ZONING ORDINANCE

TOWN OF GREENEVERS, NC

OCTOBER 1992

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**AN ORDINANCE PROVIDING FOR THE ZONING OF**
**THE TOWN OF GREENEVERS, NORTH CAROLINA**

**WHEREAS, IN ORDER TO PROMOTE THE HEALTH, SAFETY, MORALS AND**
**GENERAL WELFARE OF THE INHABITANTS OF THE TOWN OF GREENEVERS,**
**NORTH CAROLINA, TO FACILITATE THE ADEQUATE PROVISION OF**
**TRANSPORTATION, SEWERAGE, SCHOOLS, PARKS, AND OTHER PUBLIC**
**IMPROVEMENTS, AND TO REGULATE THE LOCATION AND USES OF BUILDINGS,**
**STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE, OR OTHER**
**PURPOSES, TO REGULATE THE ERECTION, RECONSTRUCTION, OR ALTERATION**
**OF BUILDINGS, AND TO REGULATE THE HEIGHT, NUMBER OF STORIES, AND**
**SIZE OF BUILDINGS AND STRUCTURES, AND THE SIZE OF YARDS AND OPEN**
**SPACES SURROUNDING BUILDINGS, TO REGULATE THE DENSITY OF**
**POPULATION, AND TO DIVIDE THE TOWN INTO ZONES OF SUCH NUMBER,**
**SHAPE, AND AREA AS MAY BE BEST SUITED TO CARRY OUT SAID PURPOSES,**
**IT IS DESIRABLE AND NECESSARY TO ADOPT THE ZONING ORDINANCE AND**
**MAP FOR SAID TOWN AS HEREINAFTER SET FORTH.**

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF**
**THE TOWN OF GREENEVERS, NORTH CAROLINA:**

SECTION 1

LEGAL PROVISIONS

1.1 Purpose

In order to lessen congestion in the streets; to secure safety from fire, panic,
and other dangers; to promote health and the general welfare; to provide
adequate light and air; to prevent the overcrowding of land; to avoid undue
concentration of population; to facilitate the adequate provisions of transportation,
sewerage, schools, parks and other public requirements; to conserve the value
of buildings and encourage the most appropriate use of land throughout the
corporate area, there is hereby adopted and established an official zoning plan
of the Town of Greenevers. No person shall commence or proceed with development without first securing approval from the Town as herein provided.

As defined in N.C.G.S. §160D (12), “development” means any of the following:

(A)  The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

(B)  The excavation, grading, filling, clearing, or alteration of land.

(C)  The subdivision of land as defined in N.C.G.S. §160D-802.

(D)  The initiation or substantial change in the use of land or the intensity of use of land.

1.2 Authority

This zoning ordinance is adopted pursuant to the authority vested in the Town
of Greenevers by its charter and the General Statutes of North Carolina,
particularly Chapter 160D.

1.3 Jurisdiction

The provisions of this ordinance shall apply within the corporate limits of the
Town of Greenevers, North Carolina and within its extraterritorial jurisdiction as
now or hereafter fixed, as shown on the official zoning map. The Town may exercise any power conferred by Chapter 160D and this ordinance in its extraterritorial jurisdiction that it is exercising within its corporate limits.

1.4 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, covenants, or other
agreements between parties; provided, however, that where this ordinance
imposes a greater restriction upon the use of buildings or premises or upon the
height of buildings, or requires larger open spaces than are imposed or required
by other ordinances, rules, regulations, or by easements, covenants, or
agreements, the provisions of this ordinance shall govern.

Chapter 160D of the North Carolina General Statutes is applicable to this Chapter. In the event of any conflict between this ordinance and Chapter 160D, the provisions of Chapter 160D shall control.

1.5 Validity

If any section, subsection, sentence, clause or phrase of this ordinance is for any
reason held to be invalid by the courts, such decision shall not affect the validity
of the remaining portions of this ordinance. The Board of Commissioners hereby
declares that it has passed this ordinance andeach section, subsection, clause
and phrase thereof, irrespective of the fact that any one or more sections,
subsections, sentences, clauses or phrases be declared invalid.

1.6 Effective Date

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

Approved and adopted by the Board of Commissioners this

day of ,199\_\_\_\_\_\_ , as amended this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

**SECTION 2**DEFINITIONS

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in Chapter 160D shall have the meanings herein set forth when used in this ordinance. If a word or phrase used in this ordinance is not defined by this Section or elsewhere in this ordinance, to the extent such word or phrase is defined in Chapter 160D, that definition shall control.

In the construction of this ordinance the word interpretations and definitions
contained in this Section shall be observed and applied, except when the context
clearly indicates otherwise.

1. Words used in the present tense shall include the future tense.
2. Words used in the singular number shall include the plural number
and the plural singular.
3. The word "shall" is mandatory and not discretionary.

1. The word "may" is permissive.
2. The word "lot" shall include the words "parcel", "plot", and "tract".
3. The word "building" shall include all structures regardless of
similarity to buildings.
4. The phrase "used for" shall include the phrases "arranged for,
"designed for, "intended for, and "occupied for.”
5. The word “person” includes an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.
6. Application of Certain Terms.

(1) "Written" or "in writing" is deemed to include electronic documentation.

(2) Unless specified otherwise, in the absence of evidence to the contrary, delivery by first-class mail shall be deemed received on the third business day following deposit of the item for mailing with the United States Postal Service, and delivery by electronic mail shall be deemed received on the date sent.

2.1 Abutting

Having property or district lines in common. Lots are also considered to be
abutting if they are directly opposite each other and separated by a street or
alley.

2.2 Access

A way of approaching or entering a property. Access also includes ingress, the
right to enter, and egress, the right to leave.

2.3 Accessory Building or Use

A building or use not including signs, which is:

1. Conducted or located on the same zoning lot as the principal
building or use served, except as may be specifically provided
elsewhere in this Ordinance.
2. Clearly incidental to, subordinate in area and purpose to, and serves
the principal use; and
3. Either in the same ownership as the principal use or is clearly
operated and maintained solely for the comfort, convenience,
necessity, or benefit of the occupants, employees, customers, or
visitors of or to the principal use.

2.4 Advertising Device or Sign

Any advertising sign, billboard, statuary or poster which directs attention to a
business, commodity, service, or entertainment not exclusively related to the
premises where such sign is located or to which it is affixed; but does not
include those advertising signs, billboards, or poster panels which direct attention
to the business on the premises or to a brand name of a product or commodity
with which the business is specifically identified and which is sold on the
premises.

2.5 Alley

A public or private right-of-way primarily designed to serve as secondary access
to the side or rear of those properties whose principal frontage is on a street
and is not intended for general traffic.

2.6 Apartment (Dwelling Unit).

A room or suite of rooms intended for use as a residence by a single household
or family (i.e. dwelling unit). Such dwelling unit may be located in an apartment
house, duplex, or as an accessory use in a single-family home or a commercial
building.

2.7 Apartment House

See Dwelling, Multi-Family.

2.8 Automobile Service Station (Gas Station)

Any building or land used for the dispensing, sale or offering for sale at retail
any automobile fuels along with accessories such as lubricants or tires, except
that car washing, mechanical and electrical repairs, and tire repairs shall only be
performed incidental to the conduct of the service station and are performed
indoors and has no fuel pumps within fifteen (15) feet of any property line or
street right-of-way. Incidental activities shall not include tire retreading, major
body work, major mechanical work, or upholstery work.

2.9 Block

A tract of land or a lot or group of lots bounded by streets, public parks, golf
courses, railroad rights-of-way, water courses, lakes, unsubdivided land, or a
boundary line or lines of the county or its towns or any combination of the
above.

2.10 Block Frontage

That portion of a block which abuts a single street.

2.11 Board of Adjustment

A board established pursuant to N.C.G.S. §160D-302, appointed by the Board of Commissioners, that is given certain powers under this ordinance.

2.12 Board of Commissioners.

The governing body of the Town of Greenevers.

2.13 Boarding House

A building other than a hotel or motel where, for compensation, meals are
served and lodging is provided.

2.14 Buffer

A fence, wall, hedge, or other planted area or device used to enclose, screen,
or separate one use or lot from another.

2.15 Building

Any structure enclosed and isolated by exterior walls constructed or used for
residence, business industry or other public or private purposes, or accessory
thereto, and including tents, lunch wagons' dining cars, trailers, manufactured
homes, and attached or unattached carports consisting of a roof and supporting
members, and similar structures whether stationary or movable.

2.16 Building, Height of

The vertical distance from the average sidewalk grade or street grade or finished
grade at the building line, whichever is the highest, to the highest point of the
building.

7.17 Building, Principal (Main)

A building in which is conducted the principal use of the lot on which it is
situated.

2.18 Building Setback Line

A line measured parallel to the front property line in front of which no structure
shall be erected.

2.19 Canopy. Marquee, or Awning

Any roof-like structure extended over a sidewalk or walkway.

2.20 Cemetery

A place for burial of the dead, public or privately owned, and containing a
minimum of two acres.

2.21 Certificate of Occupancy

Official certification that a premise conforms to provisions of the Zoning
Ordinance (and building code) and may be used or occupied. Such a certificate
is granted for new construction or for alterations or additions to existing
structures or a change in use. Unless such a certificate is issued, a structure
cannot be occupied.

2.22 Club or Lodge (Private Nonprofit Civic or Fraternal)

A non-profit association of persons, who are bona fide members paying dues,
which owns, hires, or leases a building, or portion thereof; the use of such
premises being restricted to members and their guests.

2.23 Convalescent Home (Nursing Home)

An institution, which is advertised, announced, or maintained for the express or
implied purpose of providing nursing or convalescent care for persons unrelated
to the licensee. A convalescent home is a home for chronic or nursing patients
who, on admission, are not as a rule acutely ill or who do not usually require
special facilities, such as an operating room, X-ray facilities, laboratory facilities,
and obstetrical facilities.

2.24 Day Care Facilities

Any child care arrangement which provides day care on a regular basis for more
than four (4) hours per day for more than five (5) children, wherever operated
and whether or not operated for profit, except that the following are not
included: public schools; non-public schools whether or not accredited by the
North Carolina State Department of Public Instruction, which regularly and
exclusively provide a course of grade school instruction to children who are of
public school age; summer camps having children in full-time residence; summer
day camps; and Bible Schools normally conducted during vacation periods.

2.25 Dish Antenna (or earth station)

A dish antenna, or earth station, is any accessory structure capable of receiving,
for the sole benefit of the principal use, radio or television signals from a
transmitter or a transmitter relay located in planetary orbit.

2.26 Dish Antenna (or earth station) Height

The height of the antenna or dish shall be that distance as measured vertically
from the highest point of the antenna or dish, when positioned at its lowest
angle for operation, to ground level at the bottom of the base which supports
the antenna.

2.27 Dish Antenna (or earth station) Setback

The setback of a dish antenna shall be measured from the center mounting post
supporting the antenna.

2.2.75 Developer

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

2.2.76 Development

 Any of the following:

a.  The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

b.  The excavation, grading, filling, clearing, or alteration of land.

c.  The subdivision of land as defined in N.C.G.S. §160D-802.

d. The initiation or substantial change in the use of land or the intensity of use of land.

2.28 Dwelling

Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

2.29 Dwelling. Duplex

A building containing two (2) dwelling units, other than where a second dwelling
unit is permitted as an accessory use.

2.30 Dwelling. Multi-Family

A building containing three (3) or more dwelling units, except where permitted
as an accessory use.

2.31 Dwelling, Single-Family

A building containing one dwelling unit only, but may include one (I) separate
unit as an accessory use to be occupied only by employees, guests or relatives
of the household.

2.315 Evidentiary Hearing

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

2.32 Family

One or more persons related by blood, marriage or adoption living together as
a single house-keeping unit and having a recognized head of household. For the
purposes of this ordinance such persons may include gratuitous guests,
contributing roommates, and domestic servants employed on the same premises.

2.325 Family Care Home

A home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six resident persons with disabilities. For purposes of this definition, “persons with disabilities” means persons with a temporary or permanent physical, emotional, or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances, and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in N.C.G.S. §122C-3(11)b.

2.33 Floor Area (for determining off-street parking and loading requirements)

The sum of the gross horizontal areas of the several floors of the building, or
portion thereof, devoted to such use, including accessory storage areas located
within selling or working space as counters, racks, or closets, and any basement
floor area devoted to retailing activities, to the production or processing of goods,
or to business or professional offices. However, "floor area" for the purposes of
measurement for off-street parking spaces shall not include: floor area devoted
to primarily• storage purposes (except as otherwise noted herein); floor area
devoted to off-street parking or loading facilities, including aisles, ramps, and
maneuvering space; or basement floor other than area devoted to retailing
activities, to the production or processing of goods, or to business or professional
offices.

2.34 Floor Area. Gross

The total floor area enclosed within a building.

2.35 Garage. Private

A building used as an accessory to or a part of the main building permitted in
any residential district, and providing for the storage of motor vehicles and in
which no business, occupation, or service for profit is in any way conducted.

2.36 Home Occupation

A business, profession, or occupation or trade conducted for gain or support and
located entirely within a residential building or a structured accessory thereto,
which use is accessory, incidental and secondary to the use of the building for
dwelling purposes and does not change the essential residential character of such
building. Further provided that no more than twenty-five percent (25%) of the
total floor area is used for such purposes, that there is no outside window
display, and no more than one person not residing on the premises is employed
in connection with the same occupation.

2.37 Hotel or Motel

A building or other structure kept, used, maintained, advertised as or held out
to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants, where rooms are furnished for the
accommodation of such guests; and may have one or more dining rooms,
restaurants, or cafes where meals are served.

