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Town of Swepsonville Zoning Ordinance

Adopted ___ May 18 ___, 2021

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CHAPTER 1 GENERAL PROVISIONS

Section 1-1. Authority and Enactment

Pursuant to authority granted by NCGS 160D, the Town of Swepsonville may enforce zoning regulations to promote the public health, safety and general welfare; to promote the orderly development of the community; to lessen congestion on the roads and streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public facilities, all in accordance with a well-considered comprehensive plan.

Section 1-2. Short Title

This Ordinance shall be known as The Zoning Ordinance of the Town of Swepsonville, North Carolina, and may be referred to as the Zoning Ordinance or this Ordinance. The map, which is identified by the title Official Zoning Map, Swepsonville, North Carolina, may be referred to herein as the Zoning Map.

Section 1-3. Jurisdiction

The provisions of this Ordinance shall apply within the corporate limits of the Town of Swepsonville and within the territory beyond such corporate limits as shown on the Zoning Map and/or described in an extraterritorial zoning ordinance adopted pursuant to G.S. 160D-202. The extraterritorial boundary will follow physical features when possible, but at no point will the outside boundary extend more than one (1) mile from the corporate limits in any direction.

Section 1-4. Incorporation of the Zoning Map

The Zoning map and all notations, references and other information shown on the map are hereby incorporated by reference and made a part of this Ordinance. The zoning map is to be posted at the Swepsonville Town Hall and is available for inspection by the public. Flood insurance maps, watershed boundaries and other official Federal or State maps may be incorporated by reference. Copies of the zoning district map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the clerk in accordance with NCGS 160A-79, shall be admissible into evidence and shall have the same force and effect as would the original map pursuant to NCGS 160D-10.

Section 1-5. Exceptions of Applicability

These regulations shall not prevent the construction of any building or structure for which a building permit has been secured before the effective date of this Ordinance as long as the permit has not been revoked (pursuant to NCGS 160D-403) or allowed to expire. However, once

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constructed, any structure so erected will be subject to any and all regulations set forth in this Ordinance.

Section 1-6. Zoning Affects Every Building and Use

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

Section 1-7. 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 (1) principal building and its customary accessory buildings on the lot, except in the case of a specially designed complex of institutional, residential, commercial, or industrial buildings in an appropriate zoning district, or a temporary or accessory use as permitted in the Table of Permitted Uses or the Notes to the Table.

Section 1-8 Required Open Space Not Used for Another Building

No part of any yard, other open space, or off-street parking or loading space required for any building, structure, or other use shall be considered to be a part of a required yard, open space, off-street parking or loading space for any other buildings, structures or use except as provided in Chapter 9 Off-Street Parking and Loading.

Section 1-9. Application

The regulations set forth in this Ordinance shall apply to all land and every structure, including bona fide farms within the corporate limits of the Town and any extraterritorial areas where the Town exercises jurisdiction under G.S. 160D.

Section 1-10. Conflict with Other Laws

Wherever the regulations made under authority of this Ordinance require a greater width or size of yards or courts or require a lower height of building or fewer number of stories, or require a greater percentage of lots to be left unoccupied, or impose other higher standards than that required in any other local ordinance or regulation, the provisions of the regulations made under authority of this Ordinance shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yard or courts or require a lower height of building, or a lesser number of stories or require a greater percentage of lot to be left unoccupied or impose other standards than are required by the regulations made under authority of this Ordinance, the provisions of such statute or local ordinance or regulation shall govern.

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Section 1-11. Relation to Other Ordinances

It is not intended that these regulations shall in any way repeal, annul, or interfere with the existing provisions of any other law or ordinance except any ordinance, which these regulations specifically replace. It is not intended that these regulations interfere with any easements, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

Section 1-12. Severability

If any section or specific provision or standard of these regulations or any zoning district boundary that now exists or may exist in the future is found by a court to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

CHAPTER 2 DEFINITIONS

Section 2-1. In General

For the purpose of interpreting this Ordinance, certain words or terms are herein defined. The following words shall, for the purpose of this Ordinance, have the meaning herein indicated. The following definitions shall apply for the interpretation of this chapter. The dictionary definition will apply to all words not defined in this section.

For the purpose of this ordinance, certain words and terms are defined as follows: Words in the present tense include the future tense; words in the singular include the plural; and the plural includes the singular. The following words, terms and phrases, when used in this chapter, will have the meanings ascribed to them in this Chapter, except where the context clearly indicates a different meaning.

Section 2-2. Definitions of Specific Terms and Words

The following is an alphabetical listing of words and terms used in this Ordinance.

Accessory Use. A structure or use that: 1) is clearly incidental to and customarily found in connection with a principal building or use; 2) is subordinate to and serves a principal building or a principal use; 3) is subordinate in area, extent, or purpose to the principal building or principal use served; 4) contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and 5) is located on the same zone lot as the principal building or use served.

Adult Day Care Center. A day care facility in which day care is provided to adolescents, or disabled, or older adults in a place other than their usual place of residence on less than a twenty-four (24) hour basis. For purposes of this ordinance, adult day care is provided in a center typically located in an office-institutional district or a business district, not in a home or residential setting.

Adult Gaming Establishment. Any establishment featuring more than four (4) stand-alone electronic or conventional gaming units, skill-based or otherwise, or serving one or more patrons in such capacity at any one time, which also rewards patrons, or provides the possibility of rewards, goods or certificates for services which are redeemable for cash or other monetary payment on or off premises and including on-line redemptions, as well as any rewards which cannot be legally obtained, consumed, or otherwise used by minors. Any use meeting this definition shall be considered a principal use regardless of association or location in conjunction with other permissible principal uses. This does not include any lottery approved by the State of North Carolina or any non-profit establishment that is otherwise lawful under State law (for example, church or civic organization fundraisers).

Adult Establishment. As defined in NCGS 14-202.10 as written or hereafter amended an adult establishment is an adult bookstore, an adult motion picture theatre, adult mini motion picture

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theatre, or adult live entertainment business. A massage or bodywork establishment that engages in solicitation of sexual activity is unlawful as provided in NCGS 90-632.17 and is not an adult establishment.

Alteration. The word "alteration" shall include the following:

- any addition to the height or depth of a building or structure,
- any change in the location of any of the exterior walls of a building or structure, or
- any increase in the interior accommodations of a building or structure.

Apartment. A dwelling unit within an apartment building consisting of a room or rooms intended, designed, or used as a rental residence.

Apartment House. A building or portion thereof used or designed as a rental residence and consisting of three (3) or more dwelling units including apartment hotels, apartment houses, and group housing projects.

Assessed Value. The market value which has been last determined by the county for ad valorem tax purposes.

Assisted Living. (Full definition in NCGS 131D-2.1). Group housing with services for unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services to resident adults directly or through a formal written agreement with one or more licensed home care or hospice agencies. For purposes of this ordinance, assisted living may be provided in a multi-unit facility located on a separate parcel, or in a facility developed as part of a continuing care retirement community.

Bar. An establishment primarily engaged in the retail sale of beer, wine, and alcoholic beverages for consumption on the premises. Such establishment must obtain an ABC license for on-premises beverage consumption only.

Basement. That portion of any structure located partly or entirely below the average finished lot grade.

Bed and Breakfast Home. An establishment in a private dwelling that supplies temporary accommodations to eight (8) or fewer overnight guests for a fee.

Billboard. An outdoor structure or display, pictorial or otherwise, either freestanding or attached to a building, which advertises or attracts attention to a business, commodity, service, or other activity, conducted, sold, or offered elsewhere other than on the premises on which said structure or display is located.

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Board of Adjustment. The Board of Adjustment of the Town of Swepsonville, North Carolina. In Swepsonville, the Town Council functions as the Board of Adjustment to exercise the quasi-judicial processes provided for by G.S. 160D-406.

Bona Fide Farm. As provided in G.S. 160D-903, bona fide farm purposes include the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. Activities incident to a bona fide farm include existing or new residences constructed to the applicable residential building code situated on the farm occupied by the owner, lessee, or operator of the farm and other buildings or structures sheltering or supporting the farm use and operation. A bona fide farm does not include commercial poultry and swine production, cattle feeder lots and furbearing animal farms.

