of the uses allowed within each zoning district and the extent of development, as determined by the total amount of principal building floor space per lot. The minimum acceptable screening and buffering width shall be as follows:

<i>Intensity</i>	Extent	Amount	Buffers
Zoning District	Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)	Minimum Acceptable Screening	Minimum Width
R-10M and B-10	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000	Three-row screen	20 feet
B-20	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000 and 50,000 or less	Three-row screen	20 feet
	More than 50,000	Three-row screen plus additional 10 feet in depth of landscaped open space for each 100,000 square feet of commercial floor space, or part thereof, over the first 100,000 square feet. The open space shall be between the screen and the property line.	30 feet plus 10 feet for every additional 100,000 square feet of space, or part thereof, over the first 100,000. (Example: 125,000 square feet requires buffer of 40 feet)
B-30	Up to 10,000	One-row screen	10 feet
	More than 10,000 and 25,000 or less	Two-row screen	15 feet
	More than 25,000 and 50,000 or less	Three-row screen	20 feet
	More than 50,000	Three-row screen plus additional 10 feet in depth of landscaped open space for each 100,000 square feet of	30 feet plus 10 feet for every additional 100,000 square feet of space, or part thereof, over the first 100,000.

<i>Intensity</i>	Extent	Amount	Buffers
Zoning District	Commercial, Industrial or Multifamily Floor Space All Structures on Lot (Square Feet)	Minimum Acceptable Screening	Minimum Width
		commercial floor space, or part thereof, over the first 100,000 square feet. The open space shall be between the screen and the property line.	(Example: 125,000 square feet requires buffer of 40 feet)
Public works, public utility facilities, and fire and rescue facilities		Two-row screen	15 feet

(I) *Maintenance.* All planted living screening material shall be maintained by the owner of the property on a continuing basis for the life of the property, or on a continuing basis for the life of the development. Nonliving screening buffers shall be maintained, cleaned and repaired by the owner of the property on a continuing basis for the life of the development. The buffers shall be kept free of litter and advertising.

(J) *Administration and enforcement.*

- (1) Prior to the issuance of a building permit for any construction, renovation or alteration of any structure for which a screening buffer must be provided, a plan indicating the type, amount and location of screening buffer and any required landscaped open space, prepared in conformance with the provisions of this section, shall be submitted by the property owner to the UDO Administrator.
- (2) No certificate of occupancy for any construction or renovation shall be approved by Carteret County until the required screening buffer is completed in accordance with the approved plan.
- (3) The Board of Adjustment may modify or waive the requirements of this section, where it can be demonstrated by the property owner that the specific screening buffer and/or

landscaped open space is not needed for the protection of surrounding residential areas because of intervening streets, roadways, drainageways, or other factors such as natural or topographic features, or where there already exists on the same property natural growth of sufficient height and density to serve the same purpose as the required screening buffer.

(1997 Code, § 36-72) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2006-18, passed 10-30-2006; Am. Ord. 2009-11, passed 4-20-2009)

13.8.8 - Building Setback Lines

Building setback lines shall be in accordance with the district requirements as outlined in Chapter 11 of this UDO, the town's zoning code.

(1997 Code, § 36-73)

13.8.9 - Easements

(A) Where alleys are not provided, easements that are not less than 10 feet wide shall be provided along each rear lot line and a five (5) foot easement alongside lot lines, where necessary for the use of public and private utilities.

(B) Where a subdivision is traversed by a watercourse, drainageway, channel, stream or subsurface drainage conditions, there shall be provided a 10-foot storm easement or drainage right-of-way conforming substantially with the lines of the watercourse, and further width or construction, or both, as will be adequate for drainage. Parallel streets or parkways may be required in condition therewith.

(1997 Code, § 36-74)

13.8.10 - Lots

(A) Lot sizes, shapes and locations shall be made with due regard to topographic conditions, contemplated use and surrounding area.

(B) Every lot shall front or abut a street.

(C) Residential lot sizes shall conform with the provisions of Chapter 11 of this UDO, the town's zoning code.

(D) Lots are not required for subdivision or commercial use but when provided shall be of appropriate size as set forth in Chapter 13, the town's zoning code, and shall provide arrangements for adequate off-street parking and loading facilities based on intended use.

(E) Double-frontage and reverse-frontage lots shall not be created except where they are needed to provide for the separation of residential development from traffic arteries or to overcome the specific disadvantages of

topography and orientation. In no case shall a double-frontage lot be created by the combination or recombination of two or more previously platted lots. (1997 Code, § 36-75) (Ord. 2009-09, passed 4-20-2009; Am. Ord. 2013-12-05, passed 12-9-2013)

13.8.11 - Public Areas and Open Spaces

(A) The town may require dedication of suitable land approved by the Planning Board within subdivisions prior to final plat approval. Land dedicated shall be for community service facilities and open space purposes such as schools, parks, playgrounds, recreation uses, fire, police and utility substations. The site dedicated shall be land capable of supporting the above-mentioned facilities; located in areas not subject to periodic floods, swamps and drainageways; and the terrain shall be appropriate for the intended use. With respect to parks, playgrounds and recreation areas, the site shall be of sufficient size and located to serve the immediate residents of the subdivision. Land dedicated to the town for community service facilities and open space shall become the responsibility of the town for maintaining the site or facility. When considering the recommendation that land be dedicated for community service facilities and open space, the Planning Board shall make its final determination based on the following criteria:

- (1) When the dedication of land for the facilities is in accordance with Chapter 11 of this UDO, G.S. Chapter 160D-804(d), and any other officially adopted plan.
- (2) When a subdivision plat of at least 4 lots in the total project is reviewed.
- (3) When a subdivision development encroaches upon a scenic or historic site designated as such and in order to protect this feature for the use and enjoyment of all its citizens, it is necessary to reserve the surrounding land area. Regarding historic and scenic sites, the town shall have nine (9) months beginning on the date of final approval of the subdivision within which to acquire the site. If the town has not purchased the historic or scenic site area within nine (9) months, the subdivider may proceed to dispose of it in accordance with provisions of this chapter, if not in conflict with other regulations.
- (4) If at any future date any person makes any recommendations to the town to designate or redesignate any area as a public recreation area, the town shall take the following actions prior to voting any approval or disapproval

thereof or the expenditure of tax dollars on the proposed recommendation:

- a) Determine that the person making the recommendation is in fact a property owner of the property in question or is empowered to represent the property owner;
- b) Notify all the adjacent property owners of the proposal; and
- c) The Board of Commissioners shall hold a special meeting, after proper advertisement as required by this chapter or applicable state statute is provided, to hear the proponents as well as the affected adjacent property owners.

(B) The amount of land required to be dedicated by a subdivider shall be based on the most recent Bureau of the Census figures for an average family size in the town; a minimum park and recreation standard factor of eight (8) acres per 1,000 persons; a variable density factor; and the total number of dwelling units or lots. The following formula shall be used to determine the amount of land to be dedicated:

$$\begin{matrix} \text{Total number of} \\ \text{dwelling units} \\ \text{or lots on final} \\ \text{plat} \end{matrix} \times \begin{matrix} \text{Average} \\ \text{family size} \\ \text{(2000-2.51)} \end{matrix} \times \begin{matrix} 0.008 \text{ per} \\ \text{person} \end{matrix} \times \begin{matrix} \text{Variable} \\ \text{Density} \\ \text{Factor} \end{matrix} = \begin{matrix} \text{Land to be} \\ \text{dedicated} \end{matrix}$$

<i>Variable Density Factor Table</i>	
Acreage Average per Dwelling Unit or Lot	Variable Density Factor
0.0-0.1	1.8
0.1-0.2	1.6
0.2-0.3	1.4
0.3-0.4	1.2
0.4-0.5	1.0
0.5-0.6	0.9
0.6-0.7	0.8
0.7-0.8	0.7
0.8-0.9	0.6
0.9-over	0.5

(C) Acreage average per dwelling unit or lot is computed by dividing the combined total acreage of all dwelling units or lots by the number of dwelling units or lots. For computation purposes, land dedicated or reserved for other purposes such as streets, alleys and other purposes other than residential shall not be used in determining average acreage. In no case shall a developer be required to dedicate more than 5% of the acreage of a development. Any subdivider of land less than ten (10) acres and more than two (2) acres may be required to provide funds in lieu of land as required in division (D) below.

(D) A developer may provide funds to the town whereby the town may acquire recreation land or areas to serve the development or subdivision, including the purchase of land that may be used to serve more than one subdivision or development within the immediate area. This may be done in lieu of providing the land requirement if so approved by the Board of Commissioners. All funds received by the town pursuant to this division shall be used only for the acquisition or development of recreation, park or open space sites and/or other public facilities. The funds to be provided under this division (D) shall be based on the value of the land that would be dedicated as required in division (A) above. The value of the land shall be determined by the property tax calculation of the land. A combination or partial payment of funds and partial dedication of land may be allowed when the Board of Commissioners determines that this combination is in the best interests of the citizens of the area to be served.

(1997 Code, § 36-76) (Am. Ord. 03-11-03, passed 11-17-2003)

13.8.12 - Public Access to Water

All subdivisions adjoining tidal water areas shall provide for access to the water to serve the residents of the neighborhood in which the subdivision is located or in the immediate area of the subdivision. The access shall include a ten (10) foot easement every 1,320 feet along the shoreline adjacent to the subdivision. The purpose of these facilities shall be approved by the town and shall be directly accessible to a state or town-maintained street. Where a public boat dock or launching ramp is provided by the state, county or other public agency within or contiguous to the area to be subdivided, the facility may count toward meeting the requirements of this section. Dedicated streets which run to the mean high-water line may also count toward meeting the requirements of this section. Provision of public access to water may count toward meeting requirements of § 13.17.16 if other conditions of § 13.17.16 are met.

(1997 Code, § 36-77)

13.8.13 - Streets

(A) All streets in subdivisions shall be paved. The arrangement, character, extent, width, grade and location of all streets shall be designed in accordance with the provisions of this section.

(B) Wherever a subdivision abuts or contains an existing or proposed major street, the Planning Board may require reverse-frontage lots with screen planting contained in a non-access reservation along the rear property line, deep lots or other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(C) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

(D) Each subdivision plan shall, where appropriate, allow for the creation of either public or private access roads, which roads shall be designed so as to allow utilization by adjoining properties. Where requested by the town, a subdivider shall provide with his or her subdivision plan a report of a qualified traffic engineer certifying that the design, as suggested by the subdivider, meets good traffic engineering standards.

(E) Street right-of-way and pavement widths shall be in accordance with the following:

(1) *Right-of-way width.*

- a) Major streets and highways, 80 feet.
- b) Collector streets, 60 feet.
- c) Minor (residential) streets, 60 feet.
- d) Marginal access streets, 60 feet.
- e) Culs-de-sac, 60 feet.
- f) Street right-of-way outside of any municipal limits, 60 feet.

(2) *Pavement width.*

- a) Where curbs and gutters are provided, the paving width back-to-back of curbs shall be not less than the following:
 - i. Major streets and highways, 45 feet.
 - ii. Collector streets, 35 feet.
 - iii. Minor (residential) streets, 28 feet.
 - iv. Marginal access streets, 28 feet.
 - v. Culs-de-sac, 28 feet.

- b) Where curbs and gutters are not provided, the paving width shall not be less than the following:
 - i. Collector streets, 24 feet.
 - ii. Minor (residential) streets, 20 feet.
 - iii. Marginal access streets, 22 feet.
 - iv. Culs-de-sac, 20 feet.

(3) *Grades and curves.*

- a) Unless necessitated by exceptional topography and subject to the approval of the Planning Board, the grades shall not be more than 10%, nor less than 0.5% on any street.
 - i. Grades approaching intersections shall not exceed 5% for a distance of not less than 100 feet from the centerline of the intersection.
 - ii. Street grades shall be established wherever practicable in a manner as to avoid excessive grading or removal of ground cover and tree growth and general leveling of the topography.
 - iii. All changes in street grades shall be connected by vertical curves of a minimum length equivalent in feet to 15 times the algebraic difference in the rates of grade for major and collector streets, and 1/2 this minimum for all other streets.
- b) When a continuous street centerline deflects at any point by more than 10 degrees, a circular curve shall be introduced, having a radius of curvature on the centerline of not less than the following:
 - i. Major streets, 300 feet.
 - ii. Collector streets, 200 feet.
 - iii. Minor streets, 100 feet.
- c) A tangent at least 100 feet long shall be provided between reverse curves on all streets.

(4) *Intersections.*

- a) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other streets at an angle of less than 60 degrees.
- b) Street jogs with centerline offsets of less than 125 feet shall be avoided.

- c) Intersections with a major street or highway shall be at least 750 feet apart.
- d) Property lines at street intersections shall be rounded with a minimum radius of 15 feet or of a greater radius when required by the Planning Board.
- e) Radius of pavement at an intersection shall be a minimum of 30 feet or of a greater radius when required by the Planning Board.

(5) *Culs-de-sac.* Permanent dead-end streets or culs-de-sac shall be no longer than 600 feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 70 feet, and a street property line diameter of at least 100 feet.

(6) *Street names.* Street names for all subdivision plats shall be subject to approval of the Planning Board. New street names shall not duplicate or be similar to existing street names, and existing street names shall be projected wherever possible.

(F) Unless specifically authorized by a variance duly issued by the Board of Commissioners, all streets and roads in any new subdivision shall be constructed according to the rules, regulations, standards and specifications of the North Carolina Department of Transportation or its successor agency (the Department) as those rules, regulations, standards and specifications presently exist or may hereafter be amended; provided, however, that if any provision of this code is more stringent than the rules, regulations, standards and specifications of the Department, then this code shall apply.

(1997 Code, § 36-78) (Am. Ord. 02-08-01, passed - -; Am. Ord., passed 5-9-2005)

13.8.14 - Connection to Potable Water Supply

(A) Connection to available potable water supply shall be provided by the subdivider, for use by residents, in the interest of public safety.

(B) Connection to water supply main line shall be a minimum of 6-inch pipe, except where locations will not permit, to allow for the installation of fire hydrants.

(1) Hydrants shall be placed at a distance of 500 feet to 1000 feet apart; starting at the connection to the main water supply pipe and running the length of the subdivision supply pipe(s).

(2) A fire hydrant shall be no more than 500 feet in distance from any property line.

- (3) The use of fire hydrants is prohibited except for the purpose of fire emergencies or fire fighter training.
(Ord. 99-04-02, passed 4-19-1999)

13.8.15 - Sidewalks and Hike Bike Trails

(A) *Installation.* As applicable, within the Town of Cape Carteret, sidewalks and hike-bike trails shall be installed in all new residential subdivisions and in all new commercial developments or redevelopments where an existing multi-use trail or sidewalk exists on either side of the proposed development and where the use can be tied to specific pedestrian or bicycle access.

(B) *Main streets.*

- (1) If the property being developed, fronts on the southerly side of W.B. McLean Drive (N.C. Highway 24) then the developer shall install sidewalks 5 feet wide. Where topography permits, such sidewalks shall run parallel with the adjacent street, 1 foot inside the right-of-way line on the public right-of-way.
- (2) If the property being developed, redeveloped, or improved fronts on the westerly side of Taylor Notion Road, then the developer shall install a hike-bike trail at least 10 feet wide. Where topography permits, such hike-bike trail shall run parallel with the adjacent street, 1 foot inside the right-of-way line on the public right-of-way.
- (3) If the property being developed, redeveloped or improved fronts on the northerly side of W.B. McLean Drive (N.C. Highway 24), then the developer shall install a hike-bike trail 10 feet wide. Where topography permits, such hike-bike trail shall run parallel with the adjacent street inside the right-of-way line on the public right-of-way.
- (4) If the property being developed, fronts on the easterly side of N.C. Highway 58, then the developer shall install a hike-bike trail at least 10 feet wide. Where topography permits, such hike-bike trail shall run parallel with the adjacent street inside the right-of-way line on the public right-of-way.

(C) *Other streets.*

- (1) On all streets located within the triangle formed by W.B. McLean Drive, Taylor Notion Road and Highway 58, except as set forth in § 13.7.2 (B)(1) through (3), the developer shall install sidewalks 5 feet wide on both sides of minor and

connector streets throughout the development, and along any streets(s) bordering the property being developed.

(2) On all other streets in all subdivisions of 10 or more lots the developer shall be required to install 5 foot sidewalks on all minor and connecting streets.