2.38 Incompatible Use

A use or service which is unsuitable for direct association and/or contiguity with
certain other uses because it is contradictory, incongruous, or discordant.

2.39 Inoperative Vehicle

Any vehicle, designed to be self-propelled, which by virtue of broken or missing
component parts, is no longer capable of self-propulsion. For the purpose of this
ordinance, any vehicle which is registered with the North Carolina Department
of Motor Vehicles and has a current North Carolina motor vehicle registration
license affixed to it shall not be considered inoperative.

2.40 Junk Yard

Any area, in whole or in part, where waste or scrap materials are bought, sold,
exchanged, stored, baled, packaged, disassembled, or handled, including but not
limited to, scrap iron, and other metals, paper, rags, vehicles, rubber tires, and
bottles. A "junk yard" includes an auto wrecking yard, but does not include
uses established entirely within enclosed buildings.

2.41 Loading Space. Off-Street

Space logically and conveniently located for bulk pickups and deliveries, scaled
to delivery vehicles expect to be used, and accessible to such vehicles.
Required off-street loading space is not to be included as off-street parking space
in computation of required off-street parking space.

2.42 Lot

A parcel of land occupied or intended for occupancy by a main building or
group of main buildings and accessory buildings, together with such yards, open
spaces, lot width and lot area as required by this ordinance, and having not less
than the minimum required frontage upon a street, either shown on a plat of
record, or considered as a unit of property and described by metes and bounds.
For the purpose of this ordinance, the word "lot shall be taken to mean any
number of contiguous lots or portions thereof, upon which one or more main
structures for a single use are erected or are to be erected.

2.43 Lot, Corner

A lot abutting the intersection of two (2) or more streets or a lot abutting on
a curved street or streets shall be considered a corner lot if straight lines drawn
from the foremost points of the side lot lines to the foremost point of the lot
at the apex meet at any angle of less than one hundred thirty-five (135) degrees.
In such a case the apex of the curve forming the corner lot shall be considered
as the intersection of street lines for the purpose of this ordinance, such as in
corner visibility requirements.

2.44 Lot. Interior

A lot other than a corner lot.

2.45 Lot, Through

An interior lot having frontage on two streets.

2.46 Lot. Depth

The depth of a lot is the average distance between the front and back lot lines
measured at right angles to its frontage and from corner to corner.

2.47 Lot Line

The line bounding a lot.

2.48 Lot Width

The straight-line distance between the points where the building setback line
intersects the two side lot lines.

2.49 Lot of Record

A lot which is a part of a subdivision, a plat of which has been recorded in the
office of the County Register of Deeds, or a lot described by metes and bounds,
the description of which has been recorded in the office of the County Register
of Deeds by the owner or predecessor in title thereto.

2.50 Manufactured Home

A structure as defined in N.C.G.S. §143-145(7) as which is transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this Subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act.

For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width.

2.51 Manufactured Home Park

Any site or tract of land, of contiguous ownership upon which manufactured
home spaces are provided for manufactured home occupancy whether or not a
charge is made for such service. This does not include manufactured home
sales lots on which unoccupied manufactured homes are parked for the purpose
of inspection and sales.

2.52 Manufactured Home Space

A plot of land within a manufactured home park designed for the accommodation
of one manufactured home.

2.53 Mobile or Manufactured Office

A structure identical to a manufactured home except that it has been converted,
or originally designed and constructed, for commercial or office use.

2.54 Modular Structure

A structure as defined in N.C.G.S. §105-164.3(143) as a factory-built structure that is designed to be used as a dwelling, is manufactured in accordance with the specifications for modular homes under the North Carolina State Residential Building Code, and bears a seal or label issued by the Department of Insurance pursuant to N.C.G.S. §143-139.1.

2.55 Nonconforming Lot

A lot existing at the effective date of this ordinance or any amendment to it
(and not created for the purpose of evading the restrictions of this ordinance)
that cannot meet the minimum area or lot width or depth requirements of the
district in which the lot is located.

2.56 Nonconforming Use

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

2.57 Nuisance

Anything that interferes with the use or enjoyment of property, endangers
personal health or safety, or is offensive to the *senses.*

2.58 Ordinance

This the Zoning Ordinance, including any amendments. Whenever the effective
date of the ordinance is referred to, the reference includes the effective date of any amendment to it, unless otherwise indicated.

2.59 Parking Lot

An area or plot of land used for the storage or parking of vehicles.

2.60 Parking Space

A storage space of not less than one hundred sixty (160) square feet for one
automobile, plus the necessary access space.

2.61 Planning Board

A board established pursuant to N.C.G.S. §160D-301, appointed by the Board of Commissioners, that is given certain powers under this ordinance.

2.62 Plat

A map showing the location, boundaries, and ownership of individual properties.
2.63 Premises

A single piece of property as conveyed in a deed or a lot or a number of
adjacent lots on which is situated a land use, a building, or group of buildings
designed as a unit or on which a building or group of buildings are to be
constructed.

2.63.5 Quasi-Judicial Decision

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

2.64 Setback

The required distance between every structure and the lot lines of the lot on
which it is located.

2.65 Sign

Any words, lettering, figures, numerals, emblems, devices, trademarks, or trade
names, or any combination thereof, by which anything is made known and which
is designed to attract attention and/or convey a message.

2.66 Sign. Identification

A sign used to display only the name, address, crest, or trademark of the
business, individual, family, organization or enterprise occupying the premises, the
profession of the occupant or the name of the building on which the sign is
displayed; or a permanent sign announcing the name of a subdivision, shopping
center, tourist home, group housing project, church, school, park, or public or
quasi-public structure, facility or development and the name of the owners or
developers.

2.67 Sign. Flashing

Any illuminated sign on which the artificial light is not maintained stationary or
constant in intensity and color at all times when such is in use. For the
purpose of this ordinance, any moving, illuminated sign shall be considered a
"flashing sign." Such signs shall not be deemed to include time and temperature
signs or public messages displays using electronic switching.

2.68 Sign. Freestanding

Any sign supported wholly or in part by some structure other than the building
or buildings housing the business to which the sign pertains, or any sign which
projects more than five (5) feet from the side of the building to which it is
attached.

2.69 Sign. Gross Area

The entire area within a single continuous perimeter enclosing the extreme limits
of such sign. However, such perimeter shall not include any structural elements
lying outside the limits of such sign and not forming an integral part of the
display.

2.70 Sign. Off-Premises

A sign which directs attention to a business, commodity, service, or
entertainment not exclusively related to the premises where such sign is located
or to which it is affixed.

2.71 Sign. Projecting

A sign attached to a wall and projecting away from that wall more than twelve
(12) inches, but not more than five (5) feet.

2.72 Sign. Public Information

A sign, usually erected and maintained by a public agency, which provides the
public with information and in no way relates to a commercial activity including,
but not limited to, speed limit signs, stop signs, city limit signs, street name
signs, and directional signs. These signs are in no way regulated by this
ordinance.

2.73 Sign, Roof

A sign which is displayed above the eaves of a building.

2.74 Sign. Wall

A sign attached to a wall and not projecting away from the wall more than
twelve (12) inches.

2.75 Site Plan

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

2.755 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 pursuant to Section 6.4.C herein.

2.76 Street

A thoroughfare which affords the principal means of access to abutting property.

2.77 Street Line

The line between the street right-of-way and abutting property.

2.78 Street. Private

Any road or street which is not publicly owned and maintained and is used for
access by the occupants of the development, their guests, and the general
public.

2.79 Structure

Anything constructed or erected, the use of which requires location in or on the
land or attachment to something having a permanent location in or on the land.

2.80 Structural Alterations

Any change in the supporting members of a building, such as bearing walls,
columns, beams or girders except for repair or replacement.

2.81 Tourist Home

Any dwelling occupied by the owner or operator in which rooms are rented to
guests, for lodging of transients and travelers for compensation, and where food
may be served.

2.815 Town of Greenevers Comprehensive Plan

A comprehensive plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the Town. This Plan is intended to guide coordinated, efficient, and orderly development within the planning and development regulation jurisdiction of the Town based on an analysis of present and future needs. Such planning analysis may address inventories of existing conditions and assess future trends regarding demographics and economic, environmental, and cultural factors. This Plan addresses many of the factors set forth in GS 160D – 501(b), and future updates to such Plan may address any or all of the factors therein described. The Comprehensive Plan has been created by the Planning Board and approved by the Town Board of Commissioners. Amendments to the Comprehensive Plan shall follow the process mandated for the adoption of zoning text amendments set forth in Section 5 herein. All zoning regulations shall be made in accordance with the Comprehensive Plan.

2.82 Trailer

Any vehicle or structure originally designed to transport something or intended
for human occupancy for short periods of time. Trailers shall include the
following:

1. Travel Trailer. A vehicular, portable structure built on a wheeled chassis,
designed to be towed by a self-propelled vehicle for use for travel,
recreation, or vacation purposes, having a body width ten (10) feet or less
or body length thirty-two (32) feet or less when equipped for road travel.
2. Recreational Vehicle. A self-propelled vehicle or portable structure
mounted on such a vehicle designed as a temporary dwelling for travel,
recreation, and vacation.
3. Camping Trailer. A folding structure manufactured of metal, wood, canvas,
plastic, or other materials, or any combination thereof, mounted on wheels
and designed for travel, recreation, or vacation use.
4. Tow Trailer. A structure designed to be hauled by another vehicle and
to transport vehicles, boats, or freight.

2.83 Use

Any continuing or repetitive occupation or activity taking place upon a parcel of
land or within a building including, but not limited to, residential, manufacturing,
retailing, offices, public services, recreation, and educational.

2.84 Variance

A variance is a modification of the requirements of the Zoning Ordinance pursuant to Section 6.4.B herein; where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant a literal enforcement of the ordinance would result in unnecessary and undue hardship.

2.8.45 In Writing

The words “written” or “in writing” are deemed to include electronic documentation.

2.85 Yard

An open space on the same lot with a building, unoccupied and unobstructed
from the ground upward, except by trees or shrubbery or as otherwise provided
herein.

2.86 Yard, Front

A yard across the full width of the lot, extending from the front line of the
building to the front line of the lot, including the area of steps, eaves, and
uncovered porches, but not including the areas of covered porches.

2.87 Yard, Side

An open unoccupied space on the same lot with a building between the building
and the side line of the lot extending through from the front building line to the
rear yard or, where no rear yard is required, to the rear line of the lot.

2.88 Yard, Rear

A yard extending across the full width of the lot and measured between the rear
line of the lot and the rear line of the main building.

2.89 Zero Lot Line

A concept commonly used in planned developments where individual commercial
buildings or dwellings are to be sold along with the ground underneath and, perhaps, a small yard or patio area. With zero lot line the minimum
requirements for lot area and yards are not met and construction takes place
right up to the lot line.

2.90 Zoning

A police power measure, enacted primarily by general purpose units of local
government, in which the community is divided into districts or zones within
which permitted and conditional uses are established as are regulations governing lot size, building bulk, placement, and other development standards.
Requirements vary from district to district, but they must be uniform within
districts. The Zoning Ordinance consists of two parts: a text and a map.

2.91 Zoning Administrator

The official charged with the enforcement of the Zoning Ordinance.

The Official Zoning Map of Town of Greenevers, North Carolina, dated [ADOPTION DATE] with all amendments subsequently adopted. The Official Zoning Map is hereby incorporated by reference, and made a part of this ordinance.

SECTION 3

ADMINISTRATION

3.0 Permit Administration

A development approval shall be in writing and may contain a provision requiring the development to comply with all applicable State and local laws. The Town may issue development approvals in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Applications for development approvals may be made by the landowner, a lessee or person holding an option or contract to purchase or lease 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.

1. Notice. - Any approval or disapproval of an application for a Zoning Permit made pursuant to this Section shall be communicated by the Zoning Administrator who shall in turn give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall 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 a determination if the party seeking the determination is different from the owner.

B. Expiration of Zoning Permit. - A Zoning Permit shall expire one year after the date of issuance if the work authorized by the Certificate has not been substantially commenced. If after commencement the work or activity allowed under a Certificate is discontinued for a period of 12 months after commencement, the Certificate shall immediately expire.

C. Any appeal from a decision of the Zoning Administrator may be made in accordance with the provisions of Section 3.5 herein.

D. An approval made pursuant to this ordinance attaches to and runs with the land.

3.1 Zoning Enforcement Officer

No person shall commence or proceed with development without first securing approval from the Town as herein provided. The Zoning Administrator, or his authorized agent, is hereby authorized, and it shall be his duty, to enforce the provisions of this ordinance in accordance with Section 4 herein. It is the intention of this ordinance that all questions arising in connection with enforcement and interpretation shall be presented first to the Zoning Administrator. Appeal from his decision may be made to the Board of Adjustment.

In administering the provisions of this ordinance, the Zoning Administrator shall:

1. Make and maintain records of all applications for permits 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 his office and shall be available for
inspection at reasonable times by any interested party.
3. Transmit to the appropriate board or commission and the Board of
Commissioners all applications and plans for which their review and
approval is required.
4. The Zoning Administrator and his/her staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the Town at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured. The Zoning Administrator shall have all rights of enforcement as outlined in Section 4, Enforcement, herein.

3.2 Zoning Permits

A. Zoning Permit Required

A valid Zoning Permit shall be presented with any application for a
Building Permit. No Building Permit shall be issued for any activity in a
zoned area until such Zoning Permit is presented.

Application for a Zoning Permit shall be made in writing to the Zoning
Administrator on forms provided for that purpose.