Brewery. An establishment that sells beer brewed on the premises and often includes a restaurant. (See also Microbrewery)

Buffer. A horizontal distance from the property line which may only be occupied by screening, utilities, access ways and/or landscaping materials.

Buffer Strip. A planted strip at least ten (10) feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than twenty (20) feet apart and not less than one (1) row of dense shrubs, spaced not more than five (5) feet apart.

Building. Any structure having a roof supported by columns or walls used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery, or materials. The connection of two (2) or more buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall be deemed to make them one building. This term does not apply to camping trailers, motorized homes, pickup campers, travel trailers, or self-contained travel trailers.

Building, Accessory. A use or structure customarily incidental and subordinate to the main or principal building and located on the same lot therewith, incidental and subordinate to the main principal building.

Building, Principal. See "Structure, Principal".

Building Height. The vertical distance from the mean elevation of the finished grade along the front of a building to the highest point of a flat roof, or to the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip, gambrel and pitch roofs.

Building Line. A line fixed parallel to a lot line beyond which a principal building cannot extend under the terms of this Ordinance. Included are front, side, and rear building lines.

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Cemetery. A tract of land used for burials, usually in a park-like setting. May be public or private. May include mausoleums and columbaria. Crematoria are not permitted in cemeteries.

Child Care.

- **Child Care Center.** A program where three or more unrelated children less than 13 years old receive care on a regular basis at least once a week for more than four hours per day but less than 24 hours. Childcare centers must meet all state licensing requirements.
- **Family Child Care Home.** A childcare arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive childcare. Family childcare home operators must reside at the location of the family childcare home. Family childcare homes must meet all state licensing requirements.

Clear Vision Area. See "Sight Triangle."

Club or Lodge, Private. An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities operated on a non-profit basis for the benefit of its members.

Common Open Space. An area of land and/or water, held in common ownership, designed and reserved for the use and enjoyment of the residents. This does not include streets or off-street parking areas. Common open space shall be substantially free of structures but may contain such improvements as are in the plan as finally approved and which are appropriate for the benefit of residents of the development.

Condominium. See Dwelling Unit.

Continuing Care Retirement Community. A community for individuals at least fifty-five (55) years of age that combines independent living, assisted living services and skilled nursing care. Living arrangements typically vary from single-family units (a detached house, condo or apartment) to assisted living rooms or apartments to skilled care.

Day care. See Child Care.

Discontinuance of Use. When a use is not active.

District (or Zoning District). Any section of the Town of Swepsonville and its zoning jurisdiction within which regulations are uniform.

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Dwelling Unit. 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.

- **Dwelling, Apartment.** A dwelling unit within an apartment building consisting of a room or rooms intended, designed, or used as a rental residence
- **Dwelling, Condominium.** A building, or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional and undivided basis. A condominium is considered multi-family.
- **Dwelling, Duplex.** A building arranged or designed to contain two (2) dwelling units.
- **Dwelling, Multi-Family.** A building or portion thereof, designed to contain three (3) or more dwelling units (see Apartment or Condominium).
- **Dwelling, Single-Family.** A detached building designed to contain one (1) dwelling unit.
- **Dwelling, Townhouse.** A single-family attached unit in a row of at least three (3) such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one (1) or more fire resistant walls. The owner of a townhouse owns the property under the structure.

Easement. A grant by a property owner for a specified purpose and use by the public, a corporation, or individuals.

Family. *Family:* An individual or two (2) or more persons related by blood, adoption, marriage, or common law living together as a single housekeeping unit in a single dwelling unit.

Family Care Home. A home defined in NCGS 160D-907 and licensed pursuant to NCGS 131D, Article 1, both as written or subsequently amended, with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for two to six resident persons with disabilities. As provided in NCGS 160D-907, a family care home is a residential use for zoning purposes and shall be permitted in all residential zoning districts. However, as authorized by NCGS 160D-907(c), Swepsonville prohibits location of a family care home within a one-half mile radius of an existing family care home.

Fence. An outdoor structure placed around a parcel of land and constructed of either masonry, metal or wood which provides either a physical barrier or visual screen between properties.

Floating Zone. A zone that is nonexistent until a petition to rezone to such is presented and approved by the Town Council; such a designation does not appear on the zoning map until such time.

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Frontage. The distance between the two (2) side lot lines as measured along the front building line.

Gaming Establishment. Any establishment, excluding adult gaming establishments, whose principal use is to provide entertainment services to the general public in the form of electronic or conventional gaming units which provide either no reward to patrons or the possibility of rewards of limited value such as children's toys, games, or novelties when all rewards can be legally obtained and used by all ages and are not redeemable for cash or any other kind of compensation or services on or off premises, including on-line redemptions. Examples include, but are not limited to, traditional video game arcades and children's and family game centers, whether stand-alone or in conjunction with a restaurant or other permissible uses. This shall be considered a principal use when occupying more than fifty percent of the gross floor area of an establishment or being used by more than fifty percent of the patrons at any time or representing more than fifty percent of the total sales of the establishment.

Gaming Establishment, Adult. Any establishment featuring more than four stand-alone electronic or conventional gaming units, skill-based or otherwise, or serving more than four patrons in such capacity at any one time, which also rewards patrons, or provides the possibility of rewards, goods or certificates for services which are redeemable for cash or other monetary payment on or off premises and including on-line redemptions, as well as any rewards which cannot be legally obtained, consumed, or otherwise used by minors. Any use meeting this definition shall be considered a principal use regardless of association or location in conjunction with other permissible principal uses. This does not include any lottery approved by the State of North Carolina or any non-profit establishment that is otherwise lawful under State law (for example, church or civic organization fundraisers).

Group Home. A home for seven (7) to fifteen (15) residents, with support and supervisory personnel, that provides care, habilitation or rehabilitation for individuals with needs such as mental illness, development disability, cognitive impairment or substance abuse. Group homes are licensed by the State of North Carolina. A group home may not be located within one-half mile radius of an existing group care home.

Gross Floor Area. The total floor area of a building including basements, mezzanines and upper floors, exclusive of stairways and elevator shafts, and excluding separate service facilities outside the main building such as boiler rooms, and maintenance shops.

Home Occupation. A use conducted for gain within a dwelling and carried on by the occupants thereof which is clearly incidental and secondary to the use of the dwelling for dwelling purposes; the use does not change the character thereof. See Note 10 to Table of Permitted Uses.

Hotel (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

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permanent guests or tenants, where rooms are furnished for the accommodation of such guests and which may or may not have dining facilities in the same building.

Immediate Family. Person or persons related to the principal resident by blood or marriage.

Junk. Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition.

Loading Area. A completely off-street space or berth on the same lot as a business or industry for the loading or unloading of freight carriers with ingress and egress to a public street.

Lot. A parcel of land occupied or intended for occupancy by one (1) principal building and its accessory buildings or group of structures together with any accessory structures or uses including the open space required under this Ordinance.

- **Lot, Corner.** A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five degrees (45°) and less than one hundred and thirty-five degrees (135°) with each other. The street line forming the least frontage shall be deemed the front of the lot except where the two (2) street lines are equal, in which case the owner shall be required to specify which the front when requesting a zoning compliance permit is.
- **Lot, Interior.** A lot other than a corner lot.
- **Lot, Through.** An interior lot having frontage on two parallel streets.

Lot Depth. The mean distance between the front and rear lot lines.

Lot Line. A line dividing one parcel of property from another parcel or from a street right-of-way.

- **Lot Line, Front.** The street right-of-way boundary at the front of the lot, or the line which separates the lot from the street right-of-way at the front of the lot.
- **Lot Line, Rear.** That line of a lot which is opposite and farthest, on average from the front lot line. Where a lot abuts a street along the rear of the lot, the rear lot line shall be deemed to coincide with the street right-of-way boundary.
- **Lot Line, Side.** Any lot line which meets an end of a front lot line, where a lot abuts a street along the side of a lot, the side lot line shall be deemed to coincide with the street right-of-way boundary.