(D) *Construction standards and regulations.*

(1) Sidewalk and hike-bike trail construction shall conform to current Department of Transportation (DOT) Standards and Specifications.

(2) The developer shall comply with all applicable federal, state and local environmental and construction regulations, and shall obtain all necessary permits.

(Ord. 154.049, passed 8-21-2006; Am. Ord. 2008-03, passed 8-18-2008; Am. Ord. 2012-05-02, passed 5-21-2012; Am. Ord. 2015-08-06, passed 8-17-2015) (Ord. 2018-10-02; passed 10-8-2018)

(Offensive lighting section moved to General Development Standards)

13.9 - Preparation and Approval Procedure

13.9.1 - Conformance with Regulations

The subdivider shall follow the procedure set forth in this chapter for securing approval of subdivision plats. (13e, § 36-106)

13.9.2 - Preliminary Plat

(A) Before an application for approval of the preliminary plat is filed, the subdivider must submit to the Planning Board, at a regular meeting, a preliminary design plan of the proposed subdivision.

(B) The preliminary plat shall show existing and tentative street layout, other rights-of-way and easements, lot arrangements, existing structures, watercourses, sites dedicated or proposed to be dedicated for parks, schools, churches, hike-bike trails, sidewalks, or other public and semipublic uses. The preliminary plat shall also include the proposed name and location of the subdivision and the name and address of the owner and the subdivider. The preliminary plat shall contain all information required pursuant to § 12.10.

(C) Data shall be given regarding acreage in total tract, minimum lot size, average lot size, maximum lot size and acreage left in open space or other uses.

(D) A preliminary plat showing the relationship between the subdivision and the surrounding area shall be submitted.

(E) At this meeting the subdivider shall discuss his or her ideas and concepts regarding the proposed subdivision. The Planning Board will make suggestions on layout to the subdivider.

(F) Certification of approval by those public officials and agencies which are concerned with new development must accompany the preliminary plat. These shall include but not be limited to the County Board of Health, the Carteret-Craven Electric Membership Corporation, the State Department of Environment, Health and Natural Resources and the Corps of Engineers, if necessary.

(1997 Code, § 36-107) (Am. Ord. 2006-12, passed 8-21-2006; Am. Ord. 2006-13, passed 8-21-2006)

13.9.3 - Preliminary Plat Approval; Duties of Subdivider

The subdivider shall prepare a preliminary plat for submission to the Planning Board. Ten copies of the proposed subdivision plat and any required supplemental material shall be submitted to the Planning Board not less than 15 days prior to the regular Planning Board meeting at which the plat is to be considered. The preliminary plat shall be prepared by a registered surveyor, engineer or landscape architect.

(1997 Code, § 36-109) (Am. Ord. 2015-10-09, passed 10-12-2015)

13.9.4 - Preliminary Plat Information

(A) The preliminary plat shall contain the location of existing and platted property lines, streets, buildings, watercourses, railroads, transmission lines, sewers, bridges, culverts and drainpipes, water mains, city and county lines (if adjoining) and any public utility easements. The plat shall be at a scale of 100 feet to 1 inch or larger and will be drawn on sheet sizes not larger than 21 inches by 30 inches outside measurement nor less than 8½ inches by 11 inches, leaving a 1½-inch left margin for binding and 1/2-inch margins on the other 3 sides. Printed matter shall be 8½ inches by 11 inches with the same margin requirements. All material shall be reproducible.

(B) It shall show the following information:

- (1) Boundaries of tracts shown with bearings, distances and closures;
- (2) Marsh, swamp, floodplain, topography at 5-foot intervals and any other physical conditions affecting the site;
- (3) Existing zoning classification both on the land to be subdivided and on adjacent land;

- (4) Names of adjacent property owners or subdivisions;
- (5) Proposed streets, street names, right-of-way, pavement widths and approximate grades;
- (6) Locations of proposed utility lines (storm and sanitary sewers, water, gas, electricity and telephone) showing connections to existing supply and disposal systems or planned supply and disposal systems where applicable;
- (7) The location, widths and purposes of other proposed right-of-way or easements, including without limitation sidewalks and hike-bike trails;
- (8) Proposed areas for parks, school sites or public open spaces, if any;
- (9) Proposed lot lines, lot and block numbers and lot dimensions;
- (10) Proposed minimum building setback lines;
- (11) Title, date, true north arrows and graphic scale;
- (12) Name of owner and surveyor, engineer or land planner;
- (13) Data shall be given regarding acreage in total tract to be subdivided or developed, acreage in park or other public usage (other than streets or easements), minimum lot size, maximum lot size, average lot size, total number of lots, lineal feet in streets, and lineal feet in other easements;
- (14) A preliminary vicinity map showing the relationship between the subdivision and the surrounding area shall also be submitted;
- (15) Boundaries of areas of environmental concern as described in state guidelines for areas of environmental concern; and
- (16) Verification that the plat has been submitted to the public officials and agencies concerned with new development. These might include the County Environmental Health Department, the Carteret-Craven Electric Membership Corporation, the State Department of Environment, Health and Natural Resources, and the Corps of Engineers.

(1997 Code, § 36-110) (Am. Ord. 2006-13, passed 8-21-2006)

13.9.5 - Review of Preliminary Plat

The Planning Board shall review each preliminary plat within 45 days of the date of the regular meeting at which it was submitted. The Planning Board and/or the Board of Commissioners may impose conditions regarding

density, layout, circulation and performance of the proposed development and may require that appropriate deed restrictions be filed.

(1997 Code, § 36-111)

13.9.6 – Preliminary Plat Approval; Duties of the Planning Board

(A) The Planning Board shall approve, conditionally approve, disapprove the preliminary plat, or defer action for a period not to exceed 60 days. Failure on the part of the Planning Board to act within 60 days after the preliminary plat is submitted shall be deemed approval.

(B) If approval is granted, the Planning Board shall transmit the preliminary plat to the Board of Commissioners for review and action.

(C) If conditionally approved, the conditions and reasons thereof shall be noted in the minutes, and a revised plat may be required of the subdivider.

(D) If the preliminary plat is conditionally approved and a revised plat is not required, the Planning Board shall transmit the preliminary plat with conditions attached to the Board of Commissioners for review and action.

(E) If the preliminary plat is disapproved, the reasons for the action shall be noted in the minutes and recommendations made on the basis of which the proposed subdivision may be approved. A request for reconsideration may be made by the subdivider.

(1997 Code, § 36-112)

13.9.7 – Approval of Preliminary Plat by Board of Commissioners

(A) *Time restraints.* The Board of Commissioners shall approve or disapprove the preliminary plat within 60 days.

(B) *Construction authorized; extension of approval.*

(1) Approval of the plat constitutes the authorization to proceed with the construction of the required improvements.

(2) Preliminary plat approval shall expire 18 months following the granting of preliminary approval unless final approval has been given in accordance with § 13.10. The preliminary plat may be extended upon request of the owner for successive 12 month periods by the Board of Commissioners, without the necessity of Planning Board recommendation or public hearing, under the following circumstances:

a) Substantial progress is being made towards completion of improvements;

- b) The development is proceeding substantially according to a development timetable or schedule which was submitted at time of submission of the preliminary plan (such as a development to be completed in phases); or
 - c) Facts and circumstances exist which indicate that the delays in construction are reasonable.
- (3) It is the intent of the subdivision process to grant preliminary approval only to those developments which are intended for construction in the short term; the Board of Commissioners shall consider this intent in granting extensions.

(C) *Reasons for disapproval.* The disapproval of the plat shall be accompanied by the stated reasons for the action and recommendations made on the basis of which the proposed plat could be approved.

(D) *Expiration of approval.* Preliminary plats which have been approved more than 18 months prior to the effective date of the ordinance from which this chapter derives shall be deemed expired April 1, 1993, unless by the date the improvements have been installed, or substantial progress towards completion of improvements is underway. The Board of Commissioners may extend approval on the same basis as set out in division (B) above.

(1997 Code § 36-113)

13.10 - Final Plat

The final plat will show or be accompanied by the following information:

(A) The lines of all streets and roads and street names, and the location and dimensions of all sidewalks and all hike-bike trails installed pursuant to § 13.7.2;

(B) Lot lines, lot numbers and lot sizes;

(C) Minimum building setback lines;

(D) Reservations, easements, alleys and any areas to be dedicated to public use or sites for other than residential use with notes stating their purpose and any limitations;

(E) Sufficient data to determine readily and reproduce on the ground, the location, bearing and length of every street line, lot line, boundary line, block line and building line, whether curved or straight, and including true north point, and graphic scale. This should include the radius, center

angle, and tangent distance for the centerline of curved streets and curved streets and curved property lines that are not the boundary of curved streets;

(F) All dimensions should be to the nearest tenth of a foot and angles to the nearest minute;

(G) Accurate location and description of all monuments and markers;

(H) The proposed utility systems where applicable:

- (1) Water;
- (2) Gas;
- (3) Sewers;
- (4) Storm drainage;
- (5) Electric lines; and

(I) The names and locations of adjoining subdivisions, and streets, and the location and ownership of adjoining unsubdivided property;

(J) Title, date, name and location of subdivision;

(K) Name of owner, registered surveyor or registered engineer;

(L) Vicinity map showing relationship between subdivision and surrounding area;

(M) Reference to any separate instruments filed in the register of deeds office that directly affect the land being subdivided;

(N) The following notarized certificates on each copy of the final plat:

(1) Certificate of approval by the Planning Board.

I,_____, Chairman of the Cape Carteret Planning Board, do hereby certify that the Board fully approved the final plat of the subdivision entitled_____,on the____day of____20_____.

Chairman

(2) Certificate of ownership and dedication.

I (We) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building lines and dedicate all streets, alleys, walks, parks, and other sites to public or private use as noted. Further, I (we) certify the land as shown hereon is within the planning jurisdiction of the Town of Cape Carteret, North Carolina.

Date
Owner

Owner

- (3) Letter from District Health Officer indicating suitability of the land to support.
- (4) Certification of approval of the installation and construction of streets, utilities and other required improvements

I do hereby certify (i) that streets, utilities and other required improvements have been installed in an acceptable manner and according to town specifications and standards in the subdivision entitled_____; OR (ii) that a written guarantee of the installations of the required streets, utilities and other required improvements secured by bond or in such other manner as has been approved by the Board of Commissioners of the Town of Cape Carteret in the amount of \$_____has been received.

Date Mayor

Code Enforcement Officer*

* (Or such other officer as the Board of Commissioners may from time to time designate. If some other officer, then his or her title follows:

(5) Certificate of approval by the Board of Commissioners

I, _____, Mayor of the Town of Cape Carteret, do hereby certify that the Town Board of the Town of Cape Carteret fully approved the final plat of the subdivision entitled _____ on the _____ day of _____ 20__.

Mayor

(6) Certificate of accuracy

I, _____, certify that this map was (drawn by me) (drawn under my supervision) from (an actual survey made under my supervision) (deed description recorded in book _____, page _____, book _____, page _____, etc.) (other); that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries not surveyed are shown as broken lines plotted from information found in book _____, page _____; that this map was prepared in accordance with G.S. § 47-30 as amended. Witness my hand and seal this _____ day of _____, 20__.

Registered Surveyor or Engineer

(O) Boundaries of areas of environmental concern as described in state guidelines for areas of environmental concern.

(P) Location of marshes and swamps; floodplain information containing flood zone, community number, panel number, and date of Flood Insurance Rate Map (FIRM).
(1997 Code, § 36-114) (Am. Ord. 12-16-2002, passed 12-16-2002; Am. Ord. passed 5-9-2005; Am. Ord. 2006-13, passed 8-21-2006)

13.10.1 – Planning Board Action on Final Plat

(A) The final plat shall be reviewed by the Planning Board with the advice and assistance, if necessary, of those public officials and agencies that are concerned with new development, including the County Environmental Health Department, Carteret-Craven Electric Membership Corporation, the Carteret County Building Inspector, District Engineer, State Department of Transportation, County Board of Education, the State Department of

Environment, Health and Natural Resources, the Department of Housing and Urban Development under Interstate Land Sales Act Provisions, being U.S.C. §§ 1701 *et seq.*, and the Corps of Engineers. The Planning Board may appoint an engineer to check the final plat against the subdivision's actual layout for correctness, charging the cost to the subdivider if the plat is found to be seriously in error.

(B) If the final plat is in compliance with this chapter and the Planning Board approves the changes made from the approved preliminary plat, the secretary of the Planning Board shall transmit the final plat together with the Planning Board's recommendations to the Board of Commissioners for final action.

(C) If the final plat is not in compliance with this chapter, or the Planning Board does not approve the changes from the approved preliminary plat, the subdivider shall be given an opportunity to submit a revised final plat. If a revised final plat is not submitted, the secretary of the Planning Board shall transmit the final plat together with the Planning Board's recommendations to the Board of Commissioners for final action. The recommendations shall specify how the final plat is not in compliance with this chapter and any unapproved changes from the approved preliminary plat.

(D) The Planning Board shall review and take final action on each final plat within 45 days of the date of the regular meeting at which it was submitted.

(1997 Code, § 36-115)

13.10.2 – Action by Board of Commissioners on Final Plat

(A) The final plat and the recommendations of the Planning Board shall be reviewed by the Board of Commissioners. The Board of Commissioners shall approve or disapprove the final plat.

(B) Approval of the final plat is authorization for the subdivider to file the plat with the register of deeds within 60 days.

(C) If the Board of Commissioners should disapprove the final plat, the reasons for the action shall be noted and recommendations made on the basis of which the proposed subdivision would be approved.

(D) The action of the Board of Commissioners shall be noted on 3 copies of the final plat. Two copies shall be returned to the subdivider; 1 of these (on pages no larger than 21 inches by 30 inches outside measurement nor less than 8½ inches by 11 inches, leaving 1½-inch left margin for binding and 1/2 margins on the other 3 sides) to go to the register of deeds, to be filed within 30 days, and the other retained for the permanent files of the Planning Board.

(E) No final plat shall be approved until all required improvements are installed, the inspection fee has been paid, and the certificates required by this chapter to appear on the final plat have been properly filled out, signed and notarized.

(1997 Code, § 36-116)

13.10.3 – Final Plat Examination and Approval Fees.

(A) Rezone and subdivision plats must be accompanied by a filing fee of \$150.

(1997 Code, § 36-117) (Am. Ord. passed 7-21-2003)

13.10.4 – Resubdivision Procedures

(A) If no lots in an approved subdivision have been sold, the land can be resubdivided by following the same procedure, rules and regulations as prescribed herein for an original subdivision. If lots have been sold, the land may be resubdivided provided that:

- (1) No lot or tract of land shall be created or sold that is smaller than the minimum size shown on the approved plan;
- (2) Drainage easements and rights-of-way shall not be changed;
- (3) Street alignment and block sizes shall not be changed; and
- (4) The character of the area shall be maintained.

(B) If in the opinion of the Planning Board any variance from the approved plan offers a substantial improvement over the approved plan and will not be detrimental in any way to the previous lot purchasers in the subdivision, the Planning Board may waive the stipulations set out in division (A) above.

(1997 Code, § 36-118)

13.11 - Improvements

13.11.1 – Conformance with Specifications

Final plats for all subdivisions shall not be approved until all required improvements have been installed or the subdivider has guaranteed to the satisfaction of the Board of Commissioners that the improvements will be installed as provided in § 13.11.2. All improvements shall be made in conformity with the requirements and standards set forth in this chapter and other specifications and policies of the town. All improvements shall be inspected and approved by the Town Engineer and/or UDO Administrator as

conforming to the requirements of the town. All improvement specifications of the town are on file in the office of the Town Clerk.
(1997 Code, § 36-146)

13.11.2 – Guarantee of Improvements

Where the required improvements have not been completed prior to the submission of the plat for final approval, the approval of the plat shall be subject to the subdivider's guaranteeing the installation of the improvements in 1 of the following methods:

- (A) Cash or certified check (escrow: Town Clerk);
 - (B) Performance or surety bond executed by a company duly licensed to do business in the state;
 - (C) Savings account with any properly insured financial institution (escrow: Town Clerk); or
 - (D) Letter of credit or line of credit from a lending institution (bank, savings and loan) that specifies a limit of credit that will be extended to a developer upon request. This amount may not be used for purposes other than the improvements specified for the subdivision being approved. The lending institution shall agree to provide assurance to the Board of Commissioners that a notice of advances on the specified line of credit will be forwarded by the lending institution to the office of the Mayor.
- (1997 Code, § 36-147)

13.11.3 – Specific Improvements

(A) *Curb and gutter, street paving.* The subdivider shall be responsible for the cost and installation of the road foundation and paving of all streets on the approved final plat in accordance with specifications of the town.