B. Approval of Plans

It shall be unlawful for the Zoning Administrator to approve any plans or
issue a Zoning Permit for any purpose regulated by this ordinance until
he has inspected such plans in detail and found them in conformity with
this ordinance. To this end, the Zoning Administrator shall require that
every application for a Zoning Permit be accompanied by a site plan which shows at least the following in sufficient detail to enable the Zoning Administrator to ascertain whether the proposed activity is in
conformance with this ordinance:

1. The actual shape, location, and dimensions of the lot.
2. The shape, size, and location of all buildings or other structures to
be erected, altered or moved and of any building or other structures
already on the lot.
3. The existing and intended use of all such buildings or other
structures, parking facilities and landscaping design.
4. Such other information concerning the lot or adjoining lots as may
be essential for determining whether the provisions of this ordinance
are being observed.

C. Issuance of Zoning Permits

 Any approval or disapproval of an application for Zoning Compliance made pursuant to this Section shall be communicated by the Administrator who shall in turn give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall 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 a determination if the party seeking the determination is different from the owner.

3.3 Certificates of Occupancy

No new building or part thereof shall be occupied, and no addition or
enlargement of any existing building shall be occupied, and no existing building
after being altered or moved shall be occupied, and no change of occupancy
shall be made in any existing building or part thereof, until the Building
Inspector has issued a Certificate of Occupancy therefor.
The change of occupancy provision shall not apply to rooms intended for
transient rental.

A Temporary Certificate of Occupancy may be issued for a portion or portions
of a building which may safely be occupied prior to final completion and
occupancy of the entire building or for other temporary uses.

Application for a Certificate of Occupancy may be made by the owner or his
agent at the same time as submitting an application for a Building Permit, if
needed, or for a Zoning Permit. The Certificate of Occupancy shall be issued
automatically by the Building Inspector after all final inspections have been made.

In the case of existing buildings or other uses not requiring aBuilding Permit,
after supplying the information and data necessary to determine compliance with
this ordinance and appropriate regulatory codes of the Town for the occupancy
intended, the Zoning Administrator shall issue a Certificate of Occupancy when,
after examination and inspection, it is found that the building or use in all
respects conforms to the provisions of this ordinance and appropriate regulatory
codes of the Town for the occupancy intended.

3.4 Other Permits

The Zoning Administrator shall be authorized to issue other permits as required
by this ordinance or the Board of Commissioners.

3.5 Administrative Procedures

1. Quasi-Judicial Hearings

Any case involving an appeal from the Zoning Enforcement Officer's
decision, or application for a special use permit or variance shall be made to the Board of Adjustment pursuant to the provisions of Section 16, Quasi-Judicial Procedures, herein. decision involving a change of zoning district classification or other ordinance changes shall be made pursuant to the provisions of Section 5.3 herein.

1. Revocation of Variances

 Any revocation of a variance may be considered upon a finding of one or more of the following:

1)That the approval was obtained by fraud.

1. That the use for which such approval was granted is not being
executed.
2. That the permit granted is being, or recently has been exercised
contrary to the terms or conditions of such approval.
3. That the permit granted is in violation of an ordinance or statute.

5) That the use for which the approval was granted was so exercised

as to be detrimental to the public health or safety, or so as to
constitute a nuisance.

The procedures for revocation of a variance or special use permit should follow the same procedures as for granting a variance, pursuant to Section 6.4 herein.

1. Appeals of Administrative Decisions

Applicability. Appeals of decisions made by the Zoning Administrator or his/her deputy or staff under this ordinance shall be made to the Board of Adjustment. Appeals shall be heard by the Board of Adjustment, in compliance with the quasi-judicial processes set forth in Section 16 herein.

Standing. Any person who has standing or the Town may appeal an administrative decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the Clerk to the Board. The notice of appeal shall state the grounds for the appeal.

Time to Appeal. The owner or other party shall have 30 days from receipt of the written notice of the determination within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the determination within which to file an appeal. In the absence of evidence to the contrary, notice given pursuant to Section 3.0(A) herein by first-class mail shall be deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.

Record of Decision. - The official who made the decision shall transmit to the Board of Adjustment all documents and exhibits constituting the record upon which the decision appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.

Stays. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from and accrual of any fines assessed unless the official who made the decision certifies to the board after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or, because the violation is transitory in nature, a stay would seriously interfere with enforcement of the development regulation. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with the development regulation shall not stay the further review of an application for development approvals to use such property; in these situations, the appellant or Town may request and the board may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

Appeals of Decisions. Any appeal from the decision of the Board of Adjustment shall be made to Superior Court of Duplin County, in accordance with the provisions of N.C.G.S. §160D-1402.

1. Fees

Each applicant for an appeal from an administrative decision, for a variance,
or with a request for rezoning or other change to this ordinance shall pay
a non-refundable fee according to the Town’s fee schedule to cover the
costs of advertising and administration. A receipt of this fee shall be
issued by the Town. This fee, however, shall not apply to requests
originating with any department, board, or agency of the Town of
Greenevers.

3.6 Planning Board

Establishment. The Planning Board is established pursuant to N.C.G.S. §160D-301.

Membership and Vacancies. The Planning Board shall consist of three (3) or more members. All appointments to the Planning Board shall be made by the Board of Commissioners. The Board of Commissioners may establish reasonable procedures to solicit, review, and make appointments.

Organization. All meetings and hearings of the Planning Board shall be held at a regular place and shall be open to the public and shall be conducted in accordance with the rules of procedure of the Planning Board.

Meetings of the Planning Board shall be held pursuant to a schedule adopted pursuant to law. Special or emergency meetings of the Planning Board may be held in accordance with the provisions of Chapter 143 of the North Carolina General Statutes.

Rules of procedure that are consistent with the provisions of this ordinance may be adopted by the Board of Commissioners for the Planning Board. In the absence of action by the Board of Commissioners, the Planning Board is authorized to adopt its own rules of procedure that are consistent with the provisions of Chapter 160D. A copy of any adopted rules of procedure shall be maintained by the Clerk to the Board of Commissioners and shall be posted on the Town’s website. Meetings of the Planning Board shall be held pursuant to a schedule adopted pursuant to law. Special or emergency meetings of the Planning Board may be held in accordance with the provisions of Chapter 143 of the North Carolina General Statutes. All meetings shall be open to the public.

The Planning Board shall keep permanent minutes of all proceedings. The minutes shall record attendance of its members, its resolutions, findings, recommendations, and final actions.

The minutes of the Planning Board shall be public record.

Powers and Duties. In execution of the provisions of this ordinance, the Planning Board shall have all powers and duties permitted by N.C.G.S. §160D-301.

Oath of Office.All members appointed to the Planning Board under this ordinance shall, before entering their duties, qualify by taking an oath of office as required by N.C.G.S. §160A-61.

Quasi-Judicial Decisions**.** The Planning Board shall follow the procedures set forth in Section 16 herein if making a decision or determination for which a quasi-judicial hearing is required.

3.7 Board of Commissioners

Powers and Duties**.** In execution of the provisions of this ordinance, the Board of Commissioners may exercise the powers as may be described elsewhere in this ordinance.

Final Authority**.** The Board of Commissioners shall be responsible for final action regarding the following:

1. Zoning Ordinance text amendments
2. Zoning Map amendments (Rezoning)

Minutes**.** The Board of Commissioners shall keep minutes of its proceedings.

Quasi-Judicial Decisions**.** The Board of Commissioners shall follow the procedures set forth in Section 16 herein if making a decision or determination for which a quasi-judicial hearing is required.

SECTION 4

ENFORCEMENT AND PENALTIES

4.1 Enforcement Authority

This ordinance shall be enforceable in accordance with provisions available in the
General Statutes of North Carolina Chapter 160D. This ordinance may be enforced by any remedy provided by N.C.G.S. §160A-175.

4.2 Notice of Violation

When staff determines work or activity has been undertaken in violation of this ordinance or any approval issued hereunder, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the approval and to the landowner of the property involved, if the landowner is not the holder of the approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. A notice of violation may be appealed to the Board of Adjustment, and the Board of Adjustment shall follow quasi-judicial processes as set forth in 16 herein.

4.3 Stop Work Orders

Whenever any work or activity subject to regulation pursuant to this ordinance is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the subdivision approval and to the owner of the property involved (if that person is not the holder of the subdivision approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the Town that the order was delivered, and that certificate shall be deemed conclusive in the absence of fraud. A stop work order may be appealed to the Board of Adjustment, and the Board of Adjustment shall follow quasi-judicial processes as set forth in Section 16 herein. 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.

4.4 Revocation of Development Approvals

Development approvals may be revoked by the Town by notifying the holder in writing stating the reason for the revocation. The Town shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the Town for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to Section 3.5.C herein. If an appeal is filed regarding a development regulation adopted by the Town pursuant to Chapter 160D, the provisions of Section 3.5.C herein regarding stays apply.

4.5 Criminal Penalties

Any person, firm or corporation violating any section or provision of this
ordinance shall, upon conviction, be guilty of a misdemeanor and shall be fined
not more than $50.00, or imprisoned in accordance with penalties associated with a Class 3 misdemeanor. Each day such violation continues, however, shall be a separate and distinct offense, punishable as hereinbefore provided. [For example, absent appeal, a continued violation of one (1) week after receiving notice from the Zoning Administrator will accumulate penalties of up to $350 fine or imprisonment in accordance with penalties associated with a Class 3 misdemeanor. The total fine shall not exceed $500.00.

4.6 Civil Remedies

 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 ordinance, 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. The Town may commence a civil action in the appropriate division of the General Court of Justice for enforcement in accordance with N.C.G.S. §160A-175.

In addition to an injunction, the court may enter an order of abatement as a
part of the judgment in the case. An order of abatement may direct that
buildings or other structures on the property be closed, and demolished, or
removed; that fixtures, furniture, or other movable property be removed from
buildings on the property; that grass and weeds be cut that improvements or
repairs be made; or that any other action be taken that is necessary to bring
the property into compliance with this ordinance. If the defendant fails or
refuses to comply with an injunction or with an order of abatement within the
time allowed by the court, he may be cited for contempt, and the Town may
execute the order of abatement. The Town shall have a lien on the property
for the cost of executing an order of abatement.

4.7 Equitable Relief

The Town of Greenevers may apply to the District Court, Civil Division or other
court of competent jurisdiction for an appropriate equitable remedy. It shall not
be a defense to the Town's application for equitable relief that there is an
adequate remedy at law.

4.8 Combination of Remedies

The Town may choose to enforce this ordinance by anyone, all, or combination
of the above procedures.

**SECTION 5**

**CHANGES AND AMENDMENTS**
5.1 Changes and Amendments

The Board of Commissioners may, on its own motion, upon recommendation of
the Planning Board, or upon petition by any interested person, amend,
supplement, change, modify or repeal the regulations or district boundaries
established by this ordinance. A petition by an interested person shall be
submitted to the Board of Commissioners through and reviewed by the Planning
Board, which shall consider its merit and make a recommendation to the Board
of Commissioners. In no case shall final action by the Board of Commissioners
be taken on amending, changing, supplementing, modifying or repealing the
regulations or district boundaries hereby established until a legislative hearing has been held by the Board of Commissioners, pursuant to the provisions of this Section, at which parties in interest and citizens shall have an opportunity to be heard.

5.2 Action by the Applicant

A. Initiation of Amendments

1. Proposed changes or amendments to the zoning map may be
initiated by the Board of Commissioners, Planning Board, Town
Administration, Board of Adjustment, or by the owner(s), or his
agent, of property within the area proposed to be changed.
2. Proposed amendments to the text of the ordinance may be initiated
by any interested party.

B. Application

An application for any change or amendment shall contain a description
and/or statement of the present and proposed zoning regulation or district
boundary, and the names and addresses of the owner or owners of the
property involved. Such application shall be filed not later than two
weeks prior to the meeting of the Planning Board at which the application
is to be considered.

C. Fees

A non-refundable fee, according to the Town's fee schedule shall be paid
to the Town of Greenevers for each application for an amendment, to
cover costs of advertising and other administrative expenses involved.

1. Reapplication for Amendment

With the exception of requests originating with the Planning Board, Board
of Adjustment, or Town Administration, an application for any rezoning of
the same property or any application for the same amendment to the
Zoning Ordinance text shall be permitted only once within any six (6)
month period. The Board of Commissioners, by eighty (80) percent
affirmative vote of its total membership, may waive this restriction if it
finds any emergency exists.

5.3 Amending the Ordinance

Hearing with Published Notice. - Before adopting, amending, or repealing any provision of this ordinance, the Board of Commissioners 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 10 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.

No amendment to this ordinance or the Official Zoning Map of the Town of Greenevers 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 Town. For purposes of this prohibition, "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, or (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.

5.4 Notice of Hearing on Proposed Zoning Map Amendments

In addition to the published notice requirements of 5.3 herein, the following shall apply to zoning map amendments:

1. Mailed Notice. - The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this Section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing.

1. Optional Notice for Large-Scale Zoning Map Amendments. - The first-class mail notice required under Subsection (5.4.A) of this Section shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this Subsection. In this instance, the Town may elect to make the mailed notice provided for in Subsection (5.4.A) of this Section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of Subsection (5.4.A) of this Section.

1. Posted Notice. - When a zoning map amendment is proposed, the Town shall 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 map amendment, a posting on each individual parcel is not required but the Town shall post sufficient notices to provide reasonable notice to interested persons.