Lot of Record. A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of Davidson County, or a lot described by metes and bounds, the description of which has been so recorded.

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Lot Width. The distance between side lot lines measured at the front building line.

Manufactured Home. A structure, as defined in G.S. 143-145.7 as written or hereafter amended, that is transportable in one or more sections, which, in the traveling mode, is eight feet or more in width or is 40 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 a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein.

Class A Manufactured Home (Commonly Referred to as "Double-wide"). A multi-sectional manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria.

- The manufactured home has a length not exceeding four (4) times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.
- The manufactured home has a minimum of 1,200 square feet of enclosed heated living area.
- The pitch of the roof of the manufactured home has a minimum vertical rise of three and one-half (3.5) feet for each twelve feet of horizontal run (3.5 feet and 12 feet) and the roof is finished with a type of shingle that is commonly used in standard residential construction.
- All roof structures shall provide an eave projection of no less than six (6) inches, which may include a gutter.
- The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of flat white paint), wood, or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- The manufactured home is installed in accordance with the standards set by the North Carolina Department of Insurance.
- Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance and attached firmly to the primary structure and anchored securely to the ground.
- The moving hitch, wheels and axles, and transporting lights have been removed.
- A continuous, permanent masonry curtain wall or foundation, unpierced except for ventilation and access, is installed under the manufactured home.

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It is the intent of these criteria to ensure that a Class A manufactured home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling.

Class B Manufactured Home (Commonly Referred to as "Single-wide"). A single-section manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction, but which does not meet the definition of a Class A manufactured home. The following criteria must also be satisfied.

- The manufactured home is installed in accordance with the standards set by the North Carolina Department of Insurance.
- A continuous, permanent masonry curtain wall or foundation, unpierced except for ventilation and access, is installed under the manufactured home.
- Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the North Carolina Department of Insurance and attached firmly to the primary structure and anchored securely to the ground.
- The moving hitch, wheels and axles, and transporting lights have been removed.
- The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of flat white paint), wood, or hardboard comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- The pitch of the roof of the manufactured home has a minimum vertical rise of two and two tenths feet for each twelve feet of horizontal run (2.2 feet and 12 feet) and the roof is finished with a type of shingle that is commonly used in standard residential construction.

Class C Manufactured Home. A manufactured home that does not meet the definition of either a Class A or a Class B manufactured home.

Class D Manufactured Home. A manufactured home built to federal construction codes that were in effect prior to July 1, 1976.

Manufactured Home Park. A commercial use where land is divided into individual leaseholds but not individual lots owned in fee simple that are intended for occupation by individual manufactured homes. Manufactured home parks may include shared or individual accessways, recreation facilities, and other shared accessory uses like laundries, storage, or refuse collection areas.

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Medical/Health Care or Rehabilitation Facility. A facility licensed by the State of North Carolina with beds for patients who are receiving medical treatment and or rehabilitation services for a diagnosed condition.

Microbrewery. An establishment that sells beer brewed on the premises and often includes a restaurant. (See also Brewpub).

Mixed Uses.

- Where permitted by this ordinance, a mixed use building allows both business and residential uses to occur in the same building, such as a live-work space.
- Where permitted by this ordinance, a mix of residential and commercial or business uses may be permitted in a mixed use zoning district or mixed use overlay district.

Modular Home. A dwelling unit constructed in accordance with the construction standards of North Carolina Uniform Residential Building Code for one- and two-family dwellings and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly and placement on a permanent foundation.

Multifamily Development. See Dwelling Unit.

Nonconformance. Any use, structure, lot, or sign which does not conform to the regulations of the Zoning Ordinance either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated into this Ordinance.

Non-Conforming Lot. A lot which does not conform to the dimensions required by this Ordinance.

Non-Conforming Sign. A sign which does not conform to the provisions of this Ordinance.

Non-Conforming Structure. A structure which does not conform to the height, bulk, or setback standards set forth in this Ordinance or which does not meet the requirements for the type of structure allowed.

Non-Conforming Use. Any use of building or land which does not conform to the use regulations of this Ordinance for the district in which it is located.

Nursing Home. (defined in NCGS 131E Health Care Facility Licensure Act, NCGS.131E-101 Definitions). A facility, however named, which is maintained for the purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A "nursing home" is a home for chronic or convalescent patients, who are not acutely ill and who do not require hospital facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities.

CHAPTER 2 DEFINITIONS

Obstruction. Any structure, fence, shrub, bush, tree, flower, plant, motor vehicle or any other object that obscures, impairs, or prevents view or sight through, over or across the clear vision area as herein defined.

Open Storage. Any unroofed storage area, whether fenced or not.

Overlay Zoning. Additional zoning restrictions which are superimposed on the underlying zoning district.

Parking Space. A space for the parking of a motor vehicle within a public or private parking area.

Planned Business Development. An area of land under unified control developed for business, commercial or industrial uses, consisting of one or more principal structures or buildings and accessory structures or buildings on a plot not subdivided into customary streets and lots.

Planned Unit Development (includes Continuing Care Retirement Community). An area of land under unified control to be developed as a single entity for a number and variety of dwelling types both attached and detached housing, the plan for which may not correspond in lot size, type of dwelling or lot coverage to the regulations of the residential zoning district in which the PUD is located. With permission of the town council, a planned unit development may also include approved commercial or business uses.

Planning Board. The Planning Board of the Town of Swepsonville.

Plat. A map or plan of a parcel of land which is to be or has been subdivided.

Principal Use. The primary purpose or function that a lot serves or is intended to serve.

Produce Stand. A temporary structure from which seasonal and/or locally grown produce is sold.

Public Sewage Disposal System. A single system, with a design capacity exceeding 3,000 gallons per day, of sewage collection, treatment and disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority or a county or municipality.

Public Utilities. Water and sewer production plants and distribution systems owned by a government agency.

Public Water Supply. Any water system so defined and regulated by G. S. 130-166.

CHAPTER 2 DEFINITIONS

Recreation Services, Indoor. Establishments engaged in providing indoor amusement or entertainment services. Included are dance studios, bowling centers, physical fitness facilities and membership sports and recreation clubs.

Recreation Services, Outdoor. Establishments engaged in providing outdoor amusement or entertainment services. Included are athletic fields, amusement parks, batting cages, miniature golf courses but not go-cart raceways.

Restaurant. A commercial establishment where food is prepared and served for public consumption.

Retail Business. An establishment selling commodities to consumers.

Retail Service. An establishment providing tangible services for immediate use to the consumer.

Screen. A wall, a fence, or a planted strip composed of deciduous or evergreen trees, or a mixture of trees and dense shrubs.

Service Station. A building or lot dedicated to the rendering of services such as the sale of gasoline, oil, grease, and accessories and the minor repair of automobiles, excluding body working, overhauling, and painting.

Setback. The required distance between any structure and the applicable lot line(s) (front, rear, side) of the lot on which the structure is located.

Shopping Center. A group of commercial establishments which is planned and developed and owned or managed as a unit with off-street parking provided on the premises.

Sight Triangle. The triangular area that is free of obstructions that may block a driver's view. A sight triangle formed by joining points, using straight lines, along the center lines of intersecting or intercepting streets sixty (60) feet from their intersection or interception. This area shall provide an unobstructed view between a height of three (3) feet and seven and one-half (7.5) feet.

Signs. Any form of publicity visible from any public street directing attention to an individual activity, business, service, commodity, or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trade marks, or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints, or other devices erected on open framework, or attached or otherwise applied to posts, stakes, poles, trees, buildings, or other structures or supports. See Chapter 6 Signs for types of signs and definitions.

CHAPTER 2 DEFINITIONS

Special Use Permit. A permit (authorized by the Board of Adjustment) issued for a use or development designated in this Ordinance that would not be generally appropriate within the zoning district without added restrictions to minimize any negative effects the use might ordinarily have on surrounding properties.

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

Street, Private. A privately-owned and maintained street which provides the principal means of vehicular access to abutting properties.