(B) *Grading.* The subdivider of any subdivision designed to be used for residential, commercial or other purposes shall clear and grade proposed streets to their full right-of-way width so as to provide adequate shoulders and pedestrian walkways.

(C) *Markers.* All lot corners, all points where the street lines intersect the exterior boundaries of the subdivision, all angle points and points of curve in each street shall be marked with an iron pipe not less than 3/4 inch in diameter and 30 inches long, driven so as to be 2 inches above the finished grade.

(D) *Monuments.* Permanent concrete monuments 4 inches in diameter or square, 3 feet long, shall be placed at not less than 2 corners of the subdivision, provided that additional monuments shall be placed where

necessary so that no point within the subdivision lies more than 500 feet from a monument. Two or more of the required monuments shall be designated as control corners. The top of each monument shall have an indented cross, metal top, or metal plate to identify properly the location of the point. All monuments shall be shown on the final plat.

(E) *Property corner tie.* At least 1 corner of the property surveyed shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coastal and Geodetic Station or state grid system coordinated monument, then this corner shall be accurately tied to this station or monument by computed X and Y coordinates which shall appear on the map with a statement identifying this station or monument or to an accuracy of 1:15,000. When a monument or station is not available, the tie shall be a landmark or identifiable point, physical object or structure.

(F) *Street name markers.* Street name markers shall be provided at all subdivision street intersections and at any other point within the subdivision as deemed necessary by the town. The placement and construction of the signs shall conform to specifications of the town.

(G) *Surface water drainage.* Where a storm drainage system is not accessible, before a subdivision is approved and accepted by the town, the subdivider shall do all grading and provide all drainage structures necessary to properly carry the water to locations which are acceptable to the town.

(H) *Utilities; electric, telephone.* All electric, telephone and telegraph utilities' layout plans shall appear on the preliminary and final plats as utility easements. Location of utility easements shall be approved by the Planning Board at the time of final plat approval. In addition, all developers are encouraged to install utility service lines underground where feasible for the protection and safety of the subdivision residents.

(1997 Code, § 36-148)

13.12 - Penalty

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the amount specified on the fee schedule approved by the Board of Commissioners and posted on the Town website. A citation for the civil penalty shall be issued by the Police Department or the UDO Administrator or their designee. Each citation for a civil penalty must be paid within 72 hours of issuance.

(B) Every day that the violator continues in violation shall be a separate and distinct offense.

(1997 Code, § 36-8) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2012-03-01, passed 3-19-2012)

Chapter 14: Waterways

14.1 - Boat Docks and Boat Ramps

14.1.1 - Purpose

(A) The purpose of this subchapter is to provide increased opportunities for access to the waters of Bogue Sound for recreational purposes. This chapter provides regulations for permitting by strictly limited marinas, boat docks and boat ramps in designated zoning districts.

(B) Most waterfront properties within the town are within residential zoning districts. As a result, while increasing opportunities for Bogue Sound access, the town is strictly limiting marina and related facilities so as to minimize the burden on surrounding residential areas in terms of increased traffic, noise, pollution and aesthetics.

(C) Further, it is the goal of the town to preserve the water quality of Bogue Sound and its adjacent waters.

(1997 Code, § 42-31) (Ord. 2008-02, passed 4-21-2008) (2016 Code § 155.01 et seq)

14.1.2 - Permits and Fees

(A) No boat dock or boat ramp shall be erected or operated except in zoning districts where they are permitted uses and then in strict compliance with this subchapter upon the issuance of a water facility permit and a building permit.

(B) The owner of a boat dock or boat ramp shall apply for a water facility permit. The application shall be filed with the town official charged with administering this subchapter.

(C) Each application for a water facility permit shall be accompanied with the following:

- (1) Plans drawn to scale that shall indicate the proposed site of the boat dock or boat ramp by identifying the owner by name, address and telephone number, and if applicable, the lessee by name, address and telephone number;
- (2) Plans drawn to scale that shall show the location of the boat dock or boat ramp in relation to property lines, zoning district boundaries, right-of-way lines, utility and drainage easements and lines and all structures, including houses, piers,

docks, pilings, bulkheads, seawall, and the like, within 50 feet of the proposed boat dock or boat ramp;

(3) Plans drawn to scale that shall show the location of all improvements the applicant wishes to construct, including docks, piers, seawalls, bulkheads, pilings, boat slips, ramps, parking areas and landscaping, the elevations of all structures the applicant seeks to construct, a description of the construction materials for the proposed improvements, and a copy of a valid CAMA permit for the proposed construction.

(D) The applicant for a water facility permit shall pay to the town an application fee as shown in the town's approved fee schedule in addition to the customary charges for building and other permits.

(E) Individual boat docks are not required to obtain a water facility permit; however, a residential zoning permit and a building permit must be obtained in addition to a CAMA permit prior to the start of any construction. (1997 Code, § 42-33) (Ord. 2008-02, passed 4-21-2008) (Ord. 2018-05-02; passed 5-14-2018)

14.1.3 - Permitted Boat Docks and Boat Ramps and Limitations Thereon

(A) *Generally.* Boat docks and boat ramps described in this section are permitted within the town in the zoning districts where they are permitted uses. The provisions of this section are applicable to boat docks and boat ramps as specified.

(B) *Limit on docking facilities.* Boat docks shall provide docking or mooring space for a maximum of 10 small boats. Boat ramps shall not provide for the docking or mooring of any boat or watercraft, except for the temporary use necessary for the loading/unloading of boats.

(C) *Land requirement for boat docks.* For each boat slip, and for each 20 lineal feet of dock, pier, seawall or bulkhead not divided into boat slips, but capable of mooring a boat, each boat dock shall contain at least 2,000 square feet of contiguous land.

(D) *Land requirement for boat ramps.* Each boat ramp shall contain a minimum of 10,000 square feet of contiguous land plus additional square footage as is necessary to satisfy the setback and buffer requirements of this subchapter.

(E) *Maximum length of boats.* Boat slips and mooring facilities will be designed and constructed so that the maximum length of a boat docking at the facility will be 25 feet. No boats exceeding 25 feet will be permitted to dock or moor at a marina, boat dock or boat ramp within the town unless larger boats are approved by the town for a specific docking facility. If

the town official charged with administering this subchapter determines that a docking facility contains slips large enough to accommodate larger boats, then the maximum boat size permitted will be specified in writing for the slip. This event constitutes “town approval.” In the event that a boat is found to be too large for a permitted boat slip, then “town approval” may be revoked.

(F) *Sanitary facilities.* No shower or bath facilities will be permitted in connection with a boat dock. Covered containers for garbage, trash and refuse will be provided at convenient locations, and regular pickup and disposal of garbage, trash and refuse will be provided by the boat dock owner.

(G) *Utilities on docking and mooring facilities.* Each boat slip at a boat dock may be provided one 120-volt electrical outlet. Each boat dock may provide an area and 1 freshwater faucet for purposes of washing down boats moored at the facility and each boat ramp, including a boat ramp incorporated in a boat dock, for purposes of washing down boats using the facility. No other utilities, including but not being limited to sewage lines and services, water lines, electric lines, telephone lines and gas lines, are permitted on the docking facilities.

(H) *Fuel prohibition.* No fueling facilities, including storage tanks or lines, either permanent or temporary, shall be located within 500 feet of navigable water. Transfer of fuels from tank trucks or vehicles to boats is prohibited.

(I) *Commercial activity prohibited.* Activities that are commercial in nature are not permitted in connection with any boat dock or boat ramp. However, the renting or leasing of boat slips and the collection of fees for the launching or recovering of boats is permitted.

(J) *Dry storage prohibited.* No facilities for storing boats or other watercraft on land shall be permitted, and no boat or other watercraft may be kept on land at any boat dock or boat ramp for more than 1 hour.

(K) *Residential prohibition.* No person shall be allowed to reside on any boat docked within the zoning jurisdiction of the town. As used in this chapter, reside means to inhabit a boat for more than 72 hours within a two (2) week period.

(L) *Parking.* For each boat dock, a minimum of 1 parking space on the land contiguous to the docking facilities shall be provided for each boat slip.

(M) *Setbacks.* Piers, docks, boat slips, pilings, boat ramps, parking areas, and any other structure or improvement in connection with a boat dock or boat ramp (except seawalls or bulkheads and fences required by this chapter) shall be set back at least 15 feet from adjoining residential properties

as measured along with water line. The setback of these boat dock or boat ramp facilities and improvements from other property lines, such as streets and parks, shall be 20 feet. Setbacks can be reduced to zero feet when there is common ownership with the adjoining owners in the boat dock or boat ramp or when a waiver is obtained from the adjacent property owner(s) allowing for a pier or dock to encroach into the 15-foot setback.

(N) *Buffer.* The land appurtenant to each boat dock or boat ramp shall be buffered along any common border with residential properties a minimum of 10 feet of vegetation and the height of screening within the buffer shall not exceed 4 feet.

(O) *Lighting limitation.* Area lights, including streetlights and floodlights, shall be directed or focused away from residential areas and shall not constitute a nuisance to adjoining residential areas.

(P) *Limit on floating homes.* No houseboat or floating home shall be moored at any boat dock for more than 72 hours.

(1997 Code, § 42-34) (Ord. 2008-02, passed 4-21-2008; Am. Ord. 2010-01, passed 2-8-2010; Am. Ord. 2015-01-01, passed 1-12-2015) (Ord. 2017-06-02; passed 6-12-2017)

14.1.4 - Permitted Zoning Districts

Boat docks or boat ramps are permitted uses in zoning districts R-10, R-10M, R-13, R-20, and R-30 subject to all of the requirements of this chapter.

(1997 Code, § 42-36) (Ord. 2008-02, passed 4-21-08; Ord. 2009-11, passed 4-20-2009)

14.1.5 - Nonconforming Development

Boat docks and boat ramps that were permitted prior to the adoption of this subchapter may be repaired or rebuilt only to the extent that they were damaged or removed. Any development greater than what was originally permitted requires the entire site to be brought to current standards.

(Ord. 2008-02, passed 4-21-2008)

14.2 - Boats

14.2.1 - Purpose

The purpose of this subchapter is to regulate the activities of boats or other watercraft in the navigable waterways of Bogue Sound. Furthermore, it is the goal of the town to preserve the water quality of Bogue Sound in ensuring access to those navigable waterways.

(Ord. 00-08-05, passed --)

14.2.2 - Anchoring

No boat, watercraft, or other vessel, other than those engaged in waterway maintenance or repair, shall be permitted to remain at anchor in any navigable waterway for any period of time in excess of 8 hours, or be secured to any bridge piling, directional sign, and the like, except in emergency situations, or as safety dictates under adverse weather conditions.

(Ord. 00-08-05, passed --) Penalty, see § 14.2.12

14.2.3 - Speed

Boats shall be operated in a safe manner at all times, with due regard for the safety of persons and property.

(Ord. 00-08-05, passed --) Penalty, see § 14.2.12

14.2.4 - Discharging and Dumping

No solid, vegetable, or organic material of any kind, including material discharged from a boat head and including water used for laundering purposes or chemically polluted water, shall be deposited, discharged, or dumped in any waters of the town, except for the remains of fish or shellfish, but not to include the shells.

(Ord. 00-08-05, passed --) Penalty, see § 14.2.12

14.2.5 - Living Aboard

It shall be unlawful for any person or persons to live aboard any boat, watercraft, or other floating structure in any navigable waterway, public trust area, or estuarine waters within the town.

(Ord. 00-08-05, passed --) Penalty, see § 14.2.12

14.2.6 - Investigation

The Chief of Police, upon notice from any person or upon the Police Chief's own investigation, shall determine whether, in fact a violation of §§ 14.2.2 through 14.2.5 has occurred or is occurring.

(Ord. 00-08-05, passed --)

14.2.7 - Notice of Violation

Upon a determination that a violation has occurred or is occurring, the Chief of Police shall notify, by certified mail, the owner, occupant or person in possession of the boat in question, of the nature of the violation and shall

order the prompt abatement thereof within 10 days from the receipt of written notice. (Ord. 00-08-05, passed --)

14.2.8 – Owner May Request Hearing

(A) Within 7 days from receipt of the notice provided for in § 14.2.7, the owner, occupant or person in possession of the boat may request a hearing before the Chief of Police. The Chief of Police, upon receipt of the hearing request, shall fix a time for the hearing, and the initial abatement order shall be temporarily suspended pending the hearing. At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order.

(B) Upon completion of the hearing, the Chief of Police shall:

- (1) Affirm the original order of abatement;
- (2) Modify the original abatement order; or
- (3) Revoke the initial abatement order.

(Ord. 00-08-05, passed --)

14.2.9 – Abatement by Town

(A) Upon the occurrence of either of the following conditions, the Chief of Police shall cause the condition to be removed or otherwise remedied by having employees or agents of the town remove the boat under the Police Chief's supervision:

- (1) A hearing is requested and held under § 14.2.8, resulting in either an affirmation of the original order of abatement or modification of the order, and either the order is not complied with;
- (2) Having considered an appeal from the order of the Chief of Police, the Town Board of Commissioners, pursuant to § 14.2.10 has affirmed the original order, or modified the same, but the abatement order has not been complied with; or
- (3) No hearing has been requested or, the owner, occupant or person in possession of the boat having requested the hearing fails to attend, and the person having been ordered to abate a violation fails, neglects, or refuses to abate or remove the violation within ten (10) days from the receipt of the order.

(B) Any person who has been finally ordered to abate a violation may, within the time allowed by this section, request the town in writing to remove the condition, the cost of which shall be paid by the person making the request. However, the town is not obligated to remove the condition, even if requested by the person subject to the abatement order, and the person

requesting removal of the condition by the town is not relieved of his or her obligation to act by requesting town action. (Ord. 00-08-05, passed --)

14.2.10 – Appeal to Town Board

(A) Within 7 days from the receipt of the decision of the Chief of Police the person ordered to abate a violation may request in writing, filed with the Town Clerk, a hearing before the Town Board of Commissioners. An appeal pursuant to § 14.2.8 is a prerequisite to a request for a hearing under this section.

(B) The Town Clerk will forward a copy of the request to the Mayor who shall fix a time for the hearing.

(C) The abatement order issued by the Chief of Police shall remain in full force and effect unless temporarily suspended by the Mayor pending the Town Board hearing.

(D) At the hearing, the individual affected by the order shall be given the opportunity to present evidence to refute the findings which supported the abatement order. Upon completion of the hearing, the Town Board shall:

- (1) Affirm the abatement order;
- (2) Modify the abatement order; or
- (3) Revoke the abatement order.

(Ord. 00-08-05, passed --)

14.2.11 – Cost of Removal by Owner; Lien

(A) The actual cost incurred by the town in towing, storing or otherwise remedying a violation shall be charged to the owner of the boat. It shall be the duty of the Chief of Police to mail a statement of the charges to the owner or other person in possession of the boat with instructions that the charges are due and payable within 30 days from receipt thereon.

(B) In the event charges for the removal or abatement of a violation are not paid within 30 days after receipt of a statement of charges, the charges shall become a lien upon the boat.

(Ord. 00-08-05, passed --)

14.2.12 - Penalty

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$50 per day. A citation for the civil penalty shall be issued by the Police Department. Each citation for a civil penalty must be paid within 72 hours of issuance. Each day that the violator continues in violation shall be a separate and distinct offense.

(B) The procedure set forth in division (A) above shall be in addition to any other remedies that may now or hereafter exist under state law or this chapter and this chapter shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this chapter as provided in G.S. § 14-4.

(Ord. 00-08-05, passed – -; Am. Ord. 2012-03-01, passed 3-19-2012)

Chapter 15: Flood Damage Prevention

COASTAL REGULAR PHASE

15.1 - Statutory Authorization

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter [153A](#); Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D (Effective January 1, 2021) of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners of the Town of Cape Carteret, North Carolina, does ordain as follows:

15.1.2 - Findings of Fact

(A) The flood prone areas within the jurisdiction of the Town of Cape Carteret are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

15.1.3 - Statement of Purpose

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

(A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

15.1.4 – Objectives

The objectives of this ordinance are to:

(A) Protect human life, safety, and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business losses and interruptions;

(E) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

(F) Minimize damage to private and public property due to flooding;

(G) Make flood insurance available to the community through the National Flood Insurance Program;

(H) Maintain the natural and beneficial functions of floodplains;

(I) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(J) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

15.2 - General Provisions

15.2.1 - Lands to Which This Ordinance Applies

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) as allowed by law, of the Town of Cape Carteret.