5.5 Citizen Comments

If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment, to the clerk to the Board of Commissioners at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the Board of Commissioners. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705 or any other statute, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

5.6 Planning Board Review and Comment

1. Zoning Amendments. All proposed amendments to this ordinance or zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the Planning Board within 30 days of referral of the amendment to that board, the Board of Commissioners may act on the amendment without the Planning Board report. The Board of Commissioners are not bound by the recommendations, if any, of the Planning Board.

The following policy guidelines shall be followed by the Planning Board
concerning zoning amendments and no proposed zoning amendment will receive
favorable recommendation unless:

1. The proposal will place all property similarly situated in the area in the
same category, or in appropriate complementary categories.
2. There is convincing demonstration that all uses permitted under the
proposed district classification would be in the general public interest and
not merely in the interest of an individual or small group.
3. There is convincing demonstration that all uses permitted under the
proposed district classification would be appropriate in the area included
in the proposed change. (When a new district designation is assigned,
any use permitted in the district is allowable, so long as it meets district
requirements, and not merely uses which applicants state they intend to
make of the property involved.)
4. There is convincing demonstration that the character of the neighborhood
will not be materially and adversely affected by any use permitted in the
proposed change.
5. The proposed change is in accord with any land use plan and sound
planning principles.

A petition to amend the district boundaries or regulations established by this
ordinance shall be considered by the Planning Board at its next regular monthly
meeting or any called special meeting, provided it has been filed, complete in
form and content, prior to such meeting.

1. Plan Consistency. When conducting a review of proposed zoning text or map amendments pursuant to this Section, the Planning Board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners 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 5.4.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.
2. Separate Board Required. Notwithstanding the authority to assign duties of the Planning Board to the Board of Commissioners as provided by Chapter 160D, the review and comment required by this Section shall not be assigned to the Board of Commissioners and must be performed by a separate board.

5.7 Board of Commissioners Statement

1. When adopting or rejecting any zoning text or map 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 the Board of Commissioners that at the time of action on the amendment the Board of Commissioners 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 Section 5.4(B), the Board of Commissioners 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.
2. Additional Reasonableness Statement for Rezonings. - 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 governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under Section 5.4(B), the Board of Commissioners statement on reasonableness may address the overall rezoning.
3. Single Statement Permissible. - The statement of reasonableness and the plan consistency statement required by this Section may be approved as a single statement.

5.8 Withdrawal of the Application

Any application submitted in accordance with the provisions of Section 5.2 for
the purpose of amending the regulations or district boundaries established by this
ordinance may be withdrawn at any time, but fees are non-refundable.

**SECTION 6**

 BOARD OF ADJUSTMENT

6.1 Establishment of the Board of Adjustment

The Board of Commissioners of the Town of Greenevers is hereby designated as
the Board of Adjustment. The Board of Adjustment shall have all powers and duties as set forth in this ordinance and is permitted by N.C.G.S. §160D-302.

6.2 Procedure of the Board of Adjustment

1. Officers

The Board of Adjustment shall elect a chairman and a vice chairman from

its membership and such other officers as the Board deems best. The Board of Adjustment shall have at least five (5) members.

1. Meetings

Meetings of the Board of Adjustment shall be held pursuant to a schedule adopted pursuant to law. Special or emergency meetings of the Board of Adjustment may be held in accordance with the provisions of Chapter 143 of the North Carolina General Statutes. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be taken, all of which shall be of public record.

Rules of procedure that are consistent with the provisions of this ordinance may be adopted by the Board of Commissioners for the Board of Adjustment. In the absence of action by the Board of Commissioners, the Board of Adjustment is authorized to adopt its own rules of procedure that are consistent with the provisions of Chapter 160D. A copy of any adopted rules of procedure shall be maintained by the Clerk to the Board of Commissioners and shall be posted on the Town’s website.

1. Appeals

Appeals from any decision of the Zoning Administrator may be made in accordance with the provisions of Section 3.5.C herein.

1. Quasi-Judicial Decisions

 The Board of Adjustment shall follow the procedures set forth in Section 16 herein if making a decision or determination for which a quasi-judicial hearing is required.

6.3 Duties

It is the intent of this ordinance that all questions of interpretation and
enforcement shall first be presented to the Zoning Administrator or his authorized
representative, and that such questions shall be presented to the Board of
Adjustment only on an appeal from the decision of the Zoning Administrator or
his authorized representative, and that recourses from the decision of the Board
of Adjustment shall be to the courts as provided in N.C.G.S. §160D-1402.

6.4 Powers and Duties of the Board of Adjustment

1. Administrative Review

To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by the Zoning
Administrator in the enforcement of this ordinance. The Board may,
so long as such action is in conformity with the terms of this
ordinance, reverse or affirm wholly or partly, or may modify the
order, requirement, decision or determination and to that end shall
have powers of the Zoning Administrator from whom appeal is
taken.

1. Variances

To authorize in specific cases variance from the terms
of this ordinance as will not be contrary to the public interest
where, owning to special conditions, a literal enforcement of the
provisions of this ordinance will result in undue hardship, so that
the spirit of this ordinance shall be observed and substantial justice
done.

A charge shall be made to the appellant according to town policy
in order to cover administrative and advertising costs (Section 3).

Findings of Fact. When unnecessary hardships would result from carrying out the strict letter of a requirement of this ordinance, the Board of Adjustment shall vary the requirement of this ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the requirement. It shall not be 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 shall not be regarded as 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.

In considering all proposed variances from this ordinance the Board shall,
before making any finding in a specified case, first determine that the
proposed variance will not constitute any change in the zone shown on
the zoning map and will not impair an adequate supply of light and air
to adjacent property, or materially increase the public danger of fire and
safety, or materially diminish or impair established property values within
the surrounding area, or in any other respect impair the public health,
safety, morals and general welfare.

No permitted use of land in other districts shall be considered grounds for
the issuance of a variance. No change in permitted uses may be authorized by variance. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any expressly or by implication prohibited by the terms of this ordinance in said district.

The concurring vote of four-fifths of the Board of Adjustment shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this Subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under Section 16 shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this ordinance. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 4 of this ordinance.

1. Special Use Permit
2. A special use permit is 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.
3. Application Submittal.All applications for a special use permit shall be submitted in accordance with Section 3 of this ordinance.
4. Upon submission of a completed application, the Zoning Administrator shall review the request and associated site plan for consistency with the requirements of this ordinance.

Upon completion of the review, the Zoning Administrator shall prepare a staff report that reviews the request in accordance with the adopted plans and policies of the Town, and the general requirements of this ordinance.

1. Action by the Board of Adjustment.Following notification and the scheduling of a quasi-judicial hearing in accordance with Section 16 of this ordinance, the Board of Adjustment shall conduct a quasi-judicial hearing on the application in accordance with Section 16 herein.
2. Conditions.The Board of Adjustment may impose additional reasonable and appropriate conditions and safeguards on the special use permit approval in accordance with N.C.G.S. §160D-705(c).
3. Modifications to Approved Special Use Permit.If a proposed modification deviates from the approved special use permit, the applicant shall seek an amendment of the special use permit in accordance with Section 6.4(C).
4. Expiration.A special use permit shall expire one year after the date of issuance if the work authorized by the approval has not been substantially commenced. If after commencement the work or activity allowed under a special use permit is discontinued for a period of 12 months after commencement, the special use permit shall immediately expire. The time periods set out in this Subsection shall be tolled during the pendency of any appeal. No work or activity authorized by a special use permit that has expired shall thereafter be performed until a new development approval has been secured.

6.5 Notice

In addition to any other requirements of this Section regarding the approval or disapproval of an application for a variance or a special use permit, the approvals and disapprovals set forth in this Section shall be communicated by the officer or board making the determination who shall in turn give written notice to the owner of the property that is the subject of the determination and to the party who sought the determination, if different from the owner. The written notice shall 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 a determination if the party seeking the determination is different from the owner.

6.6 Appeals from the Board of Adjustment

Appeals from a decision of the Board of Adjustment may be made pursuant to the provisions of N.C.G.S. §160D-1402.

SECTION 7

GENERAL PROVISIONS

7.1 Zoning Affects All Land and Every Building and Use

No person shall commence or proceed with development without first securing approval from the Town as herein provided.

As defined in N.C.G.S. §160D (12), “development” means any of the following:

(A)  The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

(B)  The excavation, grading, filling, clearing, or alteration of land.

(C)  The subdivision of land as defined in N.C.G.S. §160D-802.

(D)  The initiation or substantial change in the use of land or the intensity of use of land.

7.2 Required Yards Not to be Used by Building

The minimum yards or other open spaces required by this ordinance for each
and every building shall not be encroached upon or considered as meeting the
yard and open space requirements of any other building.

7.3 Relationship of Building to Lot

Every building hereafter erected, moved, or structurally altered, shall be located
on a lot and in no case shall there be more than one principal building and its
customary accessory buildings on the lot except in the case of a designed
complex of professional, residential, or commercial buildings in an appropriate
zoning district, i.e., school campus, shopping center, and industrial park.
Detached garages and carports must meet the same setback requirements as the
principal building, just as if they were attached.

7.4 Street Access

No building shall be erected on a lot which does not abut a street or have
access to a street, provided that in a business district or in a planned project
in a residential district, a building may be erected adjoining a parking area or
dedicated open space which has access to a street used in common with other
lots.

7.5 Reduction of Lot and Yard Areas Prohibited

No yard or lot existing at the time of passage of this ordinance shall be reduced
in size or area below the minimum requirements set forth herein. Yards or lots
created after the effective date of this ordinance shall meet at least these
minimum requirements.

7.6 Business Uses of Manufactured Homes and Trailers

No manufactured home or trailer shall be used in any manner for business or
commercial purposes except when used for a sales office on a manufactured
home sales lot and except in the I Industrial District.

7.7 Landscaping

1. Applicability

Landscaping should be used for: 1) buffering adjoining and conflicting land
uses when used in conjunction with a wall or by itself; 2) landscaping
parking lots with five or more parking spaces; and 3) retaining existing
trees on commercial, office and institutional and industrial developments
that will disturb one acre or more.

1. General Standards

The following general standards should be used for designing landscaping
plans:

1. It is encouraged that vegetation on the site at the time of
development be retained and used as part of the landscape plan.
2. All trees on the site greater than 18" in diameter at 4.5 feet above
ground level should be preserved to the greatest extent possible
and incorporated into the landscaping plan.
3. All new and existing plant materials used in the landscaping plan
should be protected from vehicular movement and material storage.

7.8 Density Credits or Severable Development Rights

Density credits or severable development rights for dedicated rights-of-way shall be provided to a developer pursuant to N.C.G.S. §136-66.10 or §136-66.11. The Town reserves the right to determine whether density credits or severable development rights shall be provided in any particular case.

7.9 Town of Greenevers Comprehensive Plan

The Town of Greenevers Comprehensive Plan sets forth the goals, policies, and programs intended to guide the present and future physical, social, and economic development of the Town. The Comprehensive Plan was established by the Planning Board pursuant to N.C.G.S. §160D-501 and adopted by the Board of Commissioners.

The Comprehensive Plan will be designed to guide and accomplish a coordinated, adjusted, and harmonious development of the Town that will best promote health, safety, morals, and general welfare, as well as efficiency and economy in the development process.

The Comprehensive Plan shall be considered by the Planning Board and the Board of Commissioners when considering proposed amendments to this ordinance. The Comprehensive Plan was created by the Planning Board and approved by the Board of Commissioners. Any future amendment of the Comprehensive Plan shall follow the procedures for consideration and approval of a text amendment, as set forth in Section 5 herein. SECTION 8

ZONING DISTRICTS AND REGULATIONS
8.1 Zoning Districts Established

In order to implement the intent of this ordinance, there are hereby created
zoning districts with the following designations and general purposes:

R-20 Residential District

R-10 Residential District

R-10MHP Residential District

MU Mixed Use District

8.2 District Boundaries

In the creation, by this ordinance, of the respective districts, careful consideration
is given to the peculiar suitability of each and every district for the particular
regulations applied thereto, and the necessary, proper, and comprehensive
groupings and arrangements of various uses and densities of population in
accordance with a well-considered comprehensive plan for the physical
development of the area.

8.3 Zoning Map

The boundaries of the districts are shown upon the map accompanying this
ordinance and made a part hereof, entitled "Zoning Map Greenevers, North
Carolina". The zoning map and all the notations, references and all amendments
thereto, and other information shown thereon is hereby made a part of this
ordinance the same as if such information set forth on the map were all fully
described and set out herein.

The Official Zoning Map shall be maintained for public inspection in the office of the Zoning Administrator. The official Zoning Map shall also be kept on file with the Clerk to the Board of Commissioners. Copies of the Official Zoning Map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the clerk to the Board of Commissioners in accordance with N.C.G.S. §160A-79, shall be admissible into evidence and shall have the same force and effect as would the original map.

8.4 Interpretation of District Boundaries

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

1. 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 similar areas with width are indicated as the
district boundary, the actual district boundary line shall be the center line
of such area.
2. 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.
3. Street Vacation. Where any street or alley is hereafter officially vacated
or abandoned, the regulations applicable to each parcel of abutting
property shall apply to that portion of such street or alley abandonment.
4. 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.

8.5 Interpretation of District Regulations

Regulations for each district shall be enforced and interpreted according to the
following rules:

1. Uses by Right

All listed permitted uses are permitted by right according to the terms of
this ordinance. Special uses are permitted subject to compliance with
the additional regulations specified.

1. Minimum Regulations

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

1. Restrictive Covenants and Deed Restrictions

Unless restrictions established by covenants and deed restrictions running
with the land are prohibited by the provisions of this ordinance, nothing
herein contained shall be construed to render such covenants or
restrictions inoperative.