Street Right-of-Way Line. The street right-of-way boundary, or the line which separates the street from the lot.

Structure. Any object constructed or erected the use of which requires more or less permanent location on the ground or which is attached to an object having more or less permanent location on the ground.

- **Principal Structure.** A building in which is conducted the main or principal use of the lot on which said building is situated.
- **Temporary Structure.** A structure intended for temporary offices, headquarters, residence, classrooms (etc.) on the same lot or tract of land being used or developed for a directly related permanent use.

Telecommunication Tower. A tower facility, including, but not limited to, radio and television transmission towers or similar utilities, microwave towers, and mobile telephone or radio towers. This term shall not include radio transmission facilities for use by ham radio operators or two-way local radio facilities for business or governmental purposes that are under 100 feet in height and that, at a height of fifty (50) feet above the base, have a maximum horizontal measurement of eighteen (18) inches nor shall it include any tower erected by a public authority for public safety or emergency services communication purposes.

Tiny House. A dwelling between 200 and 800 square feet in size that complies with construction requirements for a dwelling in the most recent edition of the North Carolina State Residential Building Code. If the unit is constructed through the NC Modular Construction Program, the unit must also meet the minimum construction and design standards for modular homes cited in NCGS 143-139.1. A tiny house may be a principal use on a zoning lot in the districts where permitted or an accessory use with Development Standards when approved by the Zoning Enforcement Officer.

Townhouse. See Dwelling Unit.

CHAPTER 2 DEFINITIONS

Tract. An area, parcel, site, piece of land, or property which is the subject of a development application.

Trailer. As defined in G.S. 20-4.01:

House Trailer - Any trailer or semitrailer designed and equipped to provide living or sleeping facilities and drawn by a motor vehicle. This term shall not include a manufactured home as defined herein.

Recreational Vehicle/RV/Travel Trailer – A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.

Use. The purpose or activity for which a piece of land or its structure(s) is designed, arranged, or intended, or for which it is occupied or maintained.

- **Use, Principal.** The main use of land or structures on a lot, as distinguished from an accessory use.
- **Use, Accessory.** (See “Accessory Use.”)

Variance. A modification of the existing zoning ordinance which is not contrary to the public interest, where strict enforcement of this Ordinance would cause undue hardship to the applicant because of circumstances unique to the individual property (not caused by the owner or applicant) on which the variance is granted.

Yard. A space on the same lot with a principal building which is open, unoccupied, and unobstructed by structures from ground to sky except where encroachments and accessory structures are expressly permitted under this Ordinance.

Yard, Front. A yard extending the full width of the lot, situated between the front lot line and a line parallel thereto passing through the nearest point of the principal structure.

Yard, Rear. A yard extending the full width of the lot, situated between the rear lot line and a line parallel thereto passing through the nearest point of the principal structure.

Yard, Side. A yard situated between the side lot line and a line parallel thereto passing through the nearest point to the principal structure and extending from the front yard to the rear yard.

Zoning Enforcement Officer. A person designated by the Town of Swepsonville charged with enforcing the Zoning Ordinance.

CHAPTER 2
DEFINITIONS

Zoning Permit. A statement, signed by the Zoning Enforcement Officer, stating that the plans for a building, structure, or use of land complies with this Ordinance.

**CHAPTER 3
ADMINISTRATION AND ENFORCEMENT**

ARTICLE I. ADMINISTRATION

Section 3-1. Zoning Enforcement Officer

The Zoning Enforcement Officer, to be appointed by the Town Council, is hereby authorized. It shall be the Zoning officer's duty to enforce and administer the provisions of this Ordinance and it shall be the officer's responsibility to deny or forward the initial request for a zoning permit.

The Zoning Enforcement Officer or designee may inspect work undertaken relating to any development approvals 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 local government 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.

It is the intent of this Ordinance, unless otherwise provided, that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Zoning Enforcement officer.

Section 3-2. Zoning Permits and Development Approvals

It shall be unlawful to use or to permit the use of any building or premises, or any part thereof, which may be hereafter created, erected, changed, or converted, until a zoning permit has been issued by the Zoning Enforcement Officer attesting that the proposed use conforms to the requirements of this Ordinance.

Records: The Zoning Enforcement Officer shall maintain a record of all zoning permits, and copies shall be furnished upon request to any interested person. Any zoning permits or other development approvals may be provided in writing (print or electronic), if electronic it must be password protected to prevent further editing.

Denials: If the zoning permit is denied, the applicant may appeal the action of the Zoning Enforcement Officer to the Board of Adjustment.

Who Can Apply: Applications for a zoning permit or development approval must be submitted by the landowner or someone with a contract to purchase the property.

Applicability: Development approvals run with the land, any revocation of development approvals or permits must follow the same process for approval pursuant to NCGS 160D-403.

**CHAPTER 3
ADMINISTRATION AND ENFORCEMENT**

Section 3-3. Building Permits

No building or other structure shall be erected, moved, added to, or structurally altered without a building permit issued by the County Building Inspector. No building permit shall be issued without a zoning permit signed by the Zoning Enforcement Officer.

Section 3-4. Permit Choice

An applicant who has secured a development approval or approval before the date of adoption of this ordinance, may choose to apply the conditions running with the development approval, or those under this ordinance pursuant to 160D-108(b). See also Chapter 11 Vested Rights and Development Agreements for further guidance.

Section 3-5. Certificate of Occupancy Required

A certificate of occupancy issued by the County Building Inspector is required in advance of: the occupancy or use of a building hereafter erected, altered, or moved; or a change of use of any building or land.

A certificate of occupancy, either for the whole or part of a building, shall be applied for concurrently with the application for a zoning permit and shall be issued within ten (10) days after the erection or structural alteration of the building or part shall have been completed in conformity with the provisions of this Ordinance. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reasons for refusal, and the applicant shall be notified of the refusal.

A record of all certificates shall be kept on file in the office of the Building Inspector and copies shall be furnished on request to any interested person.

ARTICLE II. ENFORCEMENT AND PENALTIES

Section 3-6. Violations

The owner, tenant, or occupant of any land or structure, or part thereof and any architect, engineer, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this Ordinance may be held responsible for a violation and be subject to the penalties and remedies provided herein. Each day's violation of any provision of this Ordinance is a separate and distinct offense.

Section 3-7. Enforcement Procedures

CHAPTER 3
ADMINISTRATION AND ENFORCEMENT

When the Zoning Enforcement Officer or designee discovers a violation of this Ordinance or receives a complaint alleging a violation of this Ordinance, it shall be his or her duty to attempt to immediately notify the owner and occupant of the land, building, structure, sign, or use of the violation.

1. Initial Notification - Upon discovery of the existence of a violation of this Ordinance, the Zoning Enforcement Officer shall by first-class mail, telephone, fax, email, or personal service attempt to notify the owner or occupant of the property of the nature of the violation, provide a citation of the Section(s) of the Ordinance violated, and describe the measures necessary to remedy the violation.
2. Order of Compliance = If the owner or occupant of the land, building, sign, structure, or use in violation fails to take prompt corrective action, the Zoning Enforcement Officer shall give the owner or occupant written notice, by certified or registered mail, to his last known address, or by personal service, or by personal service or by posting notice of the violation and order of compliance conspicuously on the property:
 1. That the land, building, sign, structure, or use is in violation of this Ordinance;
 2. The nature of the violation, and citation of the Section of this Ordinance violated; and
 3. The measures necessary to remedy the violation.
3. Appeal - Any owner or occupant who has received a Notice of Violation and Order of Compliance may appeal, in writing as a person aggrieved, the final decision of the Zoning Enforcement Officer to the Board of Adjustment, in accordance with the provisions of Section 8-1 within ten days following the date of receipt or posting of the Notice of Violation and Order of Compliance. The Board of Adjustment shall hear an appeal within a reasonable time, and it may affirm, modify, or revoke the Notice of Violation and Order of Compliance. In the absence of an appeal, the remedies and penalties sought by the Zoning Enforcement Officer in the Notice of Violation and Order of Compliance shall be final.
4. Order of Corrective Action by the Board of Adjustment - If upon a hearing held pursuant to an appeal as prescribed above, the Board of Adjustment shall find that the owner or occupant is in violation of this Ordinance, the Board of Adjustment shall issue an order in writing to the owner or occupant affirming the violation and ordering compliance.
5. Failure to Comply with an Order - If the owner or occupant of a property fails to comply with a Notice of Violation and Order of Compliance from which no appeal has been taken, or an Order of Corrective Action following an appeal, the owner or occupant shall be subject to such remedies and penalties as may be provided for by the NC General Statutes and Section 11-4. If the owner or occupant fails to comply with the remedies

CHAPTER 3 ADMINISTRATION AND ENFORCEMENT

and penalties prescribed, enforcement shall be sought through an order of a court of competent jurisdiction.