15.2.2 - Basis for Establishing the Special Flood Hazard Areas

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated June 19, 2020 for Carteret County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto after January 1, 2021. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Cape Carteret are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

15.2.3 – Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Article 3, Section B of this ordinance.

15.2.4 – Compliance

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

15.2.5 – Abrogation and Greater Restrictions

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

15.2.6 – Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

- (A) Considered as minimum requirements;
- (B) Liberally construed in favor of the governing body; and
- (C) Deemed neither to limit nor repeal any other powers granted under State statutes.

15.2.7 – Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Cape Carteret or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

15.2.8 – Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Cape Carteret from taking such other lawful action as is necessary to prevent or remedy any violation.

15.3 - Administration

15.3.1 – Designation of a Floodplain Administrator

The Town Manager or their designee, for the purposes of this ordinance shall hereinafter be referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community’s overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

15.3.2 – Floodplain Development Application, Permit and Certification Requirements

(A) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The

following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- (1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
 - a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other floodmap as determined in Article 3, Section B;
 - d) The boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
 - e) The Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 4, Section C; or Article 5, Section D;
 - f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - g) The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable; and
 - h) The certification of the plot plan by a registered land surveyor or professional engineer.
- (2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - b) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and

- c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (3) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- (4) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
 - a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
 - c) The following, in Coastal High Hazard Areas, in accordance with the provisions of Article 5, Section B(4)(e) and Article 5, Section G and (Article 5, Section H if applicable):
- (5) V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.
 - a) Plans for open wood latticework or insect screening, if applicable; and
 - b) Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.

- (6) Usage details of any enclosed areas below the lowest floor.
- (7) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
- (8) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
- (9) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Article 5, Section B, subsections (6) and (7) of this ordinance are met.
- (10) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

- (1) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (2) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article 3, Section B.
- (3) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
- (4) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
- (5) All certification submittal requirements with timelines.
- (6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met.
- (7) The flood openings requirements, if in Zones A, AE, AH, AO, A99.

- (8) Limitations of below BFE enclosure uses . (i.e., parking, building access and limited storage only).
- (9) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(C) **Certification Requirements**

- (1) Elevation Certificates
 - a) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
 - b) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permitholder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
 - c) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built

construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. *The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.*

- (2) Floodproofing Certificate
- a) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the

operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

- b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Article 5, Section B(3)(b).
- d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying

capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(3) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- a) Recreational Vehicles meeting requirements of Article 5, Section B(6)(a);
- b) Temporary Structures meeting requirements of Article 5, Section B (7); and
- c) Accessory Structures that are 150 square feet or less or \$5,000 or less and meeting requirements of Article 5, Section B (8).

(4) A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this ordinance are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance. This certification is not a substitute for an Elevation Certificate. *In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.*

(D) Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

15.3.3 – Duties and Responsibilities of the Floodplain Administrator

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

- (A) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (B) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (C) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.

(F) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B (3).

(G) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B (3).

(H) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B (3).

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Article 4, Section B (3) and Article 5, Section B (2).

(J) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(K) When BFE data has not been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Article 5, Section D(2)(c), in order to administer the provisions of this ordinance.

(L) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.

(M) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(N) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the

Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(O) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(P) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(Q) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(R) Follow through with corrective procedures of Article 4, Section D.

(S) Review, provide input, and make recommendations for variance requests.

(T) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(U) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

15.3.4 – Corrective Procedures

(A) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

- (1) That the building or property is in violation of the floodplain management regulations;
- (2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
- (3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(C) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than least 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body

following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

15.3.5– Variance Procedures

(A) The Board of Adjustment as established by the Town of Cape Carteret, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.

(B) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(C) Variances may be issued for:

- (1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
- (2) Functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E(9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
- (3) Any other type of development provided it meets the requirements of this Section.

(D) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- (1) The danger that materials may be swept onto other lands to the injury of others;
- (2) The danger to life and property due to flooding or erosion damage;
- (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (4) The importance of the services provided by the proposed facility to the community;
- (5) The necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;

- (6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (7) The compatibility of the proposed use with existing and anticipated development;
- (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
- (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.

(I) Conditions for Variances:

- (1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
- (2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the

flood hazard, to afford relief.

- (4) Variances shall only be issued prior to development permit approval.
- (5) Variances shall only be issued upon:
 - a) A showing of good and sufficient cause;
 - b) A determination that failure to grant the variance would result in exceptional hardship; and
 - c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(J) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

- (1) The use serves a critical need in the community.
- (2) No feasible location exists for the use outside the Special Flood Hazard Area.
- (3) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- (4) The use complies with all other applicable federal, state and local laws.
- (5) The Town of Cape Carteret has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

15.4 - Provisions for Flood Hazard Reduction

15.4.1 - General Standards

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

(A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(D) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or

accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.

- (1) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
- (2) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

(I) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Article 4, Section E (10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Article 4, Section B (3).

(J) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(K) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(M) All subdivision proposals and other development proposals

shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(N) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

(O) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

15.4.2- Specific Standards

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Article 3, Section B, or Article 5, Section D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

(A) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.

(B) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section I (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B (3), along with the operational plan and the inspection and maintenance plan.

(C) Manufactured Homes.

- (1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance.
- (2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and

lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.

- (3) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B(4).
- (4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(D) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor or below the lowest horizontal structural member in VE zones:

- (1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
- (2) Shall not be temperature-controlled or conditioned;
- (3) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- (4) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - b) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

- c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - d) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- (5) Shall, in Coastal High Hazard Areas (Zone VE), meet the requirements of Article 5, Section G.
- (E) Additions/Improvements.
- (1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and *must not be any more non-conforming than the existing structure.*
 - b) A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
 - (2) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
 - (3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.

- b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (4) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one-year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. *Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.* If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (F) Recreational Vehicles. Recreational vehicles shall either:
 - (1) Temporary Placement
 - a) Be on site for fewer than 180 consecutive days; or
 - b) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)
 - (2) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.
- (G) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must

submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
- (2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;
- (3) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
- (4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
- (5) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(H) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

- (1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (2) Accessory structures shall not be temperature-controlled;
- (3) Accessory structures shall be designed to have low flood damage potential;
- (4) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- (5) Accessory structures shall be firmly anchored in accordance with the provisions of Article 5, Section A (1);
- (6) Accessory structures, regardless of the size or cost, shall not be placed below elevated buildings in V and VE Zones;
- (7) All service facilities such as electrical shall be installed in accordance with the provisions of Article 5, Section A(4); and
- (8) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Article 5, Section B(4)(d).

An accessory structure with a footprint less than 150 or that is a minimal investment of \$5,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Article 5, Section

B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Article 4, Section B (3).

(I) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(1) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(2) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(3) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Article 5, Section B (2) of this ordinance shall not be permitted in V or VE Zones. Tanks may be permitted in other flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(4) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

a) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(J) Other Development.

(1) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.

(2) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated

floodways shall meet the limitations of Article 5, Section F of this ordinance.

- (3) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.
- (4) Commercial storage facilities are not considered “limited storage” as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

15.4.3– Reserved

15.4.4– Standards for Floodplains Without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Article 5, Section A, shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

- (1) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
- (2) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
- (3) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and

utilized in implementing this ordinance.

- (4) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

15.4.5 – Standards for Riverine Floodplains with Base Flood Elevations But Without Established Floodways or Non-Encroachment Areas

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

- (A) Standards of Article 5, Sections A and B; and
- (B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

15.4.6– Floodways and Non-Encroachment Areas

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR)

must also be obtained within six months of completion of the proposed encroachment.

(B) If Article 5, Section F (1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(C) Manufactured homes may be permitted provided the following provisions are met:

- (1) The anchoring and the elevation standards of Article 5, Section B (3); and
- (2) The encroachment standards of Article 5, Section F (1).

15.4.7– Coastal High Hazard Area (Zone VE)

Coastal High Hazard Areas are Special Flood Hazard Areas established in Article 3, Section B, and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Article 5, Sections A and B:

(A) All new construction and substantial improvements shall:

- (1) Be located landward of the reach of mean high tide;
- (2) Comply with all applicable CAMA setback requirements.

(B) All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.

(C) All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:

- (1) Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or
- (2) Insect screening; or
- (3) Breakaway walls shall meet the following design specifications:
 - a) Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per Article 5, Section B(4)(d) (i-vi); and

- b) Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or
- c) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by designor when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

(D) All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.

- (1) Water loading values used shall be those associated with the base flood.
- (2) Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.

(E) For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:

- (1) Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
- (2) Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
- (3) Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
- (4) Pad thickness shall not exceed 4 inches; or
- (5) Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.

- (F) For swimming pools and spas, the following is required:
- (1) Be designed to withstand all flood-related loads and load combinations.
 - (2) Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or
 - (3) Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
 - (4) Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
 - (5) Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
 - (6) Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- (G) All elevators, vertical platform lifts, chair lifts, etc., the following is required:
- (1) Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
 - (2) Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
 - (3) The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counterweight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.
 - (4) Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
 - (5) Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.
 - (6) If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a

floor above the RFPE.

(H) Accessory structures, regardless of size or cost, shall not be permitted below elevated structures.

(I) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Article 4, Section B and Article 5, Section G (3) and (4), on the current version of the North Carolina V-Zone Certification form or equivalent local version. *In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.*

(J) Fill/Grading

(1) Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

(2) The fill material must be similar and consistent with the natural soils in the area.

(3) The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

(4) Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

(5) Nonstructural fill shall not be placed in a manner that diverts rainfall/runoff or floodwaters onto adjacent properties or onto the rights-of-ways of the Town of Cape Carteret; innovative stormwater control and retention methods shall be utilized to retain runoff on-site

(K) There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.

(L) No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.

(M) Recreational vehicles may be permitted in Coastal High Hazard

Areas provided that they meet the Recreational Vehicle criteria of Article 5, Section B(6)(a).

(N) A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Article 4, Section B, (3)(f).

(O) A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

(P) In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

- (1) Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;
- (2) Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.
- (3) Docks, piers, and similar structures.

15.4.8 – Standards for Coastal A Zones (Zone CAZ) LiMWA

Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, *Openings in Foundation Walls and Walls of Enclosures*). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

(A) All new construction and substantial improvements shall be

elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal A Zones to satisfy the regulatory flood protection elevation requirements.

(B) All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:

- (1) Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or
- (2) Insect screening; or
- (3) Breakaway walls shall meet the following design specifications:
 - a) Breakaway walls shall have flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the design criteria in Article 5, Section B(4)(d); and
 - b) Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or
 - c) Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

(C) Concrete pads, including patios, decks, parking pads, walkways, driveways, etc. must meet the provisions of Article 5, Section G (5).

(D) All new construction and substantial improvements shall meet the provisions of Article 5, Section G (3).

(E) A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Article 4, Section B and Article 5, Section G (3) and (4), on the current version of the North Carolina V-Zone Certification form or a locally developed V-Zone Certification form.

(F) Recreational vehicles may be permitted in Coastal A Zones provided that they meet the Recreational Vehicle criteria of Article 5, Section B(6)(a).

(G) Fill/Grading must meet the provisions of Article 5, Section G (10)

(H) Decks and patios must meet the provisions of Article 5 Section G (15) and (16).

(I) In coastal high hazard areas, development activities other than buildings and structures must meet the provisions of Article 5, Section G (17)

15.4.9 – Standards For Areas of Shallow Flooding (ZONE AO)

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

(A) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade if no depth number is specified.

(B) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Article 5, Section I (1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Article 4, Section B (3) and Article 5, Section B (2).

(C) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

15.4.10 - Standards for Areas of Shallow Flooding (ZONE AH).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually

areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

(A) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

15.4.11– Legal Status Provisions

15.5 - Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted March 21, 1977 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town of Cape Carteret enacted on March 21, 1977, as amended, which are not reenacted herein are repealed.

15.5.1 – Effect Upon Outstanding Floodplain Development Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

15.5.2 - Severability

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

15.5.3 – Effective Date

This ordinance shall become effective June 19, 2020.

15.5.4 – Adoption Certification

I hereby certify that this is a true and correct copy of the Flood

Damage Prevention Ordinance as adopted by the Board of Commissioners of Cape Carteret, North Carolina, on the 18th day of May, 2020.

WITNESS my hand and the official seal of Sherrie Hancock, Town Clerk, this the 18th day of May, 2020.



(signature)

Chapter 16: Signs

16.1 - Purpose

(A) The purpose of this chapter is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising, outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of the community, and preserve the scenic and natural beauty of designated areas.

(B) It is further intended to reduce sign or advertising distraction and obstructions that may contribute to traffic accidents, reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, and curb the deterioration of the natural environment and enhance community development.

16.2 - Permits and Fees

(A) No sign of any type nor any part thereof shall be erected, painted, repainted, posted, reposted, placed, replaced or hung in any zoning district except in compliance with these regulations and the issuance of a permit.

(B) Each application for a sign permit shall be accompanied by plans drawn to approximate scale that shall:

- (1) Indicate the proposed site by identifying the owner by name, address and telephone number, and if applicable, the lessee by name, address and telephone number; and
- (2) Show the location of the sign on the lot in relation to the property lines and building, zoning district boundaries, right-of-way lines, utility and drainage easements and lines, and existing signs.

(C) The fee, based on the fee schedule in effect, shall be paid prior to the issuance of a sign permit.

(D) If work authorized under the permit issued hereunder has not been completed within six (6) months after the date of issuance, the permit shall become null and void.

(1997 Code, § 30-3)

16.3 - Permitted Signs

(A) Generally. Only signs as described in this section and as may be permitted otherwise in this chapter will be allowed. No sign described herein shall be erected unless a permit for the same has been issued. All signs erected under the requirements of this chapter may be illuminated in accordance with § 16.9 unless provided otherwise herein.

(B) Residential districts, R-10, R-10M, R-13, R-20, R-30. The only signs permitted are as follows:

- (1) One sign per lot only pertaining to the lease, rent or sale of the property upon which displayed. The sign shall not exceed 6 square feet in area for lots less than or equal to 3/4 acre. Signs shall not exceed 32 square feet in area for lots greater than 3/4 acre. No sign shall be illuminated.
- (2) Signs announcing clubs and other recreation facilities and schools. The signs shall be limited to 1 per lot and 24 square feet in area. The signs may be illuminated subject to regulations prescribed in § 16.9.
- (3) Directional signs indicating location of churches, clubs, recreation facilities, schools and nonprofit organizations. These signs shall be limited to 1 per organization or facility and to 18 inches by 18 inches in area. The signs may be 2 faced to be viewable from either side and erected at the intersection of a state highway and a feeder street to the churches, clubs, recreation facilities, schools and nonprofit organizations. The signs must be erected so as not to obstruct or interfere with passing vehicular traffic. The signs are subject to and must conform to all state highway regulations.
- (4) One identification sign per lot describing the location and the owner's name. The signs shall not exceed 4 square feet in area and may be illuminated subject to regulations prescribed in § 16.9.
- (5) Permanent identification signs for planned subdivisions not exceeding 16 square feet in area. A maximum of 2 freestanding signs, to be located only at major entrances to the subdivision shall be permitted. Signs may be illuminated subject to regulations prescribed in § 16.9 and shall be located on private property no closer than 10 feet to any property line. No sign shall exceed 6 feet in height above the ground.
- (6) Signs for churches. Not more than 24 square feet may be used as a bulletin board and the total free-standing sign area shall not exceed 48 square feet. The square footage of any sign permitted under § 16.3(B)(3) shall be included in this total.