8.6 R-20 Residential District

This district is established in which the principal use of land is for medium density residential purposes. In promoting the general purposes of this
ordinance, the specific intent of these subsections is:

1. To encourage construction of and the continued use of the land for
residential purposes.
2. To encourage the development of residential neighborhoods that
complement one another in creating an overall balance in the community
by providing for a variety of dwellings suitable to all lifestyles and family
sizes.
3. To prohibit commercial and industrial use of the land and to prohibit any
other use which would substantially interfere with development or
continuation of dwellings in the district.
4. To encourage the discontinuation of existing uses that would not be
permitted as new uses under the provisions of this article.
5. To discourage any use which would generate traffic on minor streets other
than normal traffic to serve residences on those streets.
6. To discourage any use which because of its character or size would create
requirements and costs for public services, such as police and fire
protection, water supply and sewerage, substantially in excess of such
requirements and costs if the district were developed solely for residential
purposes.

Permitted Uses

Accessory uses clearly incidental to any permitted and which will not create a
nuisance or hazard.

Churches.

Day Care Centers.

Dwellings, Single Family Excluding Manufactured Homes.

Family Care Homes

Home Occupations. See Section 9.2.

Manufactured Homes.

Planned Residential Developments as prescribed in Section 16.

Public Utility Substation, Water Tanks & and similar facilities.

Recreation, Public, including parks, playgrounds, ballfields, swimming pools, tennis
courts and picnicking.

Recreation, Private outdoor, including golf courses, tennis courts, swimming pools
and club houses.

Retirement Homes.

Schools, Private, elementary and secondary.
Schools, Public, elementary and secondary.
Temporary Construction Building

Dimensional Requirements

Within the R-20 District as shown on the Zoning Map, all of the following
dimensional requirements shall be complied with:

Minimum required lot area 20,000 square feet

Minimum required lot width 100 feet

Minimum required front yard setback 35 feet

Minimum required side yard:

Provided, however, on corner lots the side yard

adjacent to the street shall not be less than

fifty (50) percent of the front yard required

on lots in rear of such corner lots.

Minimum required rear yard setback 15 feet

Building Height Limits

No building shall exceed thirty-five (35) feet in height.

Location of Accessory Buildings

No accessory building shall be erected in any required front or side yard or
within twenty (20) feet of any street line or within five (5) feet of any lot line
not a street line. An accessory building or use as defined in Section 2, shall
be located at a distance of not less than ten (10) feet from the principal
building and five (5) feet from the rear yard line.

Corner Visibility

On a corner lot, within the area formed by a triangle twenty-five (25) feet from
the intersection of right-of-way lines, there shall be no obstruction to vision
between a height of two (2) feet and a height of ten (10) feet above the
average center line grade of each street.

Signs

See Section 14.
Off Street Parking
See Section 12.

8.7 R-10 Residential District

This District is established to serve essentially the same purposes as the R-15
Residential District while allowing two family and multi-family dwellings and a
slightly higher density.

Permitted Uses

Accessory uses clearly incidental to any permitted and which will not create a
nuisance or hazard.

Cemeteries.

Churches.

Clubs & Lodges, Civic & Fraternal.

Convalescent and Nursing Homes.

Day Care Centers.

Dwellings, Duplexes Excluding Manufactured Homes.

Dwellings, Single Family Excluding Manufactured Homes.

Family Care Homes

Guest Houses and Boarding Homes.

Home Occupations. See Section 9.2.

Manufactured Homes.

Planned Residential Developments as prescribed in Section 16.

Public Utility Substations, Water Tanks and towers and similar facilities.

Recreation, Public, including parks, playgrounds, ballfields, swimming pools, tennis
courts and picnicking.

Recreation, Private outdoor, including golf courses, tennis courts, swimming pools
and club houses.

Retirement Homes.

Schools, Private, elementary and secondary.

Schools, Public, elementary and secondary.

Temporary Construction Buildings.

Tourist Homes.

Dimensional Requirements

Within the R-10 District as shown on the Zoning Map, all of the following
dimensional requirements shall be complied with:

Minimum required lot area for first dwelling unit 10,000 square feet

Minimum required additional lot area for each 3,000 square feet

dwelling unit in excess of one (1)

Minimum required lot width for the first dwelling unit 75 feet

Minimum required lot width for each dwelling unit 20 feet
in excess of one (1)

Minimum required front yard setback 30 feet

Minimum required side yard: Provided, however, on corner lots the side year adjacent to the street shall not be less than fifty (50) percent of the front year required on lots in rear of such corner lots. 8 feet

Minimum required rear yard setback 15 feet

Building Height Limits

No building shall exceed thirty-five (35) feet in height.

Location of Accessory Buildings

No accessory building shall be erected in any required front or side yard within
twenty (20) feet of any street line or within five (5) feet of any lot line not a
street line. An accessory building or use as defined in Section 2, shall be
located at a distance of not less than ten (10) feet from the principal building
and five (5) feet from the rear yard line.

Corner Visibility

On a corner lot, within the area formed by a triangle twenty-five (25) feet from
the intersection of right-of-way lines, there shall be no obstruction to vision
between a height of two (2) feet and a height of ten (10) feet above the
average center line grade of each street.

Signs

See Section 14.

Off-Street Parking

See Section 12.

8.8 R-10 MHP Residential District

This district is established to serve essentially the same purposes as the R-10
Residential District.

Permitted Areas

Accessory uses clearly incidental to any permitted use and which will not create a nuisance or hazard.

Cemeteries.

Churches.

Clubs and Lodges, Civic and Fraternal.

Convalescent and Nursing Homes.

Day Care Centers.

Dwellings, Duplexes excluding manufactured homes.

Dwellings, Single Family excluding manufactured homes.

Family Care Homes.

Guest Houses and Boarding Homes.

Home Occupations. See Section 9.2.

Manufactured Homes.

Manufactured Home Parks as prescribed in Section 15.

Planned Residential Developments as prescribed in Section 16.

Public Utility Substation, Water Tanks and Towers and similar facilities.

Recreation, Private outdoor, including golf courses, tennis courts, swimming pools
and club houses.

Recreation, Public, including parks, playgrounds, ballfields, swimming pools, tennis
courts and picnicking.

Retirement Homes.

Schools, Private, elementary and secondary.

Schools, Public, elementary and secondary.

Temporary Construction Buildings.

Tourist Homes.

Dimensional Requirements

Within the R-10 MHP District as shown on the Zoning Map, all of the following
dimensional requirements shall be complied with:

Minimum required lot area for first dwelling unit 10,000 square feet

Minimum required additional lot area for 3,000 square feet
each dwelling unit in excess if one (1)

Minimum required lot width for the first dwelling unit 60 feet

Minimum required lot width for each dwelling unit 20 feet
in excess of one (1)

Minimum required front yard setback 30 feet

|  |  |
| --- | --- |
| Minimum required side yard:Provided, however, on corner lots the side yardadjacent to the street shall not be less thanfifty (50)percent of the front yard requiredon lots in rear of such corner lots. | 8 feet |

Minimum required rear yard setback 15 feet
Building Height Limits

No building shall exceed thirty-five (35) feet in height

Location of Accessory Buildings

No accessory building shall be erected in any required front or side yard within
twenty (20) feet of any street line or within five (5) feet of any lot line not a
street line. An accessory building or use as defined in Section 2, shall be
located at a distance of not less than ten (10) feet from the principal building
and five (5) feet from the rear yard line.

Corner Visibility

On a corner lot, within the area formed by a triangle twenty-five (25) feet from
the intersection of right-of-way lines, there shall be no obstruction to vision
between a height of two (2) feet and a height of ten (10) feet above the
average center line grade of each street.

Signs

See Section 14.

Off-Street Parking

See Section 12.

8.9 MU Mixed Use District

The MU, Mixed Use District is established as a district which allows for a
mixture of land uses which while different, can also be compatible. The area
which this district covers has an existing land use of predominately residential
with some commercial and office uses mixed in. It is anticipated that more
commercial activity will occur in this district as well as continued residential
activity.

Permitted Uses

Accessory uses clearly incidental to any permitted or conditional use and which
will not create a nuisance or hazard.

Alcoholic Beverage Stores.
Ambulance Services.

Automobile and Other Vehicle Sales and Service.

Automobile Body Shop.

Automobile Service Stations.

Banks and Other Financial Institutions.

Business and Professional Offices including architects, real estate, legal,
engineering firms, accountants, insurance, physicians and dentists.

Building Materials & Supplies.

Cabinet Makers.

Churches.

Clubs and Lodges, Civic and Fraternal.

Community Centers.

Contractor's Offices.

Convalescent and Nursing Homes.

Convenience Stores.

Day Care Centers.

Dry-Cleaning and Laundry.

Dwellings - Duplexes Excluding Manufactured Homes.

Dwellings - Single Family Excluding Manufactured Homes.

Family Care Homes

Farmers or Produce Markets.

Farm Equipment Sales *&* Service.

Feed and Seed Sales.

Greenhouses and Nurseries, Commercial.

Guest Houses and Boarding Homes.

Home Occupations. See Section 9.2.

Hotels and Motels.

Laboratories, including scientific, research, testing and medical.

Libraries and Museums.

Manufactured Homes.

Media Offices and Studios, including newspaper, radio and television.

Medical Facilities and Services, including hospitals, clinics, doctor and dentist
offices.

Off-Street Automobile Parking.

Planned Residential Developments as prescribed in Section 16.

Printing and Publishing Establishments.

Public Buildings, not including repair yards or garages.

Public Buildings, including repair yards or garages.

Public Utility Substations, Water Tanks and Towers and similar facilities.

Recreation, Private indoor, including movie or live theaters, video-arcades, billiard
halls, health spas, gyms, bowling alleys, and skating rinks.

Recreation, Private outdoor, including golf courses, tennis courts, swimming pools,
and club houses.

Recreations, Public, including parks, playgrounds, ballfields, swimming pools, tennis
courts and picnicking.

Restaurants.

Restaurants, Drive In.
Retirement Homes.

Sales, Retail, including baked goods, bicycles, books, cameras, candy, clothing,
cosmetics, drugs, fabric, flowers, furniture, gardening supplies, gifts, groceries,
hardware, hobby supplies, household appliances, ice cream, jewelry, lawn

mowers, magazines, newspapers, notions, office supplies, pets, radios, shoes,
televisions, toys, watches and similar goods.

Schools, Fine Arts, including Art, music, dance and drama.
Schools, Private, elementary and secondary.

Schools, Trade and Professional, including beauty and barber schools, nursing
schools and business schools.

Services, including beauty and barber shops, car washes, caterers, funeral
homes, locksmiths, gunsmiths, pawnshops, photographers, reducing salons, and
repair shops for shoes, small appliances and watches.

Taxi Stands

Temporary Construction Buildings.

Tourist Homes.

Upholstery Shops.

Dimensional Requirements

Within the MU Mixed Use District as shown on the Zoning Map, all of the
following dimensional requirements shall be complied with:

Minimum required lot area for first dwelling unit 10,000 square feet

Minimum required additional lot area for each 3,000 square feet
dwelling unit in excess of one (1)

Minimum required lot width for the first dwelling unit 75 feet

Minimum required lot width for each dwelling unit
in excess of one (1)

30 feet

8 feet

20 feet

Minimum required front yard setback

Minimum required side yard:

Provided, however, on corner lots the side yard

adjacent to the street shall not be less than

fifty (50) percent of the front yard required

on lots in rear of such corner lots.

Minimum required rear yard setback 15 feet
Building Height Limits

No building shall exceed thirty-five (35) feet in height.

Location of Accessory Buildings

No accessory building shall be erected in any required front or side yard within
twenty (20) feet of any street line or within five (5) feet of any lot line not a
street line. M accessory building or use as defined in Section 2, shall be
located at a distance of not less than ten (10) feet from the principal building
and five (5) feet from the rear yard line.

Corner Visibility

On a corner lot, within the area formed by a triangle twenty-five (25) feet from
the intersection of right-of-way lines, there shall be no obstruction to vision
between a height of two (2) feet and a height of ten (10) feet above the
average center line grade of each street.

Signs

See Section 14.

Off Street Parking

See Section 12.