Should any of the above actions recommend or order revocation of any approvals due to non-compliance or notice of violations, revocation must follow the process for any approval pursuant to NCGS 160D-403(f).

Section 3-8. Emergency, Dangerous, or Hazardous Situations

In the event the Zoning Enforcement Officer determines that a violation creates an immediate hazard to the public safety, health, or welfare, the standard notice requirements delineated in Section 3-7 above may be waived. The Zoning Enforcement Officer is authorized to make a reasonable attempt to notify the person responsible for the violation, property owner, or other person who has an identifiable relationship to the violation and/or property owner and to order the immediate remedying of the violation. In the case of a safety hazard created by a sign or sign structure, the Zoning Enforcement Officer is authorized to immediately remove such sign or sign structure, at the expense of the property owner. In the case of a safety hazard created by the use or occupancy of a building or land, the Zoning Enforcement Officer shall consult with the town attorney for guidance concerning immediate enforcement actions.

Section 3-9. Administrative Conflicts of Interest

No staff member shall make a final decision on an administrative decision 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 Town Administrator.

Section 3-10. Remedies

As authorized by NCGS 160D-404, NCGS 160A-175, and NCGS 14-4, any one or all of the following procedures may be used to enforce the provisions of this Ordinance.

1. Injunction - Any violation of this Ordinance or of any condition, order, or requirement, or remedy adopted pursuant hereto may be restrained, corrected, abated, mandated, or enjoined by other appropriate proceeding pursuant to state law.
2. Denial of Permit or Certificate - The Zoning Enforcement Officer may withhold or deny any permit, certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which there is an uncorrected violation of a provision of this

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Ordinance or of a condition or qualification of a permit, certificate or other authorization previously granted.

3. Conditional Approval - The Zoning Enforcement Officer may condition the authorization of any permit or certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the posting of a compliance security approved by the city attorney.

4. Revocation of Permits – In addition to initiation of any of the above enforcement actions under G.S. 160D-404, development approvals may also be revoked, as authorized by G.S.160D-403(f), by notifying the holder in writing stating the reason for the revocation. 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 local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. A development approval mistakenly issued in violation of an applicable State law or local ordinance may also be revoked. 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 a revocation of that approval. Revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by the town pursuant to G.S. 160D, the provisions of G.S. 160D-405(e) regarding stays apply.

5. Criminal Penalties - A violation of this Ordinance shall be a misdemeanor or infraction as provided by NCGS 14-4.

6. Civil Penalties – Assessment and Procedures
 - a. Penalties - Any person who violates any provisions of this Ordinance shall be subject to assessment of a civil penalty in the amount of \$50.00 the first violation; \$100.00 for the second violation; \$200.00 for the third violation; and \$400.00 for the fourth and succeeding violations thereafter.

 - b. Notice - No civil penalty shall be assessed until the person alleged to be violation has been notified of the violation in accordance with Section 8-3.1 (Notice of Violation). If after receiving a notice violation under Section 8-3.1, the owner or other violator fails take corrective action, a civil penalty may be imposed under this Section in the form of a citation. The citation shall state the nature of the violation, the civil penalty to be imposed upon the violator and shall direct the violator to pay the civil penalty within fifteen (15) days of the date of the notice.

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- c. Responsible Parties - The owner or occupant of any land, building, structure, sign, or of land or part thereof and any architect, builder, contractor, agent or any other person who participates or acts in concert, responsible for the violation and subject to the civil penalties and remedies herein provided.
- d. Continuing Violation -For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty.
- e. Demand for Payment - The Enforcement Officer shall make demand for payment upon the property owner or person in violation and shall set forth in detail a description of the violation for which the civil penalty has been imposed.
- f. Nonpayment - If payment is not received or equitable settlement reached within thirty (30) days after demand for payment is made, the matter shall be referred to legal counsel for institution of a civil action in the appropriate division of the General Courts of Justice for recovery of the civil penalty. Provided, however, if the civil penalty is not paid within the time prescribed, the Enforcement officer may have a criminal summons or warrant issued against the violator. Upon conviction, the violator shall be subject to any criminal penalty the court may impose pursuant to NCGS 14-4.

CHAPTER 4 DISTRICT REGULATIONS

ARTICLE 1. DISTRICTS ESTABLISHED AND INTENT

Section 4-1. Purpose

The purpose of this article is to list and describe the zoning districts herein adopted. A person seeking to rezone a tract of land may either choose to petition for general use or conditional district rezoning. General use rezoning allows the petitioner to pursue any of the listed permitted uses for that district. Conditional district rezoning allows the petitioner to pursue the used approved in the approved site-specific development plan.

For the purposes of this Ordinance, the Town of Swepsonville and its extraterritorial jurisdiction are hereby divided into the following use districts:

- R-20 Residential
- R-15 Residential
- R-8 Residential, High Density
- Office & Institutional
- Neighborhood Business
- Central Business District
- Highway Business
- Industrial

Section 4-2. General Use Districts

R-20 Residential

This district accommodates agricultural and low-density single family residential uses with some limited public, semipublic, and recreational uses when they are compatible with low density residential development. Uses may include single family site built and manufactured homes in small neighborhoods (minor subdivisions). The minimum lot size is 20,000 sq. ft. Public water and sewer are available.

R-15 Residential

This district allows medium-density residential uses within neighborhoods including single family site-built, two-family residences, and neighborhood services, parks and schools. The minimum lot size is 15,000 sq. ft.

R-8 Residential

This district has a variety of high-density residential uses, including single family site-built two-family residences, multi-family dwellings, and compatible neighborhood services, parks and schools. The minimum lot size is 8,000 sq.ft.

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Office and Institutional (O&I)

This district is primarily reserved to accommodate public and quasi-public uses within the community including schools, churches, parks, recreation facilities, medical and dental services, business offices, government facilities and other public properties.

Neighborhood Business (NB)

This district includes retail and service uses compatible in scale and design with surrounding neighborhoods. Walkability is a desirable feature of the Neighborhood Business District, and the district is suitable for transitional areas between residential and business districts.

Central Business District

This district includes the downtown center and allows for a variety of medium and high density uses compatible in scale and design with a pedestrian friendly 'village' environment. Uses in this district are primarily business and commercial. There are no minimum lot sizes for this district and setback requirements should support infill that fits the character of the existing properties. Facades shall not be metal, glossy or reflective material and shall be masonry, wood, brick or composite material so as to maintain the appearance of a traditional community center. Where feasible, given lot size, parking shall be on the side or at the rear of the building. If parking is in front of the building, a buffer area in front of the parking lot shall be planted with shrubs a minimum of six (6) feet apart.

Highway Business (HB)

This district includes larger-scale, automobile-oriented retail and service uses.

Industrial (LI)

This district includes facilities for the manufacturing, compounding, assembly, treatment and storage of goods, materials and products. Industrial and related uses should be able to be operated a relatively clean and quiet manner and which are not obnoxious to adjacent residential or business district establishments are to be located in this district.

ARTICLE 2. CONDITIONAL DISTRICTS

Section 4-3. Purpose and Establishment

- A. *Promotes compatibility* - A Conditional District is established by rezoning a parcel to a conditional district in which only the approved use with site-specific conditions is permitted. When rezoned, the use of the property is subject to the standards and conditions imposed as part of a legislative decision that creates the Conditional Zoning District and applies it to a particular property.