(C) Business district B-10. The only signs permitted are as follows:

- (1) One sign per lot pertaining only to the lease, rent or sale of the property upon which displayed. The signs shall not exceed 32 square feet in area and may be illuminated subject to regulations prescribed in § 16.9.
- (2) Signs announcing clubs and other recreation facilities. The signs shall be limited to one (1) per lot and 24 square feet in area. The signs may be illuminated subject to regulations prescribed in § 16.9.
- (3) Directional signs indicating location of churches, clubs and recreation facilities. These signs shall be limited to one (1) per organization or facility and to 18 inches by 18 inches in area. The signs may be two faced to be viewable from either side and erected at the intersection of a state highway and a feeder street to the churches, clubs, recreation facilities, schools and nonprofit organizations. The signs must be erected so as not to obstruct or interfere with passing vehicular traffic. The signs are subject to and must conform to all state highway regulations.
- (4) One identification sign per lot describing the location and the owner's name of a noncommercial use. The signs shall not exceed 4 square feet in area and may be illuminated subject to requirements prescribed in § 16.9.
- (5) Wall, canopy, awning, marquee and free-standing signs on the side of the building facing a street, provided the total sign area for all signs including accessory uses on the same premises shall not exceed three (3) square feet for each lineal foot of building wall facing streets.
- (6) Two freestanding signs announcing the name of a planned shopping center and the tenants or occupants therein provided:
 - a) The sign does not exceed 250 square feet in area; and
 - b) A 5-foot setback distance from the front property line is observed.
- (7) One freestanding sign for any one business occupying a freestanding building provided:
 - a) The business is not part of a planned office, shopping center or industrial development;
 - b) The sign does not exceed 80 square feet in area; and
 - c) A 5-foot setback distance from the front property line is observed.
- (8) One freestanding sign for any one business occupying a freestanding building located within but on the periphery of any planned shopping center provided:

- a) The sign does not exceed 32 square feet in area; and
 - b) A 5-foot setback distance from the front property line is observed.
- (9) One freestanding sign for any one non-profit emergency medical facility providing medical assistance to the general public provided that the sign does not exceed 32 square feet in area.
- (10) Existing signs which are maintained in good condition and new signs of any type for which a permit has been issued.
- (11) Signs for churches. Not more than 24 square feet may be used as a bulletin board and the total free-standing sign area shall not exceed 48 square feet. The square footage of any sign permitted under § 16.3(C)(3) shall be included in this total.
- (D) Business district B-20. The only signs permitted are as follows:
 - (1) One sign per lot pertaining only to the lease, rent or sale of the property upon which displayed. The signs shall not exceed 32 square feet in area and shall not be illuminated.
 - (2) Signs announcing clubs and other recreation facilities. The signs shall be limited to 1 per lot and 24 square feet in area. The signs may be illuminated subject to regulations prescribed in § 16.9.
 - (3) Directional signs indicating location of churches, clubs and recreation facilities. These signs shall be limited to 1 per organization or facility and to 18 inches by 18 inches in area. The signs may be 2 faced to be viewable from either side and erected at the intersection of a state highway and a feeder street to the churches, clubs and recreation facilities. The signs must be erected so as not to obstruct or interfere with passing vehicular traffic. The signs are subject to and must conform to all state highway regulations.
 - (4) One identification sign per lot describing the location and the owner's name of a noncommercial use. The signs shall not exceed 4 square feet in area and may be illuminated subject to regulations prescribed in § 16.9.
 - (5) Wall, canopy, awning, marquee and freestanding signs on the side of the building facing a street, provided the total sign area for all signs, including accessory uses on the same premises, shall not exceed 3 square feet for each lineal foot of building wall facing streets.
 - (6) Two freestanding signs announcing the name of a planned shopping center and the tenants or occupants therein provided:
 - a) The sign does not exceed 250 square feet in area; and

- b) A 20-foot setback distance from the front property line is observed.
- (7) One freestanding sign for any 1 business occupying a freestanding building provided:
 - a) The business is not part of a planned office, shopping center or industrial development;
 - b) The sign does not exceed 80 square feet in area; and
 - c) A 20-foot setback distance from the front property line is observed.
- (8) One freestanding sign for any 1 business occupying a freestanding building located within but on the periphery of any planned shopping center provided:
 - a) The sign does not exceed 32 square feet in area; and
 - b) A 20-foot setback distance from the front property line is observed.
- (9) One freestanding sign for any 1 non-profit emergency medical facility providing medical assistance to the general public, provided that the sign does not exceed 32 square feet in area.
- (10) Existing signs which are maintained in good condition and new signs of any type for which a permit has been issued.
- (11) Signs for churches. Not more than 24 square feet may be used as a bulletin board and the total free-standing sign area shall not exceed 48 square feet. The square footage of any sign permitted under § 16.3(C)(3) shall be included in this total.

(E) Business district B-30. The only signs permitted are as follows:

- (1) One sign per lot pertaining only to the lease, rent or sale of the property upon which displayed. The signs shall not exceed 32 square feet in area and shall not be illuminated.
- (2) Signs announcing clubs and other recreation facilities. The signs shall be limited to 1 per lot and 24 square feet in area. The signs may be illuminated subject to regulations prescribed in § 16.9.
- (3) Directional signs indicating location of churches, clubs and recreation facilities. These signs shall be limited to 1 per organization or facility and to 18 inches by 18 inches in area. The signs may be 2 faced to be viewable from either side and erected at the intersection of a state highway and a feeder street to the churches, clubs and recreation facilities. The signs must be erected so as not to obstruct or interfere with passing vehicular traffic. The signs are subject to and must conform to all state highway regulations.

- (4) One identification sign per lot describing the location and the owner's name of a noncommercial use. The signs shall not exceed 4 square feet in area and may be illuminated subject to regulations prescribed in § 16.9.
- (5) Wall, canopy, awning, marquee and freestanding signs on the side of the building facing a street, provided the total sign area for all signs, including accessory uses on the same premises, shall not exceed 3 square feet for each lineal foot of building wall facing streets.
- (6) Two freestanding signs announcing the name of a planned industrial development and the tenants or occupants therein provided:
 - a) The sign does not exceed 250 square feet in area; and
 - b) A 20-foot setback distance from the front property line is observed.
- (7) One freestanding sign for any 1 business occupying a freestanding building provided:
 - a) The business is not part of a planned industrial development;
 - b) The sign does not exceed 80 square feet in area; and
 - c) A 20-foot setback distance from the front property line is observed.
- (8) One freestanding sign for any 1 business occupying a freestanding building located within but on the periphery of any planned industrial development provided:
 - a) The sign does not exceed 32 square feet in area; and
 - b) A 20-foot setback distance from the front property line is observed.
- (9) One freestanding sign for any 1 non-profit emergency medical facility providing medical assistance to the general public, provided that the sign does not exceed 32 square feet in area.
- (10) Existing signs which are maintained in good condition and new signs of any type for which a permit has been issued.
- (11) Signs for churches. Not more than 24 square feet may be used as a bulletin board and the total free-standing sign area shall not exceed 48 square feet. The square footage of any sign permitted under § 16.3(C)(3) shall be included in this total.

(1997 Code, § 30-4) (Am. Ord. 02-10-02, passed 10-21-2002; Am. Ord. 2009-11, passed 4-20-2009; Am. Ord. 2011-05-02, passed 5-16-2011; Am. Ord. 2013-12-03, passed 12-9-2013; Am. Ord. 2013-12-05, passed 12-9-2013; Am. Ord. 2015-04-04, passed 4-20-2015)

16.4 - Off-Premises Directional Signs

(A) Off-premises directional signs shall be permitted to call attention to businesses which are located off a major thoroughfare and not visible from or easily accessible to the thoroughfare.

(B) All off-premises directional signs shall be subject to the following provisions:

- (1) Directional signs shall be limited to a maximum size of 12 square feet;
- (2) Only 1 off-premises directional sign shall be allowed for any 1 business;
- (3) Signs may be permitted only in business zoning districts and must meet the zoning regulations of the district in which it is located;
- (4) Each sign shall be placed off the road right-of-way. Upon selection of a site, written authorization from the landowner shall be required to permit the siting of the sign in that location;
- (5) Only 1 off premises directional sign may be located on a single lot, and the sign will not count toward the maximum square foot sign allowance of the business located on the lot; and
- (6) Directional signs may be illuminated subject to regulations prescribed in § 16.9.

(1997 Code, § 30-5)

16.5 - Outdoor Advertising Signs

(A) Outdoor advertising signs shall be permitted in the business district provided they are on the premises where the business is conducted.

(B) Outdoor advertising signs shall be subject to all building setback lines, front and side yard requirements and building height limitations applicable to buildings located in the zone in which the signs are located.

(C) Outdoor advertising signs shall not exceed 18 square feet in area, and shall be limited to no more than 3 signs per business.

(D) In no case shall an outdoor advertising sign be located closer than 100 feet to a lot zoned or developed for residential purposes.

(E) Outdoor advertising signs may be illuminated in accordance with § 16.9. However, if located within a direct line of vision of any traffic control signal, the structure shall not have red, green or amber illumination.

(F) No outdoor advertising sign shall be erected at the intersection of streets in a manner as to obstruct clear vision.

(G) No outdoor advertising signs shall copy or simulate official signs or signals.

(1997 Code, § 30-6) (Am. Ord. 2015-04-04, passed 4-20-2015)

16.6 - Temporary Signs

The following signs of a temporary nature are permitted in all zoning districts and shall require no permit unless provided otherwise herein:

(A) One non-illuminated sign per street frontage. One non-illuminated sign per street frontage pertaining only to the lease, rent or sale of the property upon which it is to be displayed. The maximum size of the signs shall be as follows:

- (1) In all residential districts:
 - a) Signs shall not exceed 6 square feet in area for lots less than or equal to 3/4 acre.
 - b) Signs shall not exceed 32 square feet in area for lots greater than 3/4 acre.
 - (2) In all other districts, the signs shall be limited to no more than 32 square feet.
- (B) Political signs/election campaign signs.
- (1) Number and area limits.
 - a) Residential districts. Not more than 4 signs per residential unit in any residential district, provided that no single sign may exceed 3 square feet in area.
 - b) Commercial districts. Not more than 4 separate signs per commercial lot in any commercial district, provided that the total area of all signs on any one lot shall not exceed 32 square feet in area. Political campaign signs are permitted in commercial districts, provided the owner of the property has given written
 - (2) Time and placement limits.
 - a) Political campaign signs may be displayed beginning 60 days prior to the election and shall be removed within 2 days following the primary or general election date for which an individual is a candidate or a public question issue appears on the ballot.
 - b) Political signs shall not be placed in or on any street right-of-way. Signs placed in the street right-of-way or which otherwise create a traffic hazard may be removed by the town.
 - c) Political signs shall not be placed on any utility poles.
 - (3) Removal by the town. Signs within the town limits found to be located in violation of these regulations may be removed by the town at its sole discretion.
 - a) The town shall have no liability to any person arising out of its removal of such sign.
 - b) Such removal shall not in any manner impair the right of the town to issue a notice of violation and/or civil citation, or to take any other enforcement action authorized by the code or any other applicable law.

- c) Owners may retrieve signs removed by the town by paying the retrieval fee set out in the town's fee schedule within 30 days after the re removal of the sign.
- d) Signs not retrieved by the owner within 30 days after removal of the sign by the town shall be deemed abandoned, and the town will dispose of the signs.

(C) One construction sign per construction site. One construction sign may be erected on a site during the period of construction or reconstruction of a building or other similar project. The sign may identify the owner and/or developer, architect, engineer, contractor and other individuals or firms and the character or purpose for which the structure or site is intended. The sign shall be non-illuminated and shall be removed within 2 days after the construction work has been completed. The maximum size of a construction sign shall be as follows:

- (1) In residential zones, 12 square feet; and
- (2) In all other zones, 32 square feet.

(D) Banners, *pennants and other moving devices*. Banners, pennants, ribbons, posters, streamers, spinners or other similar moving devices may be displayed for a period of not more than 21 days upon the occasion of the opening of a new business and must be removed not later than 30 days after the date of the opening of the new business.

(E) Garage sale signs. Signs advertising garage sales, as permitted by § 116.16(C).

(F) Special event signs. Temporary signs announcing or commemorating a special event or occurrence to be displayed for not more than 30 consecutive days. Displays shall be limited to 2 banner style signs no larger than 16 square feet in area. The signs shall be placed on the principal structure located on the subject property or an existing freestanding sign located on the same property. Applicants shall be required to wait 30 days from the conclusion of a special event to request temporary signs advertising another special event or occurrence on the same property (1997 Code. § 30-7) (Am. Ord. 02-10-02, passed 10-21-2002; Am. Ord. 03-12-05, passed - -; Am. Ord. 2006-11, passed 8-21-2006; Am. Ord. 2013-12-03, passed 12-9-2013)

16.7 - Non-conforming Signs

(A) Intent. Signs in existence prior to the adoption of the regulations from which this chapter is derived and that do not conform to the provisions of this chapter are declared nonconforming signs. The policy of the town is that all new signs shall conform to this chapter.

(B) General Provisions. Nonconforming signs may be continued, provided that they:

- (1) Were erected prior to the adoption of the various sign regulations from which this chapter derives, and with which they are in violation;

- (2) Are not changed or replaced with another nonconforming sign, nor modified in any way except as noted in § 16.10;
- (3) Shall not be expanded or relocated;
- (4) Shall not be modified in any way that increases their degree of nonconformity; and
- (5) Shall be removed within 90 days of the close of the business that they advertise.

(Ord. 2014-05-02, passed 5-19-2014)

16.8 - Prohibited Signs

Unless otherwise permitted, the following signs are prohibited:

- (A) Ribbons, streamers, strings of light bulbs, spinners or other similar moving devices when not part of any sign;
- (B) Signs advertising an activity, business, product or service no longer conducted on the premises upon which the sign is located;
- (C) Signs other than town traffic and directional signs shall not be permitted within any street right-of-way;
- (D) Mobile signs; and
- (E) Off-premises outdoor advertising signs.

(1997 Code, § 30-9) (Am. Ord. 2014-01-01, passed 1-20-2014)

16.9 - Illumination

Where illuminated signs are permitted they shall conform to the following requirements:

- (A) Signs that contain, include or are lighted by any flashing, intermittent or moving light are prohibited, except those giving public information such as time, temperature and date.
- (B) Illuminated signs shall be limited to:
 - (1) Those lighted from behind to silhouette letters and figures or lighted internally, with glass or plastic faces bearing the advertisement; and
 - (2) Exposed incandescent or other similar type bulbs, provided that the total wattage for all bulbs used for a sign shall not exceed 300 watts; and all the lighting shall be shielded so as to prevent direct rays of light from being cast into a residential area or district and/or vehicles approaching on a public right-of-way from any direction.
 - (3) Changeable copy of signs and electronic message boards/digital marquee signs. Changeable copy is allowed on signs in nonresidential districts, for nonresidential uses in planned developments and for places of worship and institutional uses in any district subject to the following:
 - a) No more than 1 sign per premises shall contain changeable copy.

- b) Electronic message boards/digital marquee signs may not scroll. Displays may change but the transition shall be a “hard cut” (immediate) with no special effects to make the transition. All displays must remain static with no movement. Displays may not change less than every 8 seconds.
- c) Electronic message boards/digital marquee signs may display text with either occulting lights or fixed lighting.
- d) No oscillating, flashing, rotating, flickering, or blinking lights shall be permitted.
- e) All electronic message boards/digital marquee signs shall adjust or shall be adjusted in correlation with ambient light conditions.
- f) The sign owner shall provide written certification at installation and annually that the sign meets the following light level standards as measured in nits:
 - i. Maximum daytime level at 5,000 nits or 7,500 nits if the sign is equipped with an automatic dimmer.
 - ii. Maximum nighttime level at 500 nits.
- g) Upon notification that the city has received a complaint, the sign owner shall provide written certification that the light level standards in § 16.9(B)(3)(f) are being met.
- h) Electronic message boards/digital marquee signs may contain non-animated images with changes alternating on not less than an 8-second interval.
- i) Changeable copy signs shall not be installed parallel to a right-of-way except in the case of a corner lot when the sign may be parallel to the secondary street.
- j) Changeable copy and electronic message boards/digital marquee signs shall not exceed 60 square feet in size or 50% of the total sign area of the allowable square footages as specified in § 16.3, and may be used as wall signs subject to the requirements of § 16.3 (C)(5), (D)(5), or (E)(5), whichever is smaller.
- k) Electronic message boards/digital marquee signs shall contain a working default design that will freeze the display in one position or power off the display if a malfunction occurs.

(1997 Code, § 30-10) (Am. Ord. 2009-16, passed 12-14-2009; Am. Ord. 2015-04-04, passed 4-20-2015)

16.10 - Inspection and Maintenance

(A) It shall be the duty of the UDO Administrator or his or her designated agent to inspect every free-standing sign, wall sign and outdoor advertising structure at least once every year to determine that the same are in a safe condition and meet the requirements as set forth in this chapter.