8.10 List of Permitted and Conditional Uses

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Uses | R-20 | R-10 | R-10 MHP | MU |
| Accessory uses clearly incidental to any permitted or conditional use and which will not create a nuisance or hazard | P | P | P | P |
| Alcoholic Beverage Stores |   |   |   | P |
| Ambulance Services |   |   |   | P |
| Automobile body shops |   |   |   | P |
| Automobile junk yards and similar used material industries |   |   |   |   |
| Automobile and other vehicle sales and service |   |   |   | P |
| Automobile service stations |   |   |   | P |
| Bakeries, Industrial, including discount retail sales |   |   |   |   |
| Banks and Financial Institutions |   |   |   | p |
| Building Materials and Supplies |   |   |   | p |
| Bus Stations |   |   |   |   |
| Business and Professional Offices including architects, real estate, legal, engineering firms,accountants, insurance, physicians and dentists |   |   |   | P |
| Cabinet Makers . |   |   |   | P |
| Campgrounds |   |   |   |   |
| Carpentry Shops |   |   |   |   |
| Cement Plant |   |   |   |   |
| Cemeteries |   | P | P |   |
| Churches | p | P | P | P |
| Clubs and Lodges, Civic and Fraternal |   | P | P | P |
| Community Centers |   |   |   | P |
| Contractor's Office |   |   |   | P |
| Convalescent and Nursing Homes |   | p | P | P |
| Convenience Stores |   |   |   | P |

8.10 List of Permitted and Conditional Uses



8.10 List of Permitted and Conditional Uses

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Uses | R-20 | R-10 | R-10 MHP | MU |
| Manufactured Home Parks |   |   | P |   |
| Manufactured Home Sales |   |   |   |   |
| Motor Freight Terminals and Truck Rentals |   |   |   |   |
| Moving and Storage Companies |   |   |   |   |
| Off-Street Automobile Parking |   |   |   | P |
| Planned Residential Developments | P | P | P | P |
| Public Buildings, not including repair yards or garages |   |   |   | P |
| Public Buildings, including repair yards or garages |   |   |   | P |
| Public Utility Storage or Service Yards |   |   |   | P |
| Public Utility Substations, Water Tanks and Towers and similar facilities | P | P | P | P |
| Printing and Publishing Establishments |   |   |   | P |
| Recreation, private indoor, including movie or live theaters, video-arcades, billiard- halls, health spas, gyms, bowling alleys and skating rinks |   |   |   | P |
| Recreation, private outdoor, including golfcourses, tennis courts, swimming pools and club houses | P | P | P | P |
| Recreation, public including parks, playgrounds, ballfields, swimming pools, tennis courts and picnicking | p | p | p | P |
| Restaurants |   |   |   | P |
| Restaurants - Drive In |   |   |   | P |
| Retirement Homes | P | P | P | P |
| Sales, Retail, including baked goods, bicycles, books, cameras, candy, clothing, cosmetics, drugs, fabric' flowers, furniture, gardening supplies, gifts, groceries, hardware, hobby supplies, household appliances, ice cream, jewelry, lawn mowers, magazines, newspapers, notions, office supplies, pets, radios, shoes, televisions, toys, watches and similar goods |   |   |   | P |

8.10 List of Permitted and Conditional Uses

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Uses | R-20 | R-10 | R-10 MHP | MU |
| Sales, Wholesale |   |   |   |   |
| Schools, Fine Arts, including art, music, dance and drama |   |   |   | P |
| Schools, Private, elementary and secondary | P | P | P | P |
| Schools, Public, elementary and secondary | P | P | P | P |
| Schools, Trade and Professional including beauty and barber schools, nursing schools and business schools |   |   |   | P |
| Services, including beauty and barber shops, car washes, caterers, funeral homes, locksmiths, gunsmiths, pawnshops, photographers, reducing salons and repair shops for shoes, small appliances and watches |   |   |   | P |
| Taxi Stands |   |   |   | P |
| Temporary Construction Buildings | P | P | P | P |
| Tobacco Warehouses |   |   |   |   |
| Tourist Homes |   | P | P | P |
| Upholstery Shops |   |   |   | P |
| Vehicle and Farm Equipment Rental and Leasing |   |   |   |   |
| Warehouses |   |   |   |   |
| Waste Disposal Facilities, including treatment plants, incinerators and landfills |   |   |   |   |
| Water Treatment Plants |   |   |   |   |
| Other Manufacturing, Processing, Storage or Commercial Uses similar to those listed as permitted in the I Industrial District and found not to be obnoxious, unhealthful or offensive by reason of the potential emission or transmission of noise, vibration, smoke, dust, odors or toxic or noxious matter or glare orheat Also, where there is no unusual fire, explosion or safety hazard |   |   |   |   |

SECTION 9

TEMPORARY AND ACCESSORY USES

9.1 Temporary Uses

A. Mobile Offices and Modular Units

Mobile offices and modular units may be used on a temporary basis for
such purposes as construction offices, blood mobiles, book mobiles,
traveling museums, churches and governmental uses. However, such uses
must obtain a temporary occupancy permit from the Zoning Administrator
if the use is to last more than forty-eight (48) hours at one site.

Mobile offices and modular units may also be used for other office or
business purposes in cases where the permanent structure has been
destroyed through no fault of the owner or tenant. A temporary
occupancy permit must be obtained before the use of the mobile office
or modular unit is initiated. This occupancy permit shall be valid for a
specified period of time while reconstruction takes place not to exceed
twelve (12) months and may be renewed no more than once.

9.2 Accessory Uses

A. Home Occupations

Home occupations are permitted only as an accessory use. Provided
further home occupations shall be permitted subject to the following
limitations:

1. No display of products shall be visible from the street
2. No mechanical equipment shall be installed or used except such
that is normally used for domestic, professional, or hobby purposes
and which does not cause noise or other interference in radio and
television reception;
3. Not over twenty-five (25) percent of the total actual floor area or
five hundred (500) square feet, whichever is less, shall be used for
a home occupation;
4. No more than one person not residing in said dwelling may be
engaged in the home occupation; and
5. Traffic generation shall not exceed the traffic volumes generated by
nearby residents.
6. Accessory buildings may be used in conjunction with a home
occupation. No more than four hundred (400) square feet of an
accessory building may be devoted to such use.

B. Swimming Pools

All public, commercial, or private outdoor swimming pools of three (3) feet
or more in depth, either above ground or below ground, and of either
permanent or temporary construction shall meet the following requirements
in addition to setbacks and other requirements specified elsewhere:

1. That the setback for an above ground swimming pool from any lot
line equals the required setback for accessory structures in the
district in which it is located plus one (I) foot for each foot over
five (5) of pool height.
2. That a fence be erected to a minimum height of four (4) feet to
completely enclose all sides of the pool not bounded by a building.
A gate of equal height shall be installed and securely fastened when
the pool is not in use.
3. That all mechanical equipment be located a minimum of five (5)
feet from any property line.

C. Dwellings As Accessory Uses

Dwellings may be accessory uses in residential districts if located inside
the principal home or if detached as a garage apartment and only if used
as a residence by household servants or relatives and no rent is charged.
Mobile homes shall not be used as accessory residences in any residential
district.

D. Fences and Walls

Ornamental fences and walls not over four (4) feet high may project into
or may enclose any front or side yard, and fences or walls enclosing rear
yards may be six (6) feet high. An open fence or wall through which
clear vision is possible from one side to the other on a horizontal plane
and such openings occupy fifty (50) percent or more of the area of the
fence or wall, may be erected in the rear yard to a maximum height of
ten (10) feet in nonresidential districts.

E. Satellite Dish Antennas

1)General Requirements.

1. A building permit is required when installing, moving, or
substantially constructing or reconstructing a dish antenna over
~~four (4)~~ feet in diameter.

Ten (10)

1. A dish antenna must be installed in compliance with the
manufacturers specifications at a minimum.
2. In all residential districts dish antennas must be permanently
installed on the ground and shall not exceed twelve (12) feet
in diameter.

In business and industrial districts, dish antennas may either
be installed on the ground or on the roof of the building.
If installed on the roof, the dish shall not be larger than
twelve (12) feet in diameter, shall not project higher than ten
(10) feet above the maximum building height of the zoning
district or more than one third (1/3) the actual building
height above the roof, whichever is less, shall be set back from the front and sides of the building at least eighteen (18)
feet and shall not be used for any advertising purposes. A
dish antenna may be installed on the top of another part of
the building which is lower than the roof, and such as a
balcony or parking deck only if such location is at the rear
or side of the building and all other requirements are met.

d)

e) A dish antenna may be attached to an accessory building
which is permanently secured to the ground, but may not be
attached to the principal building except as provided for in
1(d) above.

If a dish antenna is repainted, the only permissible colors are
the original color used by the manufacturer, off-white, pastel
beige, grey, or pastel grey-green. The paint must have a dull
(non-glossy) finish and no patterns, lettering, or numerals shall
be permitted on either side of the dish surface.

No dish antenna shall be installed in any public right-of-way
or in any drainage or utility easement.

2) Location in Yards.

1. A dish antenna shall be installed in the rear yard only, in all
districts except as provided for in 1(a) above and in 2(b)
below.
2. In business and industrial districts only, a dealer selling dish
antennas may have a maximum of one (1) such antenna
installed in the front or side yard for display purposes
providing all other requirements are met. If a dealer displays
a dish antenna in front or side yard, his permissible sign
area shall be reduced by one half (1/2).

3) Setback Requirements.

a) The minimum required setback for dish antennas, from the
side lot line, shall be the same as for the principal building
except on corner lots, on the side abutting the street, the
minimum required setback shall be the same as the required
front yard setback along that street.

b) The minimum required setback for dish antennas from the rear lot line shall be (6) feet or the same as accessory buildings, whichever is greater, but in no case shall any part of the antenna come closer than one (1) foot to the property line.

1. In districts where there are no side or rear yard requirements,
a minimum setback of six (6) feet from the side and rear lot
lines shall be required of dish antennas, but in no case shall
any part of the antenna come closer than one (1) foot to the
property line.
2. In all cases no dish antenna shall be located within fifteen
(15) feet of any street right-of-way.

4) Maximum Height Requirements.

1. In all residential districts the maximum height of dish
antennas shall be fifteen (15) feet or the height of the
principal building, whichever is less.
2. In business and industrial districts, the maximum height of
dish antennas installed on the ground shall be twenty (20)
feet. Dish antennas mounted on the roof of a building shall
not project higher than ten (10) feet above the maximum
building height of the district or more than one third (1/3)
the actual building height above the room, whichever is less.

5) Buffering Requirements.

In business and industrial districts, dish antennas must be
screened from view from abutting residential property and
residential streets. Dish antennas abutting residential property
& residential streets shall be surrounded on all sides with any
one or combinations of evergreen vegetation, landscaped earth
berm, or architectural features such as fences so that the
view of the lower one half (1/2) of the dish area is
restricted. If evergreen vegetation is used, a species and size
may be planted which can be expected to screen the
required area within two (2) years of normal growth. Any
screening vegetation which dies must be replaced.

SECTION 10

EXCEPTIONS AND MODIFICATIONS

The dimensional requirements of this ordinance shall be complied with in all
respects except that under the specific conditions as outlined in this Section or in other provisions of this ordinance the requirements may be waived or modified as stated through the procedures identified herein; and in addition, the dimensional requirements may be changed or modified by the Board of Adjustment as provided for in Section 6.

10.1 Front Yard Modifications In Residential Districts

Where fifty (50) percent or more of the lots in any block or within 600 feet on
both sides of the proposed structure, whichever is less, is composed of lots
which have been developed with buildings whose front yards are less than the
minimum required front yard as specified in the Dimensional Requirements, the
required front yard shall be the average depth of front yards of the developed
lots, or the minimum front yard as specified in Section 8, whichever is less.
Provided further that if any lot lies between two buildings which are less than
100 feet apart, the required front yard for such lot shall be no greater than the
average front yard of the two adjoining lots or twenty-five (25) feet, whichever
is more.

When fifty (50) percent or more of the lots in any block or within 600 feet on
both sides of the proposed structure, whichever is less, is composed of lots with
buildings which front yards are greater than the minimum required front yard as
specified in Section 8, the required front yard shall be the average depth of front
yards of the developed lots. Provided further that if any lot lies between two
buildings which are less than 100 feet apart, the required front yard for such
lot shall be no less than the average front yard of the two adjoining lots.

10.2 Other Yard Modifications

Where through lots occur, the required front yard shall be provided on both
streets. Architectural features such as open or enclosed fire escapes, steps,
outside stairways, balconies and similar features, and uncovered porches may not
project more than four (4) feet into any required yard. Sills, cornices, eaves,
gutters, buttresses, ornamental features, and similar items may not project into
any required yard more than thirty (30) inches.

10.3 Height Limit Exceptions

Church steeples, chimneys, belfries, water tanks or towers, fire towers, flag poles,
spires, wireless and broadcasting towers, monuments, cupolas, domes, antennas
(except satellite dish antennas), and similar structures and necessary mechanical
appurtenances are not subject to the height limit regulations contained in this ordinance. However; water tanks or towers, fire towers, wireless and
broadcasting towers, and antennas over thirty-five (35) feet in height shall be set
back from all property lines at the rates of one (1) foot for each two (2) foot
rise in height in addition to the required setback.

10.4 Retaining Walls

The setback and yard requirements of this ordinance shall not apply to a
retaining wall not more than three (3) feet high, as measured from the lowest
ground elevation to the top of the wall. The Board of Adjustment may permit
a retaining wall greater than three (3) feet in height in accordance with the provisions of Section 6.4.B herein.

10.5 Lot Size Without All Public Utilities

1. All lots where not served by public sewer and water shall be at least
20,000 square feet in area, not less than 100 feet wide at the building
line nor less than 150 feet deep.
2. All lots served by one (1) but not both public water or public sewer shall
be at least 8,000 square feet in area, not less than 80 feet wide at the
building line, nor less than 110 feet deep.

**SECTION 11**

NONCONFORMING USES

Upon the effective date of this ordinance, October\_\_\_\_\_, 1992, and any amendment thereto, pre-existing structures or lots of record and existing and lawful uses of any building or land which do not meet the minimum requirements of this ordinance for the district in which they are located or which would be prohibited as new development in the district in which they are located shall be considered as nonconforming. It is the intent of this ordinance to permit these nonconforming uses to continue until they are removed, discontinued, or destroyed, but not to encourage such continued use, and to prohibit the expansion of any nonconformance.

11.1 Definitions

A. Nonconforming Situation

A situation that occurs when, on the effective date of this ordinance or
any amendment to it, an existing lot or structure or use of an existing lot
or structure does not conform to one or more of the regulations applicable
to the district in which the lot or structure is located. Among other
possibilities, a nonconforming situation may arise because a lot does not
meet minimum acreage requirements, because structures do not satisfy
maximum height or minimum floor-space limitations, because the
relationship between existing buildings and the land (in such matters as
density and setback requirements) is not in conformity with the ordinance,
or because land or buildings are used for purposes made unlawful by the
ordinance.