CHAPTER 4 DISTRICT REGULATIONS

- B. *Parallel Conditional Districts Established for Each Zoning District* - A Conditional District, bearing the designation CD (e.g. HB-CD), is hereby established as a parallel district for every district established in the list of General Use districts.
- C. *Owner must request; town may identify certain uses requiring CD* – In all cases, the property owner must request rezoning to a Conditional District. This may be done under any circumstances when the owner believes a site specific development plan will increase the potential compatibility of the proposed use. In some cases, the Town may identify in advance certain uses, shown on the Table of Permitted Uses, that require rezoning to the parallel Conditional District.

Section 4-4. Submissions

Review and approval of conditional zoning petitions involve a legislative hearing and legislative decision by the Town Council. The review of conditional district zoning petitions shall be undertaken in accordance with the normal rezoning procedure with the following additions:

- A. *Submissions*: The property owner(s) must request the conditional zoning and shall submit a master site plan that includes:
 - 1. A boundary survey, with metes and distances showing the property's gross acreage, current zoning classification(s), the location of adjacent public streets, railroad right-of-way, bodies of water (ponds, lakes, streams, rivers, creeks), date of submittal, north arrow, and vicinity map;
 - 2. All existing and proposed easements, reservations and rights-of-way with street section and widths;
 - 3. Footprint of existing and proposed structures;
 - 4. Proposed use of all land and structures, including the number and type (single-family detached, multifamily, town homes, apartments) of residential units and/or the total square footage of any nonresidential development;
 - 5. All setbacks, buffers, screening, and landscaping required by town regulations and/or conditions proposed by the petitioner;
 - 6. Building materials, façade, signage, design features that evidence compatibility with the surrounding area.
 - 7. All existing and proposed access points to public streets and traffic control devices;
 - 8. Generalized drainage plan of existing and proposed drainage patterns, buffers, delineation of regulatory floodplains, delineated wetlands, riparian buffers and open space;
 - 9. Proposed phasing, if any;
 - 10. General location and number of parking spaces and circulation plan;
 - 11. A statement in each petition analyzing the reasonableness of the proposed conditional zoning. The statement shall include, but not be limited to, the following: (a) the conditional zoning's compatibility with the adopted Plan of the Town; (b) the benefits and detriments

CHAPTER 4 DISTRICT REGULATIONS

of the conditional zoning for the subject property, neighboring properties and the surrounding community; and (c) the conditional zoning's compatibility with the existing land uses on adjacent and neighboring tracts.

12. Reference to provisions, in any Town or County comprehensive plan or other applicable plans that refer to or anticipate impacts reasonably expected to be generated by the development or use of the site.

- B. The Administrator or other designated staff member may waive an application requirement where the type of use or scale of the proposal makes providing that information unnecessary or impractical.

- C. In the course of evaluating a petition for conditional zoning for a proposed use or development, the Town may request additional information from the petitioner related to: number and location of all structures, exterior features, building materials, architectural style, signage and any additional information needed to demonstrate that conditional zoning will minimize particular impacts and protect both the immediate area and the community as a whole.

- E. Minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. (NCGS 160D-703(b))

Section 4-5. Community Meeting

The Town shall sponsor an information meeting involving the developer, Planning Board, and adjacent property owners. The purpose of the informal meeting is to provide a time for adjoining property owners to meet with the developer and the Town staff to review preliminary proposals before they are presented at a public hearing conducted by the Town Council. Notices of this Information Meeting shall be sent by First Class mail at a minimum to all adjoining property owners.

Section 4-6. Review and Approval

- A. *Review and Approval Process:* The review and approval of a petition for a conditional zoning district shall follow the same legislative process as outlined for a general use rezoning.

Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, land development plans, comprehensive plans, strategic plans, district plans, small area plans, corridor plans, and other land development policy documents.

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- B. Conditions to Approval - Specific conditions applicable to the conditional zoning districts may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually approved by the Town and by the petitioner may be incorporated into the zoning regulations or permit requirements.
1. Conditions and site-specific standards imposed in a conditional zoning district shall be limited to those that address the conformance of the development and use of the site to town ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.
 2. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Town Council may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town or state, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.
 3. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions before final action by the Town Commission. Evidence of the petitioner's approval shall be documented by the petitioner's signature on the conditions or in the minutes of the meeting in which the conditional zoning is acted upon.
 4. If for any reason any condition for approval is found to be illegal or invalid or if the petitioner should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted by the Town to rezone the property to its previous zoning classification or to another zoning district.
- C. *Effect of Approval:* If the conditional rezoning is approved, the use of the property shall be governed by zoning requirements for the underlying district, the approved site plan for the Conditional Zoning District and any other approved conditions. These conditions shall be binding on the property as an amendment to the zoning map. The subject property shall be identified on the official Zoning map with the underlying general district followed by the letters "CD" (example "HB CD").
- D. *Alterations to Approval:* Except as provided in subsection 1(b), below, substantial changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to this Ordinance or to the zoning map and shall be processed in accordance with the procedures in this Ordinance.

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DISTRICT REGULATIONS

1. The Town Administrator shall have the delegated authority to administratively approve an amendment to an approved site plan that is not substantial.
 - a. A substantial change that may not be approved administratively is one that:
 - decreases use of compatible design features, including building styles and materials, signage and lighting, and site layout, both internal to the development and as it impacts external development;
 - decreases pedestrian features such as sidewalks, crosswalks, and external pedestrian connections; or
 - changes the use(s) approved for the property.
 - b. A change may be approved administratively and is not substantial if it reduces impacts on surrounding properties in one or more of the following ways:
 - it decreases intensity of land uses proposed on the site (.e. number of housing units or gross floor area) by more than 10%;
 - it increases proposed setbacks by more than 10% by locating buildings closer to internal property lines without increasing the setbacks of proposed buildings from public streets;
 - a significant increase in the visually obscuring buffers along the perimeter of the site that includes preserved vegetation, added landscaping, walls and fences, or the use of topography;
 - a decrease in the traffic impact due to a significant decrease or shift in the number, location or configuration of access points to or additional road improvements for the development; or
 - a greater than 10% increase in the amount of usable or passive open space, tree preservation, greenways, or trails provided on the site.

Any decision by the Administrator must be in writing stating why the requested change is not substantial and why it is approved. The Administrator shall also advise the Council in writing of approval of the minor modification.

2. Any request for an administrative amendment shall be pursuant to a written letter, signed by the owners of all of the property affected by the proposed change, detailing the requested change. Upon request, the applicant shall provide any additional information as deemed necessary by the Administrator or the Administrator's designee working directly with the developer. Upon an approval of an administrative amendment, the applicant shall file a sufficient number of copies of the revised site plan as deemed necessary by the Administrator or Administrator's designee.

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3. If the Administrator finds that the requested changes are substantial, as described above, the applicant may file a rezoning petition for a public hearing and Town Commission decision.

Section. 4-7. Progress Following Approval of a Conditional Zoning District

A conditional rezoning decision is based on firm plans to develop the property. Therefore, no sooner than two (2) years after the approved rezoning, the Planning Board may examine the progress made toward developing the property in accordance with the approved rezoning and associated conditions. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Town Council a report which may recommend that the property be rezoned to its previous zoning classification or to another district.

ARTICLE 3. DISTRICT BOUNDARIES

Section 4-8. District Boundaries Shown on Zoning Map

The boundaries of the districts are shown on the map accompanying this Ordinance and made a part hereof and entitled "Official Zoning Map, Swepsonville, North Carolina." The zoning map and all the notations, references and amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described as set out herein. The zoning map properly attested is posted at the Swepsonville Town Hall and is available for inspection by the public.

Section 4-9. Due Consideration Given to District Boundaries

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

- A. Where such district boundaries are indicated as approximately following the street, alley, or highway lines, such lines shall be construed to be such boundaries.
- B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- C. Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, alleys, or highways, or the rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map.
- D. Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of such lot or tract shall be deemed to apply to the whole thereof, provided such extensions shall not include any part of a

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lot or tract more than thirty-five (35) feet beyond the district boundary line. The term "least restricted" refers to use restrictions, not lot or tract size.