(B) All signs and outdoor advertising signs shall be maintained in a state of good repair. No sign or outdoor advertising sign shall be allowed to remain that becomes structurally unsafe or hazardous, or endangers the safety of the public or property, or becomes weathered or tattered. Upon determining that a sign or outdoor advertising sign is structurally unsafe or hazardous or dangerous to the safety of the public or property, or becomes weathered or tattered, the UDO Administrator shall order the sign to be made safe or removed, subject to the following provisions:

- (1) The owner of the sign or outdoor advertising sign, the occupant of the premises on which the sign or structure is located, or the person maintaining the sign or out-door advertising sign shall, upon written notice by certified mail from the UDO Administrator, forthwith in the case of immediate danger and in any case within 10 days, secure or repair the sign or structure in a manner approved by the UDO Administrator or shall remove the sign or structure.
- (2) If such is not complied with in 10 days:
 - a) The town shall have authority, pursuant to [G.S. § 160A-193](#), to summarily remove the sign or structure. The expense of the removal shall be paid by the person in default and, if not paid, shall be a lien upon the land or premises where the trouble arose, and shall be collected as unpaid taxes.
 - b) The UDO Administrator may order the same to be made safe or removed following the procedure set forth in [G.S. § 160A-426](#) through and including [G.S. § 160A-432](#).
 - c) The town may elect to proceed under any provision of § 10.99 of this code.

(C) Whenever a sign or outdoor advertising structure has been abandoned or advertises an activity, business, product or service no longer conducted on the premises, the UDO Administrator shall cause the sign or structure to be removed within 30 days after notification to the owner in accordance with the method prescribed for non-conforming signs in § 16.7(D).

(1997 Code, § 30-11) (Am. Ord. 00-12-10, passed 12-18-2000; Am. Ord. 2015-04-04, passed 4-20-2015)

16.11 – Street Numbers

(A) All residences within the jurisdiction of the town shall display street numbers which are no less than 4 inches nor more than 10 inches in height. The street numbers shall be clearly visible from the street, shall be displayed in a neat manner and shall be displayed with a contrasting color on the street side of the residence. If the residence cannot be seen from the street, the street numbers shall be placed on a neatly designed and staked board in a location which can be seen from the access street. The board on which the street numbers are displayed shall be no more than 15 inches in height nor more than 15 inches in width.

(B) All business establishments within the jurisdiction of the town shall display street numbers which are no less than 4 inches in height. The numbers shall be displayed where they may be seen from a street or facing a private access drive if a structure has no frontage on a street.

(C) Address signs known or referred to as 911 reflective mail box signs are permissible so long as the same are 18 inches by 6 inches, made out of metal, and painted with reflective paint. The numbers thereon must be reflective white stick on numbers. Any 911 reflective mail box sign should be on the mail box or a post in front of the lot and clearly visible from the street. (1997 Code, § 30-12) (Am. Ord. 00-09-06, passed 9-18-2000; Am. Ord. 2013-12-05, passed 12-9-2013; Am. Ord. 2015-04-04, passed 4-20-2015)

16.12 - Exemptions

The following types of signs are exempted from the application of this chapter:

(A) Signs, unlighted, not exceeding 1 square foot in area and bearing only property numbers of occupants of premises, or other identification of premises not having commercial connotations, except as provided in § 16.11;

(B) Flags and insignia of any government except when displayed in connection with commercial promotion;

(C) Legal notices and identification, informational or directional signs erected or required by governmental bodies;

(D) Integral decorative or architectural features of buildings except letters, trademarks, moving parts, or flashing and moving lights;

(E) Signs, not to exceed 4 square feet, directing and guiding traffic and parking on private property but bearing no advertising matter;

(F) One freestanding sign displaying time and temperature information only and bearing no advertising matter shall be permitted in addition to other freestanding signs, provided the area requirements for freestanding signs are not exceeded and all sign height and setback requirements are followed;

(G) Temporary signs painted or displayed on the interior of buildings or painted on the exterior of store windows; and

(H) Price signs at automobile service stations or other establishments engaged in the retail sale of gasoline, provided the sign does not exceed 24 square feet. Any such sign shall be affixed to a permanent free-standing identification sign, to a canopy support in the vicinity of the gasoline pumps or flat-mounted against the side of a building.

(I) Temporary signs and banners for special events for non-profit organizations and community events. These signs shall be permitted in all zoning districts. Non-profit organizations conducting a fundraising event and organizations which sponsor community events within the planning jurisdiction of the town may be issued a no charge permit for a temporary sign to identify the event. Such non-profit organization temporary signs shall conform to the following:

- (1) Only 1 sign per premises with no more than 2 sign faces.
- (2) Any single sign face shall not exceed 16 square feet.
- (3) Unless authorized by the Town Board of Commissioners to be displayed longer, the non-profit organization or community event temporary sign is to be displayed not more than 14 days prior to the event and for the duration of the event. Immediately following the event, the sign shall be removed within 2 days.
- (4) Non-profit organization and community event temporary signs shall not be illuminated.
- (5) Non-profit organization and community event signs and banners may be located off-site.
- (6) Non-profit organization and community event signs and banners may announce only events that are sponsored by a non-profit or public entity or events that are considered community events.

(1997 Code, § 30-13) (Am. Ord. 2015-04-04, passed 4-20-2015)

16.13 - Appeals

(A) Any property owner wishing to request a modification to the regulations outlined within this chapter, or request a review of an action taken by a town official in the interpretation and enforcement of the provisions of this chapter, shall make an application to the Town of Cape Carteret Board of Adjustment requesting either a variance or an administrative review of a town official's decision.

(B) Any and all applications submitted under this section shall be processed, reviewed, and acted upon in accordance with all established regulations outlined within §§ 7.3 of this UDO, Zoning Board of Adjustment. (Ord. 01-08-03, passed 8-20-2001)

16.14 - Penalty

(A) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$50 per day. A citation for the civil penalty shall be issued by the Police Department or the UDO Administrator. Each citation for a civil penalty must be paid within 72 hours of issuance.

(B) Every day that the violator continues in violation shall be a separate and distinct offense.

(C) The Town of Cape Carteret reserves the right to confiscate and remove signs prohibited by this chapter. All signs confiscated by town staff shall be stored at a location determined by the Town Board. Owners of the sign may retrieve the illegal sign from town hall during posted business hours and shall be required to pay a retrieval fee of \$25 per illegal sign.

(D) Habitual offenders.

(1) Any individual who is declared a habitual offender of the sign ordinance, as defined within Chapter 16 of this UDO, shall be required to abate the identified violation in a timely manner. A timely manner shall be determined by the Town of Cape Carteret, as being the least amount of time deemed necessary to remove the offending sign and bring the property into conformity.

(2) The town shall hand deliver a letter of violation informing the individual that he or she has been designated as a habitual offender and specifically indicate the time period allotted to abate the identified violation.

(3) If the individual does not abate the identified violation within the allotted time frame, the individual will be subject to immediate issuance of a civil citation in the sum of \$50 per day. The issuance and payment of civil citations shall be in accordance with the provisions contained herein.

(Ord. 02-10-03, passed 10-21-2002; Am. Ord. 03-09-02, passed 9-15-2003; Am. Ord. passed 5-10-2004; Am. Ord. 2012-03-01, passed 3-19-2012)

Chapter 17: Definitions

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

- **ACCESSORY STRUCTURE (APPURTENENT STRUCTURE).** Means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds, and the like qualify as accessory

structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

- **ACCESSORY STRUCTURE.** A structure, which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Detached garages, carports and storage sheds are common accessory structures.
- **ADDITION (TO AN EXISTING BUILDING).** Means an extension or increase in the floor area or height of a building or structure.
- **ADOPTED LAND USE PLAN.** Refers to the town's land use plan prepared and adopted by the Town of Cape Carteret and approved by the Coastal Resources Commission (CRC) pursuant to Part 2 of the Coastal Area Management Act.
- **ALLEY.** A minor right-of-way dedicated to public use, which gives a secondary means of vehicular access to the back or side of properties otherwise abutting a street, and which may be used for public utility purposes.
- **ALTERATION OF A WATERCOURSE** Means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.
- **APPEAL.** Means a request for a review of the Floodplain Administrators interpretation of any provision of this ordinance.
- **APPROVAL AUTHORITY.** The Board of Commissioners, Board of Adjustment or other Board or official designated by ordinance or this chapter as being authorized to grant the specific zoning or land use permit or approval that constitutes a site-specific development plan.
- **AREA OF FUTURE-CONDITIONS FLOOD HAZARD.** Means the land area that would be inundated by the 1-percent-annual-chance (100-year) flood based on future-conditions hydrology
- **AREA OF SHALLOW FLOODING.** Means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.
- **AREA OF SPECIAL FLOOD HAZARD.** see "Special Flood Hazard Area (SFHA)"

- **AREAS OF ENVIRONMENTAL CONCERN (AECS).** Refer to areas designated by the CRC, in which development shall require a minor or major development permit.
- **BASE FLOOD ELEVATION (BFE)** Means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.
- **BASE FLOOD.** Means the flood having a one (1) percent chance of being equaled or exceeded in any given year.
- **BASEMENT.** Means any area of the building having its floor subgrade (below ground level) on all sides.
- **BASEMENT.** The space between the lowest floor level and the average level of the ground thereunder, if more than 5 feet, shall be considered a basement.
- **BLOCK.** A parcel of land intended for urban purposes, which is entirely surrounded by streets, highways, railroad rights-of-way, public walks, parks or green strips, rural land or drainage channels or a combination thereof.
- **BOAT.** A boat or other watercraft, whether powered by engine or wind.
- **BOAT DOCK, INDIVIDUAL.** A docking and/or ramp facility consisting of not more than 4 boat slips to serve an individual residential lot in accordance with the standards of 15 N.C.A.C. 7H, the use of which is not in exchange for value.
- **BOAT DOCK.** A group of piers, docks, pilings and other structures providing for the docking or mooring of 1 to 10 small boats that is designed to serve more than 1 residential lot, or the use of which is in exchange for value.
- **BOAT RAMP.** A facility, usually consisting of an inclined ramp from the shoreline extending into the water, used for launching boats from boat trailers into a body of water and subsequent recovering of boats for land transportation on boat trailers. **BOAT RAMP** includes piers, docks and pilings used in connection with the launching and retrieving of boats and the land, facilities and services required by this chapter to be adjacent thereto. Docking or mooring facilities for any activity other than the temporary control of a boat during launching or recovery are not a part of

a **BOAT RAMP** and are not permitted except in connection with a boat dock or marina as set forth in this chapter.

- **BOAT SLIP.** A structure or combination of structures, including piers, docks, finger piers, pilings and other mooring devices designed for the docking or mooring of 1 small boat. Each 20 feet of bulkhead, pier, dock, or other structure to which a boat can be moored alongside shall be included in the definition of **BOAT SLIP**.
- **BREAKAWAY WALL.** Means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.
- **BUFFER SCREEN WIDTHS.** A 1-row screen shall be a minimum of 10 feet in width. A 2-row screen shall be a minimum of 15 feet in width. A 3-row screen shall be a minimum of 20 feet in width.
- **BUFFER SCREEN WIDTHS.** A 1-row screen shall be a minimum of 10 feet in width. A 2-row screen shall be a minimum of 15 feet in width. A 3-row screen shall be a minimum of 20 feet in width.
- **BUFFER.** A defined area of land and screening intended to separate different uses of property, or uses of property from streets, which strip shall contain no building or other structure, no parking area, and no road or drive except as may be required to cross a buffer strip. A **BUFFER** strip shall either remain in its natural state or be otherwise used for plantings or other materials designed to provide a visual and sound barrier; provided, however, that all buffers shall meet the applicable standards of this code.
- **BUFFER.** A defined area of land and screening intended to separate different uses of property, or uses of property from streets, which strip shall contain no building or other structure, no parking area, and no road or drive except as may be required to cross a buffer strip. A **BUFFER** strip shall either remain in its natural state, or be otherwise used for plantings or other materials designed to provide a visual and sound barrier; provided, however, that all buffers shall meet the applicable standards of this code.
- **BUILDING HEIGHT.** See Appendix A.
- **BUILDING INSPECTOR.** The official charged with the inspection of buildings and the issuance of Certificates of Occupancy. All references to Building Inspector in this UDO indicate the Building Inspector of Carteret County.

- **BUILDING SETBACK LINE.** A line establishing the minimum allowable distance between the nearest portion of any building, excluding the outermost 3 feet of any uncovered porches, steps, gutters and similar fixtures and the right-of-way line of any street or any lot line when measured perpendicular thereto.
- **BUILDING SETBACK LINE.** A line or lines on a lot designating the area outside of which buildings may not be erected.
- **BUILDING, ACCESSORY.** A subordinate building, the use of which is incidental to that of a principal building or use on the same lot.
- **BUILDING, PRINCIPAL.** A building in which is conducted the principal use of the lot on which the building is situated.
- **BUILDING.** Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind, which has enclosing walls for 50% or more of its perimeter. The term **BUILDING** shall be construed as if followed by the words or parts thereof and shall include porches, decks, carports, garages, sheds, roof extensions and overhangs, and any other projections. For the purpose of this chapter, a manufactured home or mobile business shall not be considered a **BUILDING**.
- **BUILDING.** see “Structure”.
- **BUILT-UPON AREA.** That portion of a project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel surfaces such as roads, parking lots, and paths; and recreation facilities such as tennis courts. **BUILT-UPON AREA** does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.
- **CANOPY, MARQUEE or AWNING SIGN.** Any sign, other than a projecting sign, appearing on a canopy, marquee or awning and identifying the name or address of a building or an establishment contained therein.
- **CANOPY, MARQUEE or AWNING.** Any roof-like structure permanently extended over a sidewalk or walkway, or temporary structure if the structure is used to display signs.
- **CHEMICAL STORAGE FACILITY.** Means a building, portion of a building, or exterior area adjacent to a building used for storage of any chemical or chemically reactive products.
- **COASTAL A ZONE (CAZ).** Means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones. In a Coastal A Zone, the principal source of flooding must be

astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (See Limit of Moderate Wave Action (LiMWA))

- **COASTAL AREA MANAGEMENT ACT (CAMA).** The law that relates to the management program for orderly growth in the coastal area of North Carolina as adopted by the General Assembly in 1974.
- **COASTAL AREA MANAGEMENT ACT.** Means North Carolina's Coast Area Management Act, this act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).
- **COASTAL BARRIER RESOURCES SYSTEM (CBRS).** Consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State Governments or private conservation organizations identified as Otherwise Protected Areas (OPA).
- **COASTAL HIGH HAZARD AREA.** Means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Article 3, Section B of this ordinance, as Zone VE.
- **COASTAL RESOURCES COMMISSION (CRC).** The Coastal Area Management Act established the Coastal Resource Commission within the Department of Environment and Natural Resources.
- **COLLECTOR STREET.** A **MINOR STREET** that collects traffic from another street or streets (minor) and serves as the most direct route to a **MAJOR STREET** or a community facility.
- **COMMUNITY SEWER SYSTEM.** A public or private sewage disposal system that serves a community that is not an incorporated municipality. This includes unincorporated communities, subdivisions, mobile home parks and apartment complexes having 3 or more connections.
- **COMMUNITY WATER SYSTEM.** A public or private water supply that serves a community that is not an incorporated municipality. This includes unincorporated communities, subdivisions, mobile home parks and apartment complexes having 10 or more connections.
- **CONDITIONAL ZONING.** A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

- **CONTROLLED-ACCESS HIGHWAY.** A state highway, or section thereof, especially designed for through traffic and over, from or to which highway owners or occupants of abutting property, or others, shall have only controlled right or easement of access.
- **CORNER LOT.** A lot that occupies the interior angle at the intersection of 2 street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot for purposes of front yard setback specified in Appendix A of this UDO. The street line forming the most frontage shall be deemed the side of the lot for purposes of side yard setback according to Appendix A of this UDO. In any residential district the side yard requirements for corner lots along the side street line shall have the side yard setback as specified in Appendix A of the zoning code plus an additional 10 feet. Where 2 street lines are equal, the subdivider is required to specify on the preliminary and final subdivision plat which line shall be the front yard line and which line the side yard line. Accessory buildings shall observe setback requirements. The designation front of the lot, front yard setback, side of the lot, side yard, or side yard setback shall not restrict the orientation of the front of buildings or other structures as long as the setback requirements are met.
- **CUL-DE-SAC.** A minor street having 1 end open to vehicular traffic and having 1 end permanently terminated by a vehicular turnaround.
- **DESIGN FLOOD.** See “Regulatory Flood Protection Elevation.”
- **DEVELOPMENT ACTIVITY.** Means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.
- **DEVELOPMENT.** Any activity in a duly designated area of environmental concern involving, requiring, or consisting of the construction or enlargement of a structure; excavation; dredging, filling; dumping; removal of clay, silt, sand, gravel or minerals; bulkheading, driving of pilings; clearing or alternation of land as an adjunct of construction; alteration or removal of sand dunes; alteration of the shore, bank, or bottom of the Atlantic Ocean or any sound, bay, river, creek, stream, lake, or canal.
- **DEVELOPMENT.** Any increase in the amount of impervious surface or combination of impervious surface and permeable pavement greater than 1,000 square feet.