1. Nonconforming Use

A nonconforming situation that occurs when property is used for a
purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)

1. Dimensional Nonconformity

A nonconforming situation that occurs when the height, size, or minimum
floor space of a structure of the relationship between an existing building
or buildings and other buildings or lot lines does not conform to the
regulations applicable to the district in which the property is located.

1. Nonconforming Lot

A lot existing at the effective date of this ordinance or any amendment to
it (and not created for the purpose of evading the restrictions of this
ordinance) that cannot meet the minimum area or lot-width requirements
of the district in which the lot is located.

1. Nonconforming Project

Any structure, development, or undertaking that is incomplete at the
effective date of this ordinance and would be inconsistent with any
regulation applicable to the district in which it is located if completed as
proposed or planned.

1. Expenditure

A sum of money paid out in return for some benefit or to fulfill some
obligation. Whenever the term is used hereafter, it also includes binding,
contractual commitments to make future expenditures, as well as any
other substantial changes in position.

11.2 Substandard Lots of Record and Structures

Any lot of record or structure existing at the time of the adoption of this
ordinance, which has dimensions which do not meet the requirements of this
ordinance, shall be subject to the following exceptions and modifications:

|  |  |
| --- | --- |
|  | 1. Adjoining Lots

When two or more adjoining lots with continuous frontage are in one ownership at any time after the adoption of this ordinance, and such lots individually are less than the minimum width required in the district in which they are located, then such group of lots shall be considered as a single lot or several lots of minimum permitted area and width for the district in which located. |

1. Lot Not Meeting Minimum Lot Size Requirements

Except as set forth in the above, in any district in which single family
dwellings are permitted, any lot of record existing at the time of the
adoption of these regulations which has dimensions which are less than
required by these regulations may be used as a building site for a single
family dwelling providing the lot area and width are not less than eighty
(80) percent of the requirements in the district. If the lot is smaller or
narrower, a variance may be requested of the Board of Adjustment pursuant to the provisions of Section 6.4.B herein.

1. Yard Requirements Modified

Except as set forth in (A) above, where a lot has width or depth less
than that required in the district to which it is located, a yard
modification may be permitted with a variance granted by the Board of
Adjustment pursuant to the provisions of Section 6.4.B herein.

11.3 Extension or Enlargement of Nonconforming Situations

1. Except as specifically provided in this subsection, it shall be unlawful for
any person to engage in any activity that causes an increase in the extent
of nonconformity of a nonconforming situation.
2. Subject to paragraph (D) of this subsection, a nonconforming use may be
extended throughout any portion of a completed building that, when the
use was made nonconforming by this ordinance, was manifestly designed
or arranged to accommodate such use. However, subject to subsection
11.4 of this section a nonconforming use may not be extended to
additional buildings or to land outside the original building.
3. A nonconforming use of open land may not be extended to cover more
land than was occupied by that use when it became nonconforming,
except that a use that involves the removal of natural materials from the
lot (e.g., a quarry) may be expanded to the boundaries of the lot where
the use was established at the time it became nonconforming, if 10 percent or more of the earth products had already been removed at the
effective date of this ordinance.

D. The volume, intensity, or frequency of use of property where a
nonconforming situation exists may be increased and the equipment or
processes used at a location where a nonconforming situation exists may
be changed if these or similar changes amount only to changes in the
degree of activity rather than changes in kind and no violations of other
paragraphs of this subsection occur.

E. Physical alteration of structures or the placement of new structures on
open land are unlawful if they result in:

1. An increase in the total amount of space devoted to a
nonconforming use;
2. Greater nonconformity with respect to dimensional restrictions such
as yard requirements, height limitations, or density requirements; or
3. The enclosure of previously unenclosed area, even though those
areas were previously used in connection with the nonconforming
activity. An area is unenclosed unless at least 75 percent of the
perimeter of the area is marked by a permanently constructed wall
or fence.

F. Minor repairs to and routine maintenance of property where nonconforming

situations exist are permitted and encouraged.

1. Any structure used for single-family residential purposes and maintained as
a nonconforming use may be enlarged or replaced with a similar structure
of a larger size, so long as the replacement does not create new
nonconformities or increase the extent of existing nonconformities with
respect to yard size and setback requirements. In particular, a mobile
home may be replaced with a larger mobile home, a 'single-wide" mobile
home may be replaced with a "double-wide." This paragraph is subject
to the limitations stated in subsection 11.6 on abandonment and
discontinuance of nonconforming situations.

H. A structure that is nonconforming in any respect or a structure that is
used in a nonconforming manner may be reconstructed or replaced if
partially or totally destroyed, subject to the following restrictions:

1. The total amount of space devoted to a nonconforming use may not
be increased, except that a larger, single-family residential structure
may be constructed in place of a smaller one, a larger mobile home
intended for residential use may replace a smaller one, and a
mobile home may be replaced by a frame structure;
2. The reconstructed building may not be more nonconforming with
respect to dimensional restrictions such as yard requirements,
height limitations, or density requirements, and such dimensional
nonconformities must be eliminated if that can reasonably be
accomplished without unduly burdening the reconstruction process
or limiting the right to continue the nonconforming use of such
building;
3. The reconstructed building may not enclose areas that were
previously unenclosed, even though those areas were used in
connection with the nonconforming activity. An area is unenclosed
unless at least 75 per cent or more of the perimeter of the area
is marked by a permanently constructed wall or fence.
4. A building permit is obtained from the Building Inspector within one
(1) year from the time the damage or destruction took place.

11.4 Completion of Nonconforming Projects

A. The construction or erection of any nonconforming project may be
completed provided all construction is done pursuant to a valid building
permit.

11.5 Change in Kind of Nonconforming Use

1. A nonconforming use may be changed to a conforming use. Thereafter,
the property may not revert to a nonconforming use.
2. A nonconforming use may be changed to another nonconforming use only
in accordance with approval issued by the Board of Adjustment.

The Board of Adjustment shall issue such approval if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the approval is applied for. If a nonconforming use
is changed to any use other than aconforming use without obtaining
approval pursuant to this paragraph, that change shall constitute a
discontinuance of the nonconforming use, and the property involved may
thereafter be used only for conforming purposes.

A nonconforming accessory use or building may only be changed to
another nonconforming accessory use or building in accordance with
approval issued by the Board of Adjustment.

C. If a nonconforming use and a conforming use, or any combination of a
conforming and nonconforming uses, or any combination of nonconforming
uses exist in one (1) lot, the use made of the property may be changed
substantially (except to a conforming use), only in accordance with
approval issued by the Board of Adjustment. The Board shall issue such
approval if it finds that the proposed use will be more compatible with
the surrounding neighborhood than the use of combination of uses in
operation at the time the approval is applied for.

11.6 Abandonment and Discontinuance of Nonconforming Situations

1. When a nonconforming use is discontinued for a consecutive period of one
hundred eighty (180) days, the property involved may thereafter be used
only for conforming purposes.
2. For purposes of determining whether a right to continue a non­
conforming situation is lost pursuant to this Section, all of the buildings,
activities and operations maintained on a lot are generally to be considered
as a whole. For example, the failure to rent one (1) apartment in a
nonconforming apartment building or one (1) space in a nonconforming
mobile home park for one hundred eighty (180) days shall not result in the loss of the right to rent that apartment or space thereafter so long
as the apartment building or mobile home park as a whole is continuously
maintained. But if a nonconforming use is maintained in conjunction with
a conforming use, discontinuance of a nonconforming use for the required
period shall terminate the right to maintain it thereafter. And so, if a
mobile home is used as a nonconforming use on residential lot where a
conforming residential structure also is located, removal of that mobile
home for one hundred eighty (180) days terminates the right to replace
it.

**SECTION 12**

OFF-STREET LOADING AND PARKING

At the time of the erection of any building, or at the time any principal building
is enlarged or increased in capacity by adding dwelling units, guest rooms, seats
or floor area, or before conversion from one type of use or occupancy to
another, permanent off-street parking space shall be provided in the amount
specified by this Section. Such parking space may be provided in a parking
garage or properly graded open space. Refer to Volume I-C, North Carolina State
Building Code for Handicapped Parking requirements.

12.1 Certification of Minimum Parking Requirements

Each application for a Zoning Permit or a Certificate of Occupancy shall include
information as to the location and dimensions of off-street parking and the means
of ingress and egress to such space. This information shall be in sufficient detail
to enable the Zoning Administrator to determine whether the requirements of
this Section are met.

12.2 Combination of Required Parking Space

The required parking space for any number of separate uses may be combined
in one (1) lot but the required space assigned to one (1) use may not be
assigned to another use, except that one-half (1/2) of the parking space required
for churches whose peak attendance will be at night or on Sundays may be
assigned to a use which will be closed at night and on Sundays.

12.3 Requirements for Parking Lots

Where parking lots for more than five (5) cars are permitted or required, the
following provisions shall be complied with:

1. The lot may be used only for parking and not for any type of loading,
sales, dead storage, repair work, dismantling or servicing, but shall not
preclude convention exhibits or parking of rental vehicles.
2. All entrances, exits, barricades at sidewalks, and drainage plans shall be
approved and constructed before occupancy.
3. A strip of land five (5) feet wide adjoining any street line or any lot zoned
for residential uses shall be reserved as open space, guarded with wheel
bumpers and planted in grass and/or shrubs or trees.
4. Only one (1) entrance and one (1) exit sign no larger than two (2)
square feet prescribing parking regulations may be erected at each
entrance or exit.
5. Required off-street parking areas including drives and access ways shall be
surfaced with an all-weather surface material.
6. Where parking or loading areas are provided adjacent to a public street,
ingress and egress thereto shall be made only through driveways not
exceeding twenty-five (25) feet in width at the curb line of said street,
except where the Zoning Administrator finds that a greater width is
necessary to accommodate the vehicles customarily using the driveway.

1. Where two or more driveways are located on the same lot, other than a
manufactured home park, the minimum distance between such drives shall
be thirty feet or one third (1/3) of the lot frontage, whichever is greater.
2. No driveway shall be located closer than twenty-five (25) feet to any street
intersection.
3. Any lighting of parking areas shall be shielded so as to cast no light upon
adjacent properties and streets.

12.4 Manufactured Home Parking and Storing

It shall be unlawful to park or otherwise store for any purpose whatsoever any
manufactured home within any zoning district except as follows:

1. At a safe, lawful, and unobstructed location on a street, alley, highway, or
other public place, provided that the manufactured home shall not be
parked overnight.
2. On any other lot or plot provided that a storing permit for any
manufactured home to be parked or stored for longer than seven (7) days
shall be obtained from the Zoning Administrator.

12.5 Vehicle Storage

1. Residential Districts

Only vehicles intended for personal use shall be parked or stored on any
property zoned for residential use. No storage of commercial inventory
whatsoever shall be permitted and no inoperative vehicle shall be
permitted to be parked or stored out of doors longer than thirty (30) days.
Commercial trucks or vans driven home by employees must be parked in
the driveway and never on the street.

1. Business and Industrial Districts

Customer and employee parking is permitted along with the parking and
storing of governmental or commercial vehicles, in any business or

industrial district. Inoperative vehicles shall only be permitted to be
parked or stored while undergoing repairs at a commercial garage or
automobile service station or if stored in an approved junk or wrecking
yard in an industrial district.

12.6 Minimum Parking Requirements

The number of off-street parking spaces required by this Section shall be
provided on the same lot with the principal use and the required number of
off-street parking spaces specified for each use shall be considered as the
absolute minimum. For purposes of this ordinance an off-street parking space
shall be no less than one hundred sixty (160) square feet in area plus adequate
ingress and egress provided for each off-street parking space.

 Land Uses Required Parking

Air, motor and rail freight terminals

Assembly, Places of, funeral homes,
and stadiums

Automobile Service Stations

Barber Shops

Beauty Shops

Bowling Alleys

Churches

Dwellings

Home Occupations

Industrial Uses

Two (2) parking spaces for each
three (3) employees, plus one (1)
space for each vehicle used in the
operation.

One (1) parking space for each four
(4) seats in each assembly room.

Five (5) parking spaces for each
service bay plus one (1) parking
space for each employee.

Two parking spaces for each service
chair plus one (1) additional parking
space for each employee.

One (1) parking space for each
service chair plus one (1) additional
parking space for each employee.

Two (2) parking spaces for each alley
plus one (1) space for each 300
square feet of gross floor space for
affiliated uses such as restaurants,
bars, and the like.

One (1) parking space for every 4
seats in the sanctuary.

Two (2) parking spacer per dwelling
manufactured homes unit.

One (1) parking space per home
occupation in addition to residence
requirements.

Three (3) parking spaces for each
four (4) employees on the largest
shift plus spaces for vehicles used in
the operation.

Land Uses

Libraries

Lodging Facilities, including hotels,
motels, additional rooming houses,
tourist homes, and boarding houses.

Medical Facilities and Special Care
homes, including retirement homes,

hospitals, sanitariums, nursing
convalescent homes.

Medical Offices and clinics

Offices

Public Buildings

Recreational Facilities not otherwise
listed (without facilities for spectators)

Recreational Facilities not otherwise
listed (with facilities for spectators)

Restaurants, Cafeterias, Private Clubs
and Lounges

Retail Uses, Financial, Institutions,
Civic and Fraternal Clubs, and
Community Centers

Required Parking

One (1) parking space for each four
(4) seats provided for patron use.

One (1) parking space for each room
to be rented plus one (1) parking
space for each two (2) employees,
plus additional parking as may be
required for any commercial or
business uses.

One (1) parking space for each five
patients or residents at full capacity
plus one (1) parking space for each
employee on the largest shift.