Section 4-10. Interpretations of District Boundaries

When uncertainty exists with respect to the boundaries or districts as shown on the Zoning Map, the following rules shall apply:

- A. *Delineation*: District boundary lines indicated as approximately following property lines, lot lines, center line of streets, alleys, railroads, easements, other rights of way, creeks, streams, or other water channels shall be constructed to follow such lines.

Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of such lot or tract shall be deemed to apply to the whole thereof, provided such extensions shall not include any part of a lot or tract more than thirty-five (35) feet beyond the district boundary line. The term "least restricted" shall refer to use restrictions, not lot or tract size.

- B. *Scale*: In the absence of specified distances on the map, dimensions or distances shall be determined by scaling the distance on the Zoning Map.
- C. *Interpretation by the Board of Adjustment*: When the street or property layout existing on the ground is at variance with that shown on the Zoning Map, the Board of Adjustment shall interpret the district boundaries of this Ordinance.
- D. *Division of a Tract*: Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of such lot or tract shall be deemed to apply to the whole thereof, provided such extensions shall not include any part of a lot or tract more than thirty-five (35) feet beyond the district boundary line. The term "least restricted" shall refer to use restrictions, not lot or tract size.

Section 4-11. Interpretation of District Regulations Applicable to Unlisted Uses

The procedure provided for below shall be used to determine if an unlisted use shall be permitted within the Town's Zoning jurisdiction. Additional uses in character with a district may be added to this Ordinance by amendment.

- A. *Findings by the Administrator*: Where a particular use category or use type is not listed or closely aligned to a use in the Permitted Uses Table, the Administrator may permit or deny a proposed use after considering the following criteria:
 - 1. intent of the Ordinance concerning the district(s) involved

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2. the character of the proposed use
 3. the impact of the proposed use on the zoning district taking into consideration:
 - a. the type, size and nature of buildings and structures;
 - b. the impact on adjacent properties created will not be greater than that of other uses in the zoning district;
 - c. parking requirements and traffic generation;
 - d. whether the intensity, volume, size or the operation or activity has the potential to be a nuisance to the surrounding properties
- B. *Determination by the Administrator:* The Administrator shall keep written notes of findings on the above criteria. The administrator shall make a determination and advise the applicant, the Zoning Enforcement Officer, and the Town Council at its next meeting. If the Administrator permits the proposed use and it appears the use is likely to reoccur within the Town limits, the Administrator shall institute an amendment to this Ordinance as provided for herein.
- C. *Appeal of Determination of the Administrator:* The determination of the Administrator may be appealed to the Board of Adjustment pursuant to the procedures set forth in Chapter 13 of this Ordinance.

SECTION 4-12. PERMITTED USES TABLE

P = Permitted Use

S = Special Use

CD = Rezoning to the equivalent Conditional District required

Notes = Uses with Development Standards

Section 4-12. Permitted Use Table

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
ABC Stores					P	P			
Accessory Uses/Structures, Complying with all Setback Requirements	P	P	P	P	P	P	P	P	See Note 1
Adult Day Care Center (see definition)					P		P		
Adult Establishment (See Definition, Chapter 2)							S P		See Note 2
Appliance Sales							P	P	
Art Galleries					P	P	P		
Arts & Crafts Shop					P	P	P		
Assisted Living Facility (See Nursing Home; See Also "Continuing Care Retirement Community")				CD			P		See Note 3
Auction Sales, Excluding Livestock							P	P	
Auto Parts & Supply Stores							P	P	
Auto repair, Body Shops							P	P	See Note 4

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Notes = Uses with Development Standards

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
Auto Wrecking Yards and Similar Types of Used Materials Industries								P	See Note 5
Auto Sales							P	P	
Auto Wash							P	P	
Bar					P	P	P	P	See Note 6
Barber Shops, Hair Salons					P	P	P		
Bed & Breakfast Home	S	S	S	S					Special Use
Boat & Trailer Sales and Services							P	P	
Bona fide farms and appurtenances (See Definitions, Chapt. 2), excluding commercial poultry and swine production, cattle feed lots.	P								
Brewery with on-premises service					P	P	P	P	
Building & Roofing Materials Storage & Sales Yards							P	P	See Note 7
Cabinet Making								P	

SECTION 4-12. PERMITTED USES TABLE

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Notes = Uses with Development Standards

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
Child Care Center (a facility where 3 or more unrelated children under age 13 are cared for)				P	S		P		See Note 8 (O&I) Special Use (NB)
Child Care, Family Child Care Home (In a residence. See Definition)	S	S	S						Special Use
Commercial Recreation Activities, Such as Pool, Billiards (Indoor)					P	P	P		
Continuing Care Retirement Community (See Planned Unit Development PUD)	S	S							Special Use
Convenience Stores with Gasoline Pumps					P		P	P	
Convenience Stores w/o Gasoline Pumps					P		P	P	
Drug Stores/Pharmacy					P	P	P		
Dry Cleaning and Laundry with or without drive-through window					P		P		
Dwelling, Duplex		P	P						

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Notes = Uses with Development Standards

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
Dwelling, Multi-family (Apartment or Condominium)			CD						See Note 12. Permitted when rezoned with site-specific standards to the equivalent Conditional District
Dwelling, Planned Unit Developments, including cluster housing	S	S							Special Use
Dwelling, Single-Family	P	P	P						
Dwelling, Tiny House as Accessory Use	P	P	P						See Note 16
Dwelling, Tiny House as Principal Use	P	P	P						
Dwelling, Townhouse			CD			CD			See Note 17. Permitted when rezoned with site-specific standards to the equivalent Conditional District

SECTION 4-12. PERMITTED USES TABLE

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CD = Rezoning to the equivalent Conditional District required

Notes = Uses with Development Standards

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
Equipment sales and service with outdoor storage							P		
Family Care Home, No Closer Than ½ Mile Radius from Another (See Definition)	P	P	P						
Fast Food with Drive-Through							P	P	
Financial Institutions					P	P	P		
Floral Shops					P	P	P		
Funeral Homes						P	P		
Furniture Sales					P	P	P		
Gaming Establishments, with Electronic or Conventional Gaming Units							P		
Gaming establishments, Adult (with Electronic and Conventional Gaming Units)							P	P	See Note 9
Greenhouse & Nurseries with Outdoor Display							P		
Grocery stores							P		

SECTION 4-12. PERMITTED USES TABLE

P = Permitted Use

S = Special Use

CD = Rezoning to the equivalent Conditional District required

Notes = Uses with Development Standards

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
Group Home (See Definition)							P		See Note 10 (for HB)
Gyms, Physical Fitness Facilities					P	P	P		
Heating/Plumbing/Air Conditioning Shops							P	P	
Home Occupations Conducted Within a Dwelling.	P	P	P						See Note 11
Industrial Parks (See Planned Business Developments)								S	Special Use
Laundromats, self-service							P		
Manufactured Home Park	S								Special Use
Manufactured Home, Residential Principal Use, Class A only	P	P							
Manufacturing, packaging and assembly of goods; compounding, or treatment of articles or products with no								P	

SECTION 4-12. PERMITTED USES TABLE

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CD = Rezoning to the equivalent Conditional District required

Notes = Uses with Development Standards

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
emissions of fumes, smoke or chemicals and no violations of noise standards. Commercial gasoline stations, including major service & repair shops									
Medical/Dental Offices				P	P		P		
Medical / Health Care or Rehabilitation Facilities with Beds				P			P		
Motorcycle, Lawnmower & Power Saw Sales/Repair							P	P	
Music & Dance Studios					P	P	P		
Nurseries, Plant Sales							P	P	
Nursing Homes (See also Assisted Living Facility)				P			p		See Note 2
Offices, business and professional				P	P	P	P	P	
Outdoor Sale of Vegetables, Fruits, Plants	P	P	P	P	P	P	P		
Petroleum Products, Storage Only								P	See Note 13
Pet Shops					P	P	P		