- **DEVELOPMENT.** Means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.
- **DIGITAL FLOOD INSURANCE RATE MAP (DFIRM).** Means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk of premium zones applicable to the community are delineated.
- **DISPOSAL.** Means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.
- **DOUBLE-FRONTAGE LOT.** A lot which runs through a block from street to street and which has 2 nonintersecting sides abutting on 2 or more streets.
- **DWELLING, MULTIFAMILY.** Any building or portion thereof constructed in accordance with the provisions of volume 1 of the State Building Code, which building is intended for use for residential purposes, excluding hotels and motels.
- **DWELLING, MULTIFAMILY ATTACHED.** Means a residential unit that is located in a multi-family residential development with common areas and infrastructure, that is physically connected to other residential units, and shares one or more common walls. Examples include townhouses or connected row houses, with common areas and infrastructure managed and maintained by a single entity. (Am. Ord. 10-10-2022)
- **DWELLING, SINGLE-FAMILY.** A dwelling designed to be occupied by 1 family.
- **DWELLING, TWO-FAMILY or DUPLEX.** A dwelling designed to be occupied by 2 families, with separate kitchen facilities for each.
- **DWELLING.** Any building or portion thereof constructed in accordance with the provisions of Volume 113 of the State Residential Building Code, which building is intended for use for residential purposes, excluding hotels and motels.
- **EASEMENT.** A grant by the property owner for the use by the public, a corporation or persons of a strip of land for specific purposes.

- ***ELEVATED BUILDING.*** Means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- ***ENCROACHMENT.*** Means the advance or infringement of uses, fill, excavation, buildings, structures, or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.
- ***EXISTING BUILDING AND EXISTING STRUCTURE.*** Means any building and/or structure for which the “start of construction” commenced before the community entered the NFIP, dated April 1, 1977.
- ***EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION.*** Means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the effective date of the initial floodplain management regulations adopted by the community, dated March 21, 1977.
- ***FLOOD or FLOODING.*** Means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - The overflow of inland or tidal waters; and/or
 - The unusual and rapid accumulation or runoff of surface waters from any source.
- ***FLOOD BOUNDARY AND FLOODWAY MAP (FBFM)*** Means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Map (FIRM).
- ***FLOOD HAZARD BOUNDARY MAP (FHBM).*** Means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.
- ***FLOOD INSURANCE RATE MAP.*** Means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)
- ***FLOOD INSURANCE STUDY (FIS).*** Means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in the community issued by the FEMA. The Flood Insurance Study report

includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

- **FLOOD INSURANCE.** Means the insurance coverage provided under the National Flood Insurance Program.
- **FLOOD PRONE AREA.** See “Floodplain”
- **FLOOD ZONE.** Means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.
- **FLOODPLAIN ADMINISTRATOR.** Is the individual appointed to administer and enforce the floodplain management regulations.
- **FLOODPLAIN DEVELOPMENT PERMIT.** Means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.
- **FLOODPLAIN MANAGEMENT REGULATIONS.** Means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state, or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.
- **FLOODPLAIN MANAGEMENT.** Means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.
- **FLOODPROFING.** Means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.
- **FLOOD-RESISTANT MATERIAL.** Means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain

water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

- ***FLOODWAY ENCROACHMENT ANALYSIS***. Means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirement of the National Flood Insurance Program.
- ***FLOODWAY***. means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- ***FREEDBOARD***. Means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge or culvert openings, storm surge or precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.
- ***FREESTANDING SIGN***. A sign erected that is wholly independent of any building for support. All signs may be permanently affixed to or constructed upon the lot where they are located. Except as otherwise provided by this chapter, no ***FREESTANDING SIGN*** shall exceed 35 feet in height, from the top of the sign to ground level. No ***FREESTANDING SIGN*** made of wood shall exceed 24 feet in height, from the top of the sign to the ground level. The bottom of any ***FREESTANDING SIGN*** shall not be less than 16 feet above the ground thereunder if accessible to vehicles. If less than 16 feet above the area, freestanding signs shall be so located, designed or protected as to prevent physical damage to the signs.
- ***GROUP DEVELOPMENT***. A development comprising 2 or more buildings such as groups of residences, commercial structures or industrial plants where the land is not subdivided into customary streets and lots.
- ***HABITUAL OFFENDER***. Any individual, agent, property owner, tenant, organization, civic group, corporation, or other similar entity that is continuously cited for the same violation of the Town of Cape Carteret

Sign Ordinance on at least 2 separate occasions with the second violation occurring after compliance with the ordinance has been achieved. The Police Department or UDO Administrator shall have the authority to designate an individual a **HABITUAL OFFENDER**, in accordance with the provisions contained herein, and require that the individuals adhere to specific enforcement provisions to abate identified violations as contained within § 16.4 of this chapter.

- **HAZARDOUS WASTE MANAGEMENT FACILITY.** Means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.
- **HIGHEST ADJACENT GRADE (HAG).** Means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.
- **HISTORIC STRUCTURE.** Means any structure that is:
 - Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
 - Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - © Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
 - Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”
 - Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.
- **HOME CENTER.** A business selling retail products for home improvements, maintenance, decorating, home care, recreational, leisure and related needs.
- **HOME CHILD DAYCARE.** A North Carolina state regulated daycare that does not violate any of the restrictions contained within the definition of **HOME OCCUPATION** as defined in this section, and in addition, the following restrictions apply:
 - There is a limit of 1 state licensed adult supervisor who is a resident of the home where daycare is provided;

- There are to be no more than 8 children at any 1 time, including the adult supervisor's children, within the home;
- There will be only 1 **HOME CHILD DAYCARE** within a 1-mile radius of an existing **HOME CHILD DAYCARE** facility;
- Parking for loading and unloading of children will be off main streets;
- The permitted hours of operation will be from 6:00 a.m. until 7:00 p.m.;
- Proof of liability insurance must be current at the time of application for the privilege license;
- Proof of a background investigation must be presented at the time of application for the privilege license if the adult supervisor was state approved on or before 1996, and if the adult supervisor was approved after 1996, the adult supervisor must present proof of the daycare license issued by the state;
- The outside play area shall be limited to that area commonly referred to as the backyard of the facility;
- Playground equipment shall be located as far away as practical from adjoining properties; and
- Adjoining properties shall be protected by a nonhazardous, environmentally safe screen which must be aesthetically comparable to those on adjoining properties. A natural, vegetative screen is most desirous.
- **HOME OCCUPATION.** A commercial or professional business conducted from a dwelling that does not violate any of the following restrictions:
 - No person receives compensation for engaging in the business, except a member or members of the family residing within the dwelling;
 - The use occupies not more than 250 square feet of the total heated and unheated space of the residential dwellings, including porches, garages, out buildings, and decks;
 - There is no on-premises sale of merchandise from inventory stored or displayed within the dwelling;
 - There is no display of merchandise visible from any street right-of-way or from any adjoining lot;
 - There are no personal services rendered which require that customers be present on the premises except for children that are cared for under the provisions for **HOME CHILD DAYCARE**.
 - No advertising sign or display is visible from any street right-of-way or any adjoining lot;
 - No special parking area is provided or required;

- No equipment or process is employed that will cause noise, vibration, odor, glare or electrical or communications interference detectable to normal senses off the lot;
- The activity is legal, and does not constitute a nuisance; and
- Garage sales are permitted only insofar as they are conducted consistent with the limitations set forth in §§ 116.15 *et seq.*
- Any activity which is entered into for profit or which might result in a monetary profit shall be deemed prima facie evidence of conducting a business.
- **IDENTIFICATION SIGN.**
 - A sign used to display only the name, address, crest or trademark of the business, individual, family, organization or enterprise occupying the premises, or the profession of the occupant, or the name of the building on which the sign is displayed.
 - A permanent sign announcing the name of a subdivision, shopping center, church, school, park, or public or quasi-public structure, facility or development and the name of the owners or developers.
- **IMPERVIOUS SURFACE.** Means impervious surface that does not allow water to infiltrate through the surface and into the subsoil. Impervious surface does not include a slatted deck; the water area of a swimming pool; or otherwise as defined by G.S. Section 143-214.7 (b2).
- **IMPLEMENTATION AND ENFORCEMENT PLAN.** Refers to the local management program for the implementation and enforcement of minor permit requirements within areas of environmental concern and the policies of the adopted land use plan within the Town of Cape Carteret.
- **INDUSTRIAL CENTER.** This term is synonymous with **PLANNED INDUSTRIAL CENTER.** A group of light industrial businesses planned, developed, owned or managed as a unit, with off street parking provided on the property; provided, that an **INDUSTRIAL CENTER** shall be developed on a tract of land containing not less than 10 acres.
- **LETTER OF MAP CHANGE (LOMC).** Means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:
 - Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program Map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

- Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.
- **LIGHT DUTY TRUCK.** Means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:
 - Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
 - Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
 - Available with special features enabling off-street or off-highway operation and use.
- **LIMIT OF MODERATE WAVE ACTION (LimWA).** Means the boundary line given by FEMA on coastal map studies making the extents of Coastal A Zones (CAZ).
- **LOCAL PERMIT OFFICER.** Refers to the locally designated official(s) who will administer and enforce the minor development permit program in areas of environmental concern and the policy requirements of the land use plan over the entire planning area of the Town of Cape Carteret.
- **LOT DEPTH.** The distance measured in the mean direction of the side lines of the lot from the midpoint of the front line to the midpoint of the rear lot line.
- **LOT FRONTAGE.** That dimension of a lot or portion of a lot abutting a street, excluding the side dimension of a corner lot.

- **LOT LINE, FRONT.** In the case of an interior lot, means the lot boundary separating the lot from the street. In the case of a double-frontage lot, the line separating the lot from that street which is designated as the front street in the request for building permit.
- **LOT LINE, REAR.** The lot boundary opposite and most distant from the front lot line.
- **LOT LINE, SIDE.** Any lot boundary not a front lot line or rear lot line.
- **LOT LINES.** The lines bounding a lot as defined hereinafter:
- **LOT OF RECORD.** A lot which is a part of a subdivision, a plat of which has been recorded in the county courthouse, or a lot described by metes and bounds, the description of which has been so recorded.
- **LOT WIDTH.** The distance between side lot lines measured at the setback line.
- **LOT, CORNER.** A lot which occupies the interior angle at the intersection of 2 street lines which make an angle of more than 45 degrees and less than 135 degrees with each other. The street line forming the least frontage shall be deemed the front of the lot for purposes of the front yard setback specified in Appendix A of this chapter. The street line forming the most frontage shall be deemed the side of the lot for purposes of side yard setback according to Appendix A of this chapter. In any residential district the side yard requirements for **CORNER LOTS** along the side street line shall have the side yard setback as specified in Appendix A of this chapter plus an additional 10 feet. Where 2 street lines are equal in subdivisions platted without front and side yard setbacks noted on the plat, the owner is required to specify to the UDO Administrator which street line will be the front of the lot and which street line will be the side when requesting a building permit. Accessory buildings shall observe setback requirements. The designation **FRONT OF THE LOT, FRONT YARD SETBACK, SIDE OF THE LOT, SIDE YARD, or SIDE YARD SETBACK** shall not restrict the orientation of the front of buildings or other structures as long as the setback requirements are met.
- **LOT, DOUBLE-FRONTAGE.** A lot which runs through a block from street to street or which has 2 nonintersecting sides abutting on 2 or more streets. A **DOUBLE-FRONTAGE LOT** requires front building setbacks on both streets. Residential **DOUBLE-FRONTAGE LOTS** should be avoided.
- **LOT, INTERIOR.** A lot other than a corner lot.
- **LOT.** A parcel of land in single ownership occupied or intended for occupancy by a principal building together with its accessory buildings,

including open space required under Chapter 11 of this UDO, the town's zoning code. For the purpose of this chapter, the word **LOT** shall be taken to mean any number of contiguous lots or portions thereof, upon which 1 principal building and its accessory buildings are located or are intended to be located.

- **LOT.** A parcel of land occupied or intended for occupancy by a principal building(s), together with any accessory building(s), including the open space required under this chapter.
- **LOWEST ADJACENT GRADE (LAG).** Means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.
- **LOWEST FLOOR.** Means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.
- **MAJOR DEVELOPMENT.** Any development, which requires permissions, licensing, approval, certification, or authority in any form from the N.C. Environmental Management Commission, the N.C. Departments of Human Resources, the N.C. Department of Environment and Natural Resources, the N.C. Department of Administration, the N.C. Mining Commission, the N.C. Pesticides Board, the N.C. Sedimentation Control Commission, or any federal agency or authority; or development which occupies a land or water area in excess of 20 acres; includes a structure or structures in excess of a ground area of 60,000 square feet on a single parcel; or which contemplates drilling for or excavating natural resources on land or under water.
- **MAJOR STREET.** A street or highway which is used for moving heavy traffic volumes or high-speed traffic, or both. As used within this chapter, **MAJOR STREETS** shall mean N.C. Highway 58, N.C. Highway 24, and Taylor Notion Road.
- **MAJOR THOROUGHFARE.** The following thoroughfares: N.C. Highway 24 and N.C. Highway 58.
- **MANUFACTURED HOME PARK OR SUBDIVISION.** Means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- **MANUFACTURED HOME, CLASS A.** A manufactured home constructed after July 1, 1976, that meets or exceeds the construction

standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and satisfied the following additional criteria:

- The manufactured home has a length not exceeding 4 times its width;
 - The pitch of the home's roof has a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
 - The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of gloss white paint), wood or hardboard, comparable in composition, appearance or durability to the exterior siding commonly used in standard residential construction;
 - A continuous required ventilation and access is installed under the manufactured home; and
 - The tongue, axles, transporting lights and removable towing apparatus are removed subsequent to final placement.
- **MANUFACTURED HOME, CLASS B.** A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy 1 or more of the criteria necessary to qualify the unit as a class A manufactured home.
 - **MANUFACTURED HOME.** A dwelling, not constructed in accordance with the standards set forth in the State Building Code Volume 1 or 1A, designed for transportation after fabrication on streets or highways on its own wheels or on flatbeds or other trailers and arriving on the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, whether or not placed on a permanent foundation. Travel trailers are not to be considered **MANUFACTURED HOMES**.
 - **MANUFACTURED HOMES.** Means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.
 - **MAP REPOSITORY.** Means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carries the same authority as hard copy products. Therefore, the NCEM’s

Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the FloodNC website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

- **MAP, ZONING MAP or CAPE CARTERET ZONING MAP.** The Official Zoning Map of Cape Carteret, North Carolina.
- **MARGINAL-ACCESS STREET.** A minor street located beside a limited-access street or highway or a railroad, which provides access to abutting properties, provides protection from through traffic, and controls access.
- **MARINA PERMIT.** A zoning permit issued by the town for the construction of a marina.
- **MARINA.** Piers, docks, boat slips, pilings, seawalls, bulkheads, and other structures providing for the docking or mooring of more than 10 but no more than 25 small boats and the land, facilities and services required by this chapter to be adjacent thereto.
- **MARKERS.** Permanent concrete monuments 4 inches in diameter or square, 3 feet long; iron pipe markers not less than 3/4 inch in diameter and 30 inches long.
- **MARKET VALUE.** Means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.
- **MICRO-PIGMENTATION.** Also known as permanent makeup, permanent cosmetics, derma- pigmentation, derma-graphics and/or cosmetic tattooing. Micro-pigmentation is a cosmetic technique which employs tattoos, or permanent pigmentation of the dermis, as a means of permanent enhancing colors to the skin of the face, lips and eyelids. Permanent makeup may also be used to produce artificial eyebrows.
- **MINOR DEVELOPMENT.** Any development that does not require permission, licensing, approval, certification or authorization in any form from the Environmental Management Commission, the Department of Human Resources, the Department of Natural Resources and Community Development, the Department of Administration, the State Mining Commission, the State Pesticides Board, the State Sedimentation Control Boards or any federal agency; that occupies a land area of 20 acres or less;

or that occupies on a single parcel a structure or structures with a ground area of 60,000 square feet or less.