Four (4) parking spaces for each
doctor plus one (1) parking space for
each employee.

One (1) parking space for each three
hundred (300) square feet of gross
floor space.

Two (2) parking spaces for each
employee plus one (1) parking space
for each five (5) seats in each
assembly room.

One (1) parking space for each
employee plus one (1) parking space
for every two participants at full
capacity.

Same as for recreational facilities
without spectators plus one (1)
parking space for every four (4)
spectator seats.

One (1) parking space for each four
(4) seats at tables, and one (1)
parking space for each two (2) seats
at counters or bars plus one (1)
parking space for each two
employees.

One (1) parking space for each two
hundred (200) square feet of gross
floor area.

Land Uses Required Parking

Schools, Elementary and Junior High One (1) parking space for each

or Middle Schools classroom and administrative office,

plus one (1) parking space for each
employee and one (1) large space for
each bus.

Schools, Senior High One (1) parking space for each ten

(10) students, plus one (1) parking
space for each employee, plus one
(1) large space for each bus.

Schools, Colleges, Technical and One (1) parking space for every six

Trade (6) students, based upon the

maximum number of students
attending classes at any one time,
plus one (1) space for each
employee.

Services not otherwise listed One (1) parking space for each

employee plus one (1) parking space
for each client at full capacity.

Shopping Centers Five (5) parking spaces for each

1,000 square feet of gross leasable
floor space in the center.

Theaters, Indoor One (1) parking space for each four

1. seats up to 400 seats, plus one
(1) space for each six (6) seats
above 400.

Vehicle, Manufactured Home, and Two (2) parking spaces for each

Farm Equipment Sales and Service employee in sales plus one (1) for

each additional employee, plus five

1. spaces for each service bay, plus
spaces for inventory.

Video arcades One (1) parking space for every four

(4) game machines plus one space
for *each* employee.

Warehouses and Other Storage One Parking space for each employee

Services plus one (1) space for each vehicle

used in the operation.

12.7 Off-Street Loading Purpose and General Requirements

Off-street loading requirements are established in order to ensure the proper and
uniform development of loading areas throughout the Town, torelieve traffic
congestion in the streets, and to minimize any detrimental effects of off-street
loading areas on adjacent properties.

Each application for a Zoning Permit or Certificate of Occupancy shall include
plans and other information of sufficient detail to enable the Zoning Administrator
to determine whether or not the requirements of this Section have been met.
Plans for off-street loading areas shall include information as to:

1. The location and dimensions of driveway entrances, access aisles and
loading spaces.
2. The provision for vehicular and pedestrian circulation.
3. The location of sidewalks and curbs.

The Zoning Permit or Certificate of Occupancy for the construction or use of any
building, structure or land where off-street loading space is required shall be
withheld by the Zoning Administrator until the provisions of this Section have
been met. If at any time such compliance ceases, any Certificate of Occupancy
which shall have been issued for the use of the property shall immediately
become void and of no effect.

12.8 Minimum Loading Requirements

Off-street loading shall be provided and maintained as specified in the following
schedule:

1. For uses containing a gross floor area of less than 20,000 square feet,
each off-street loading space shall have minimum dimensions of fifteen (15)
feet in width and thirty (30) feet in length.
2. For uses containing a gross floor area of 20,000 square feet or more, each
off-street loading space shall be fifteen (15) feet in width and forty-five
(45) feet in length as a minimum.
3. Uses which normally handle large quantities of goods, including, but not
limited to, industrial plants, wholesale establishments, storage warehouses,
freight terminals, hospitals or sanitariums, and retail sales establishments
shall provide off-street loading facilities in the following amounts:

Gross Floor Area Minimum Number of

(Square Feet) Spaces Required

5,000 - 20,000 1

20,001 - 50,000 2

50,001 - 80,000 3

80,001 - 125,000 4

For each additional 45,000 1 additional

D. Uses which do not handle large quantities of goods, including, but not
limited to, office buildings, restaurants, funeral homes, hotels, motels,
apartment buildings, and places of public assembly, shall provide off-street
loading facilities in the following amounts:

Gross Floor Area Minimum Number of

(Square Feet) Spaces Required

 5,000 - 80,000 1

 80,001 - 200,000 2

200,001 - 320,000 3

320,001 - 500,000 4

For each additional 180,000 1 additional

**SECTION 13**
BUFFERS

Each application for a building permit or Certificate of Occupancy shall include,
for those use districts where a buffer is required, information as to the location
and type of buffer to be erected. Once erected, a buffer shall be properly maintained. The construction and maintenance of a buffer shall be the
responsibility of the land owner or developer.

A buffer shall be a six (6) foot high attractive blind barrier which shall not
permit the passage of light from one side to the other and which will also
damper noise where needed. Such barrier may be a decorative masonry wall,
a wood basket weave type fence, an open type fence with evergreen vegetation
planted facing the adjoining property, or the like. No fence at all is necessary
where evergreen vegetation will be of a thickness and variety discouraging people
from pushing their way through. Where evergreens are used, a species shall
be planted which will normally be expected to reach a height of six (6) feet in
three (3) years time.

**SECTION 14**SIGNS

14.1 Signs

No sign shall be larger than one hundred (100) square feet in size or more than
thirty (30) feet in height. No business or industrial use shall have more than
two (2) signs larger than ten (10) square feet in size. In residential districts
signs shall only show the street, building, or apartment number and the name
of the occupant, development, subdivision, church, school, or other
establishment Also, no sign shall advertise a place of business, product, or
service not pertaining to the property on which the sign is located.

14.2 Flags

No flag of the United States or the State of North Carolina shall *be* displayed
as part of a commercial promotion. When displayed, the flags shall be allowed
to hang free and never draped or tied back.

**SECTION 15**

 PLANNED RESIDENTIAL DEVELOPMENTS
15.1 Statement of Purpose

For purposes of this ordinance, a Planned Development is planned and
developed as an integral unit, in a single development operation or a definitely
programmed series of development operations and according to an approved
Development Plan. It should be noted that a Planned Development that offers
sites for sale is a subdivision and must be approved as such under any
applicable regulation.

Use of this procedure is a special use in residential districts. This process
will provide a voluntary alternate development procedure which will:

1. Permit creative approaches to the development of land, reflecting changes
in the technology of land development;
2. Accomplish a more desirable environment than would otherwise be
possible, providing a variety of housing and building types, design and
arrangements;
3. Provide for an efficient use of land, which can result in smaller networks
of utilities and streets and thereby lower housing costs;
4. Enhance the appearance of neighborhoods through the preservation of
natural features, the provision of underground utilities, and the provision
of recreational and open space area; and
5. Provide an opportunity for new approaches to home ownership.

15.2 Application Requirements

An application for a Zoning Permit for a Planned Residential Development
shall be accompanied by three (3) copies of a Development Plan. One copy
shall be returned to the owner or developer, one copy shall be kept at the
Town Hall for public view, and one copy shall be sent to the Inspections
Department.

The Development Plan shall include the following information:

1. The name of the development, the names and addresses of the owner(s)
and the designer of the development.
2. Date, approximate north arrow, and scale.
3. The boundary line of the tract, with accurate linear and angular
dimensions, drawn to scale and the area of the development in square
feet or acres.
4. The locations of existing and platted property lines, streets, buildings, water courses, railroads, bridges, water mains, sewers, culverts, drain pipes, and
any utility easements. The Zoning Administrator may require similar
information to be shown on the proposed boundaries. The names of
adjoining subdivisions or the names of recorded owners of adjoining parcels
of unsubdivided land shall also be indicated.
5. The names, proposed location and approximate dimensions of proposed
streets, alleys, driveways, entrances, exits, walkways, easements, recreation
areas, parks and open spaces, reservations, individual lots, approximate
building locations, parking areas, and setbacks within the development. The
locations, dimensions and types of all buffers which must meet the requirements detailed in Section 13. In all cases the proposed characteristics shall be shown in a manner that shall distinguish them clearly from the existing characteristics of the land.
6. When deemed necessary by the Zoning Administrator, profiles of all
proposed public or private streets or drives, showing natural and finished
grades drawn to a scale of not less than 1" = 40' horizontal and 1" =
4' vertical.
7. Plans of proposed utility layouts (sewer lines, septic tank locations, septic
tank drainfields, water lines, and storm drainage) showing feasible
connections to existing and proposed utility systems to be prepared by a
civil engineer, registered land surveyor, or registered professional engineer.
8. Proposed storm drainage including all proposed grading and sewer
installations which may be deemed necessary to ensure proper drainage

and the elimination of ponding. Proper drainage requires a storm
drainage capacity to the ten (10) year storm level.

1. Statement as to ownership of streets, alleys, and pedestrian ways and
responsibility for maintenance thereof.

 Where public water or public sewer is not available, a written statement
from the County Health Department shall be submitted with the
Development Plan indicating that the development has adequate land area
and suitable soils and topography to accommodate the proposed methods
of water supply and sewage disposal.

15.3 Conformity of Plan

Approval and any subsequent modification of the Development Plan shall be made in accordance with the provisions of Section 6.4.C, Special Use Permit, herein.

15.4 Development Standards

A. Variety of Housing

The Planned Residential Development is designed to allow a variety of
dwelling types and to provide for creative approaches to the development
of land. The following list and definitions is an example of some of the
housing types allowed in a Planned Residential Development.

1. Lot-Line House - a single family detached unit which instead of being centered on the lot, is placed against one of the side lot
lines.
2. Twin House - a semi-detached, single-family house, which is
connected along a common party wall to a similar unit Each
structure has only two dwellings.
3. Patio House - a single-family detached or semi-detached unit built
on a small lot enclosed by walls which provide privacy.
4. Town House - a single-family attached dwelling in which units
share common side walls and are often designed in rows. Yard
areas are small and privacy requires careful protection.
5. Multiplex - either a single-family attached unit with individual access
or a multi-family unit with shared outside access. Small patios or
balconies provide outdoor living space.
6. Apartments - a multi-family housing unit which shares a common
outside access.

B. Minimum Size

A minimum size of three (3) acres is required for planned residential
development.

C. Density

Density is the number of dwelling units per acre. Density shall be
calculated based upon net buildable area. Net buildable area is the total
land area within the project property boundary less: 1) all easements for
storm drainage or utilities; 2) highway and street right-of-way; 3) sediment
basins and water retention ponds; 4) wetlands defined by U.S. Corps of
Engineers; 5) Water and wastewater treatment facilities; 6) local or state
designated historic sites; and 7) water areas including seasonal ponds.

Density requirements are as follows:

R-20: 3.3 units per acre

R-10: 6.5 units per acre
R-10MHP: 6.5 units per acre

MU: 6.5 units per acre

1. Dimensional Requirements

Yards forming the outer boundary of a Planned Residential Development
shall be in conformance with the minimum requirements of the applicable
Residential District.

1. Underground Utilities

Planned Residential Developments shall provide for underground installation
of utilities, including telephone and electric power.

1. Designation of Permanent Common Open Space

Definition. Permanent common open space shall be defined as any land
held and developed as permanent open space or any land dedicated to
the public as parks, playgrounds, parkway medians, landscaped green
space, schools, community centers or other similar areas held in public
ownership or covered by an open space easement.

Designation. No plan for a planned residential development shall be
approved unless such plan provides for permanent open space equivalent
to 20 percent of the total area.

15.5 The approval of an application for a Planned Development shall follow the procedures for special use permits as set forth in Section 6.4.C, Special Use Permit, herein.

**SECTION 16**

QUASI-JUDICIAL PROCEEDINGS

16.1 Process Required

The Board of Adjustment shall follow quasi-judicial procedures as directed in this ordinance, and in any event in determining appeals of administrative decisions, variances, and special use permits.

16.2 Notice of Hearing

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

16.3 Administrative Materials

The Zoning Administrator shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing if at the same time they are distributed to the board a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record. The administrative materials may be provided in written or electronic form. Objections to inclusion or exclusion of administrative materials may be made before or during the hearing. Rulings on unresolved objections shall be made by the board at the hearing.

16.4 Presentation of Evidence

The applicant, the Town, and any person who would have standing to appeal the decision shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.

16.5 Objections

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

16.6 Appearance of Official New Issues

The official who made the decision or the person currently occupying that position, if the decision maker is no longer employed by the Town, shall be present at the evidentiary hearing as a witness. The appellant shall not be limited at the hearing to matters stated in a notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing.

16.7 Oaths

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

16.8 Subpoena

The board making a quasi-judicial decision under this ordinance through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the Town, and any person with standing may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this Subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

16.9 Voting

The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this Subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under Section 17 of this ordinance shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

16.10 Decisions

The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board. 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 person required to provide notice shall certify to the Town that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

**SECTION 17**

CONFLICTS OF INTEREST

17.1 Board of Commissioners

 A Town Commissioner shall not vote on any legislative decision regarding a development regulation under 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 Commissioner.

17.2 Planning Board and Board of Adjustment

Members of the Planning Board and Board of Adjustment shall not vote on any advisory or legislative decision regarding a development regulation under 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.

17.3 Administrative Staff

No staff member shall make a final decision on an administrative decision regarding a development regulation under this ordinance 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.

17.4 Staff

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

17.5 Quasi-Judicial Decisions

When the Board of Adjustment is exercising quasi-judicial functions pursuant to this ordinance, board members shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having:

* a fixed opinion prior to hearing the matter that is not susceptible to change;
* undisclosed ex parte communications;
* a close familial, business, or other associational relationship with an affected person; or
* a financial interest in the outcome of the matter.

17.6 Resolution of Objection

If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

17.7 Familial Relationship

For purposes of this Section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.