(1997 Code, § 26-72)

- **MINOR STREET.** A street whose primary purpose is to provide access to adjacent properties and that is designed in a manner that will discourage use by through traffic.
- **MIXED-USE DEVELOPMENTS.** Mixed-Use Developments allow for a combination of permitted commercial uses listed in the Table of Permitted Uses and Parking Spaces Requirements with residential dwelling units. The amount of conditioned square footage utilized for residential units within the mixed-use development must amount to at least 30 percent of the overall development. Only those uses specified in the Table of Permitted Uses and Parking Spaces Requirements shall be allowed within the Mixed-Use Development. Mixed-Use Developments must obtain a Special Use Permit as defined in Section 8.9 of this Unified Development Ordinance.
- **MOBILE BUSINESS.** A building not constructed in accordance with the standards set forth in the State Building Code Volume 1 or 1A, designed for transportation after fabrication on streets or highways on its own wheels or on flatbeds or other trailers and arriving on the site where it is to be occupied as a business complete and ready for occupancy except for minor and incidental unpacking and assembly operations whether or not placed on a permanent foundation. Travel trailers are not to be considered a **MOBILE BUSINESS**.
- **MODULAR HOME.** A dwelling constructed in accordance with the standards set forth in the State Building Code Volume 1 or 1A and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.
- **NAVIGABLE WATERWAY.** Any body of water, channel or boat basin located within the corporate limits of the town which may be utilized by boat traffic.
- **NEW CONSTRUCTION.** Means structures for which the “start of construction” commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.
- **NONCONFORMING SIGN.** A sign not in compliance with the provisions of this chapter as of the effective date of the ordinance from which this chapter derives. The term also means a sign which does not comply with the provisions of any amendment to this chapter, or any sign

erected, after the effective date of the ordinance from which this chapter derives or any amendment thereto which does not comply with all of the provisions of this chapter or any amendment.

- **NONCONFORMING USE.** Synonymous with **NONCONFORMING SITUATION** and is a use of land, improved or not, or a building or other structure which use, building or structure existed legally prior to the adoption of the ordinance from which this chapter derives or any amendment thereto, but which does not conform to the requirements of this chapter, either at the effective date of this chapter or as a result of subsequent amendments thereto.
- **NON-ENCROACHMENT AREA (NEA).** Means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.
- **OFFICE CENTER** or **PLANNED OFFICE CENTER.** A group of business and professional offices, planned, developed, owned or managed as a unit, with off-street parking provided on the property; provided, that an **OFFICE CENTER** shall be developed on a tract of land containing not less than 3 acres.
- **OFFICIAL MAPS OR PLANS.** Any maps or plans officially adopted by the Planning Board or the Board of Commissioners as a guide for the development of the town and its surrounding area, consisting of maps, charts and text.
- **OFFICIAL SIGN.** Any sign, symbol or device erected and maintained by a federal, state, county or municipal government or any governmental agency for the purpose of informing or guiding the public.
- **OFF-PREMISES OUTDOOR ADVERTISING SIGN.** Any sign which directs attention to a business, commodity, service or entertainment not conducted, sold or offered on the premises where the sign is located.
- **ON PREMISES OUTDOOR ADVERTISING SIGN.** Any sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered on the premises where the sign is located.
- **OTHERWISE PROTECTED AREA (OPA).** See “Coastal Barrier Resources System (CBRS)”.
- **OWNER.** Any person, firm or corporation, lessee, receiver, trustee, guardian or personal representative holding legal title or right to occupy or carry on business in a structure or any facility and shall include every person who shall have title to or benefit of a sign, or for whose benefit any type of sign is erected or maintained. Where there is more than 1 owner,

their duties and obligations under this chapter are joint and several, and shall include the responsibility of the sign.

- **PARAPET SIGN.** A sign that extends the entire wall length to form a parapet.
- **PARKING SPACE.** A marked area, not less than 200 square feet in size, designed for utilization as parking space for a single vehicle, and located outside the boundary of any street right-of-way.
- **PERMEABLE PAVEMENT.** Paving material that absorbs water or allows water to infiltrate through the paving material. Permeable pavement materials include porous concrete, permeable interlocking concrete pavers, concrete grid pavers, porous asphalt, and any other material with similar characteristics. Compacted gravel shall not be considered permeable pavement.
- **PLAT, FINAL.** A map of a land subdivision prepared in a form suitable for filing a record with necessary affidavits, dedications and acceptance and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas, other dimensions of land, and the like.
- **PLAT, PRELIMINARY.** A map of a proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.
- **PLAT, SKETCH.** A map or plan of a tract or parcel of land which is to be used or which has been subdivided.
- **POST-FIRM.** Means construction or other development for which the “start of construction” occurred on or after April 1,1977, the effective date of the initial Flood Insurance Rate Map.
- **PRE-FIRM.** Means construction or other development for which the “start of construction” occurred before April 1,1977, the effective date of the initial Flood Insurance Rate Map.
- **PRINCIPALLY ABOVE GROUND.** Means that at least 15% of the actual cash value of the structure is above ground.
- **PUBLIC SAFETY AND/OR NUISANCE.** “Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, canal, or basin.
- **PUMPHOUSE.** A building not to exceed 36 square feet of floor space or 7 feet 6 inches in height for the purpose of housing equipment to pump and treat water for use on the same lot on which the **PUMPHOUSE** is

located. A **PUMPHOUSE** is not considered an accessory building and shall be exempt from normal setback requirements.

- **RECREATIONAL VEHICLE (RV)**. Means a vehicle, which is:
 - Built on a single chassis
 - 400 square feet or less when measured at the largest horizontal projection;
 - Designed to be self-propelled or permanently towable by a light duty truck;
 - Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
 - Is fully licensed and ready for highway use.
- **REDEVELOPMENT**. Any replacement of a building (or portion thereof), parking surface, or other impervious surface or combination of impervious surface and permeable pavement greater than 1,000 square feet. This excludes maintenance work, the resurfacing of paved surfaces and the addition of gravel to currently graveled areas, but does include the replacement of surfaces, including like type replacements.
- **REFERENCE LEVEL**. Is the top of the lowest floor for structures within the Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.
- **REGULATORY FLOOD PROTECTION ELEVATION**. Means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE *plus* two feet *freeboard*. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.
- **REMEDY A VIOLATION**. Means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.
- **RIVERINE**. Means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

- **SALVAGE YARD.** Means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.
- **SAND DUNES.** Means naturally occurring accumulations of sand ridges or mounds landward of the beach
- **SHEAR WALL.** Means walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.
- **SHOPPING CENTER** or **PLANNED SHOPPING CENTER.** A group of commercial establishments, planned, developed, owned or managed as a unit, with off-street parking provided on the property. A **SHOPPING CENTER** shall be developed on a tract of land containing not less than 5 acres.
- **SIGN.** Any structure or any attention-directing device, or any part thereof, painted on or represented in any other manner on a building or other structure upon which is displayed or included any letter, figure design, symbol, trademark, decoration, device or representation used as or which is in the nature of any announcement, direction advertisement or any other attention-directing function.
- **SIGN.** Any words, lettering, figures, numerals, emblems, devices, trademarks, or trade names or combination thereof, by which anything is made known, such as the designation of an individual firm, corporation, profession, business, commodity or product and which is designed to attract attention and/or convey a message.
- **SIGNS, NUMBER AND SURFACE AREA.**
 - For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device which may or may not contain elements organized, related and composed to form a unit. Where matter is displayed in a random manner without organized relationships of elements, or where there is reasonable doubt about the relationship of elements, each element shall be considered to be a single sign.
 - The surface area of a sign shall be computed as including the entire area within a regular geometric form or combination of regular geometric forms comprising all of the display area of the sign and including all the elements of the matter displayed. Frames and structural members not bearing advertising matter shall not be included in computation of surface area. Freestanding signs shall be computed on the basis of 1 surface only, provided the opposite surface is identical in size, not necessarily in copy or advertisement.
 - The allowable sign area computed by applying the square feet/linear feet multiplier shall cover all signs on the building or structure and freestanding signs.

- ***SITE-SPECIFIC DEVELOPMENT PLAN.***
 - A plan of land development submitted to the town for purposes of obtaining 1 of the following zoning or land use permits or approvals:
 - Approval of a preliminary subdivision plan by the Board of Commissioners of the town as required by § 13.9.7; and
 - Site plan approvals granted by the Board of Commissioners for Special Use Permits in accordance with this code of ordinances.
 - Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site-specific development plan.

- ***SMALL BOAT.*** A boat or other watercraft not exceeding 25 feet in overall length.
- ***SOLID WASTE DISPOSAL FACILITY.*** Means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).
- ***SOLID WASTE DISPOSAL SITE.*** Means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.
- ***SPECIAL FLOOD HAZARD AREA (SFHA).*** Means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.
- ***SPECIAL USE 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.
- ***START OF CONSTRUCTION.*** Includes substantial improvement, and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets

and/or walkways; nor does it include excavation for a basement, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property for accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

- **STORY.** That portion of a building included between the surface of any floor and the surface of the floor next above it.
- **STREET LINE.** The dividing line between a street or right-of-way and the contiguous property.
- **STREET.** A thoroughfare which affords the principal means of access to abutting property and which has been accepted for maintenance as a **STREET** by the town or the State of North Carolina as a public **STREET** or which has been dedicated to private property owners as a private street.
- **STREET.** An area designed for vehicular traffic offered for public or private dedication for the intended use, whether or not the offer of dedication has been accepted.
- **STRUCTURAL ADDITION.** Any roofed, canopied, enclosed porch and/or structure or room which is used in connection with a dwelling. A concrete slab porch with no roof shall not be considered a structural addition.
- **STRUCTURE.** Means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.
- **SUBDIVIDER.** Any person, firm, partnership, corporation or other entity, acting as a unit, subdividing or proposing to subdivide land.
- **SUBDIVISION.** Includes all divisions of a tract or parcel of land into 2 or more lots for the purpose of sale or building developments, whether immediate or future, and includes all divisions of land that necessitate the dedication of a new street to provide access to a lot not abutting a street right-of-way or that require a change in existing streets.
- **SUBSTANTIAL DAMAGE.** Means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”.

- ***SUBSTANTIAL IMPROVEMENT.*** Means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:
 - any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure and the alteration is approved by the variance issued pursuant to Article 4 Section E of this ordinance.
- ***TECHNICAL BULLETIN AND TECHNICAL FACT SHEET.*** Means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building in a flood hazard area.

- ***TEMPERATURE CONTROLLED.*** Means having the temperature regulated by a heating and/or cooling system, built-in or appliance.
- ***TEMPORARY SIGN.*** A banner, poster or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wallboard or other material and displayed for a limited period of time as set forth in § 16.6.
- ***TOWN.*** The Town of Cape Carteret.

- **TRAVEL TRAILER.** A wheeled vehicle portable structure built on a chassis, designed to be used as a temporary dwelling for travel and/or recreational purposes. This is also intended to include structures mounted on auto or truck bodies, commonly referred to as **CAMPERS**.
- **TV DISH ANTENNAE.** Dish-shaped structures located so as to receive electromagnetic signals from space satellites. This term includes **EARTH SATELLITE RECEIVING STATIONS, DISH, AND TV DISH**.
- **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.
- **VARIANCE.** Is a grant of relief from the requirements of this ordinance
- **VIOLATION.** Means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.
- **WALL SIGN.** Any sign attached to or erected against the wall of a building or structure, or which is an integral part of the building or structure. No sign shall project into a public right-of-way or more than 1 foot beyond the physical dimensions of the building.
- **WATER FACILITY PERMIT.** A zoning permit issued by the town official charged with administering the Waterways Ordinance (this subchapter) for the construction of a boat dock or boat ramp.
- **WATER SURFACE ELEVATION (WSE).** Means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.
- **WATERCOURSE.** Means a lake, river, creek, stream, wash, channel or other topographic feature on or over which water flows at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
- **YARD, FRONT.** An open space between the front line of the principal building (exclusive of steps) and the front line of the lot and extending the full width of the lot.
- **YARD, REAR.** An open space between the rear line of the principal building (exclusive of steps) and the rear line of the lot and extending the full width of the lot.
- **YARD, SIDE.** An open unoccupied space on the same lot with a principal building between the side line of the building (exclusive of steps) and the

side line of the lot and extending from the front yard line to the rear yard line.

- **ZONING VESTED RIGHT.** A right pursuant to G.S. § 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

Appendix A: Chart of Dimensional Requirements

AREA, YARD AND HEIGHT REQUIREMENTS

<i>District</i>	<i>Minimum Lot Size Area in Sq. Ft.</i>	<i>Lot Width in Feet</i>	<i>Front Yard Setback in Feet</i>	<i>Side Yard in Feet</i>	<i>Rear Yard in Feet</i>	<i>Maximum Height in Feet (m), (n)</i>	<i>Minimum and Maximum Unit Area in Sq. Ft.</i>	<i>Easement Requirement</i>
R-10	15,000		35	10 (e), (j)	10 (k)	40 (a)		5 rear feet
R-10M	87,120 (2 acres) 7,920 per multi-family unit – 15,000 per single-family dwelling unit		40	30 (e),(c), (j), (o)	30 (c), (k)	40 (h)	not more than 50%; 900.	
R-13	13,500	70(b)	35	10 (e), (j)	30 (k)	35		10 feet rear
R-20	20,000	70(b)	35	10 (e), (j)	10 (k)	40		10 feet rear
R-30	20,000	70(b)	40	10 (f), (j)	40 (k)	40		10 feet rear
B-10	20,000	70(b)	35	10 (c), (g)	25 (c)	40	max. (l)	20 feet rear
B-20	20,000	70(b)	40	10 (c), (g)	25 (c)	55	max. (l)	20 feet rear
B-30	40,000	100	40	10 (c), (g)	25 (c)	40	max. (l)	20 feet rear

- (A) Maximum height on 50-foot wide lot, 40 feet.
- (B) At minimum setback lines.
- (C) Must meet minimum buffer strip requirements in § 12.9.
- (D) Heated living area.
- (E) A side yard of five (5) feet required for a garage or other permitted accessory building located ten (10) feet or more from the front line of the principal building.
- (F) A side yard of ten (10) feet required for a garage or other permitted accessory building located 20 feet or more from the front line of the principal building.
- (G) Zero lot lines.
- (H) No dwelling unit shall be located above another dwelling unit.
- (I) In order to bring this into compliance with the AEC standards, all lots shall comply with state guidelines for areas of environmental concern.
- (J) Lots, corner. An additional 10-foot setback is required on the side street line.
- (K) All accessory structures shall adhere to minimum rear yard setback of 10 feet from the rear property line.

(L) No building with more than 75,000 square feet of ground floor space shall be permitted.

(M) Height, max. The height of any structure, not requiring flood plain elevation, shall be measured vertically from the highest finished grade along the perimeter of the house to the peak of the roof.

(N) Height, max. The height of any structure requiring flood plain elevation, shall be measured vertically from the top of the required freeboard elevation to the peak of the roof.

(O) When a single-family dwelling is being constructed in an R-10M district, the required side setback for that lot shall be reduced to ten (10) feet.

(1997 Code, Ch. 44, App. A) (Am. Ord. passed 11-18-2002; Am. Ord. passed 5-10-2004; Am. Ord. 2006-2, passed 3-20-2006; Am. Ord. 2006-10, passed 6-19-2006; Am. Ord. 2009-11, passed 4-20-2009; Am. Ord. 2009-12, passed 5-11-2009; Am. Ord. 2009-13, passed 6-15-2009) (Ord. 2017-06-03; Passed 6-12-17); (Ord. 2017-06-04; passed 6-12-2017); Am. Ord. passed 10-10-2022