SECTION 4-12. PERMITTED USES TABLE

P = Permitted Use

S = Special Use

CD = Rezoning to the equivalent Conditional District required

Notes = Uses with Development Standards

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
Photographic Studios					P	P	P		
Physical Fitness Facilities, Gyms					P	P	P		
Places of Worship	P	P	P		P	P	P		
Places of Worship with Related Outdoor Uses Such as Play Yards for On-Site Childcare, Cemeteries	P	P	P		P	P	P		See Note 14
Planned Business Development, Including Shopping Centers and Industrial Parks				S			S	S	Special Use
Planned Unit Development (PUD)	S	S	S						Special Use
Plumbing & Heating Supply							P	P	
Private Clubs (for profit)					P	P	P		
Private Clubs and Lodges (Not for Profit)					P	P	P	P	
Public Buildings & Facilities				P	P	P	P		
Public Safety and Public Utilities Facilities	P	P	P		P	P	P	P	See Note 15

SECTION 4-12. PERMITTED USES TABLE

P = Permitted Use

S = Special Use

CD = Rezoning to the equivalent Conditional District required

Notes = Uses with Development Standards

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
Real Estate, Sales and Rental Offices				P	P	P	P		
Recreation, Outdoor (Parks, Golf Courses, etc.) Public or Private	P	P	P				P		
Restaurant					P	P	P	P	
Restaurants with Drive-Through							P		
Repair shops for electrical and mechanical equipment, no outdoor storage					P	P	P		
Repair shops for electrical and mechanical equipment outside storage permitted							P		
Retail sales & services including consignment, used merchandise					P	P	P		
Retirement Community (See Continuing Care Retirement Community) (See Planned Unit Development)	S	S							Special Use
Schools	P	P	P				P		

SECTION 4-12. PERMITTED USES TABLE

P = Permitted Use

S = Special Use

CD = Rezoning to the equivalent Conditional District required

Notes = Uses with Development Standards

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
Service Stations							P	P	
Telecommunications Towers								S	Special Use
Telephone and Digital Device Sales and Service					P	P	P		
Tiny House as Accessory Use	P	P	P						See Note 16
Tiny House as Principal Use that Meets NC Residential Building Code Standards or GS 143-139.1 Standards for Modular Homes	P	P	P						
Travel Trailers, Recreational Vehicles (RV's) for human occupancy on residential lots. Not applicable to trailers used for hauling materials and supplies. See "Trailers" Definitions	P	P	P						See Note 18
Utility Substations, Transformers, Pump stations, Lift stations, etc.	S	S	S	S	S		S	S	Special Use

SECTION 4-12. PERMITTED USES TABLE

P = Permitted Use

S = Special Use

CD = Rezoning to the equivalent Conditional District required

Notes = Uses with Development Standards

USE	R-20	R-15	R-8	O&I	Neighborhood Business (NB)	Central Business	Highway Business (HB)	Industrial	Development Standards (See Notes following Table)
Veterinary Services, Animal Hospitals							S	S	Special Use
Warehousing and Distribution								P	
Warehouse, Self-Storage							P	P	

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Section 4-13. Notes to the Table of Permitted Uses – Development Standards

The Development Standards in these notes provide regulations and conditions that must be verified by the Zoning Enforcement Officer in order for a zoning permit to be issued. The purpose of these conditions is to assure that certain uses which are unusual in their nature or complexity, or are potentially incompatible with their surroundings, meet the specified restrictions. Each use with required development standards shall comply with the regulations of the district in which it is located and with the requirements specified in these Notes.

Note 1. – Accessory Uses and Structures

- A. Accessory Buildings and Structures
 1. An accessory building shall not be used for residential purposes, with the exception of a permits granted for a Tiny House (Note 16).
 2. Structures shall be located in a rear yard not less than five (5) feet from the rear lot line. The side yard setback shall be the same as for side yard setbacks for the district where located.
 3. Structures except for utility substations or similar structures shall not be located within any easement.
- B. The maximum size of an accessory structure shall be as shown in Section 7-1 Table of Residential Dimensional Requirements.
- C. Outdoor storage as accessory use in HB and I districts
 1. Outdoor storage as an accessory use shall not be located within any required yard as specified in Section 7-2 Table of Nonresidential Requirements.
 2. It shall be located in a designated area abutting the associated building(s).
 3. Outdoor storage as an accessory use shall not be located within any required buffer yard as provided in Chapter 8 Buffer Yards and Landscaping.
 4. Areas must be fully screened from ground level view from adjacent residential properties and public streets.

Note 2. – Adult Establishments

- A. No adult entertainment establishment shall be located within 1,500 feet of any other adult entertainment establishment. Distance is measured by a straight line from the nearest point of the lot line where the proposed adult entertainment establishment will be located to the nearest point of the lot line or boundary of the closest similar establishment.
- B. As provided in NCGS 14-220.11 a building or premises containing an adult establishment shall not contain any other kind of adult establishment. And the practice of massage and body work therapy as defined in Article 36 of Chapter 90 shall not be permitted in an adult establishment.
- C. No adult establishment shall be located within 1,500 feet of any portion of a residentially zoned lot or a lot where a school, child day care center or a church is located . Distance is measured as provided in paragraph A above

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- D. Merchandise or activities within the building shall not be visible from the exterior of the building
- E. Signs shall comply with all requirements set forth in this Ordinance. Further, signs shall not contain materials, words, objects, images or displays that suggest or relate to specified anatomical areas and/or specified sexual activities as defined by NCGS 14-202.10, or contain display that has been determined by community standards to be harmful to minors as defined by NCGS 14-190.13-15.

Note 3. - Assisted Living Facilities, Nursing Homes

- A. Minimum Size – An assisted living facility or nursing home shall meet all setback requirements of the zoning district in which it is located.
- B. Site plan – A site plan shall be submitted showing;
 - *Structures.* Location and approximate size of all existing and proposed buildings and structures within the site and on the lots adjacent thereto.
 - *Circulation.* Proposed points of access and egress and pattern of internal circulation.
 - *Parking and loading.* Layout of parking spaces
 - *Landscaping and screening.* A minimum 15 foot natural or planted buffer along property lines abutting a single-family use or zoned lot. The combination of trees and or shrubs and height shall be as provided in Section 8.5 Buffering/Screening of Adjoining Incompatible Land Uses
- C. Lighting - No direct light shall be cast upon adjacent property.
- D. *Parking and loading.* Due to the nature of assisted living facilities and nursing homes, they have different parking requirements, as provided in Chapter 9, Section 9.5 Minimum Parking Requirements.
- E. Any such facility must meet all requirements for licensing by the state

Note 4. - Auto Repair, Body Shops and Associated Work

- A. All associated work shall be performed inside a building.
- B. Parking or storage of vehicles or implements shall be provided off the public right-of-way and at least fifteen (15) feet to the rear of the front property line.

Note 5. - Auto wrecking yards, junked material storage as accessory or principal use: Storage of wrecked vehicles and junked material as an accessory or principal use is permitted only if the storage yard is enclosed by a fence not less than six (6) feet in height which completely screens from view the stored materials. The fence shall not be less than fifty (50) feet from any street right-of-way line.

Note 6. - Bar

- A. Site Plan showing lot, existing and proposed buildings, property lines, zoning district lines;
- B. No use permitted under this section shall be located within 500 feet of any residentially zoned property, church, playground, school, library or areas where

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minors congregate. The distance shall be measured in a straight line from the front, back or side of the main building of the proposed establishment facing the residential property to the nearest point of the residential, church, playground, school, library or areas where minors congregate lot line or property, whether such district or use is located within the Town jurisdiction or not.

- C. No use permitted under this section shall be located within 500 feet of any other bar or an adult establishment. The distance shall be measured in a straight line from the zoning lot of the proposed establishment line to the nearest point of the lot line for the existing adult or bar.
- D. No adult uses shall be co-located with a bar, including adult theaters, topless lounges, massage parlors or any other adult entertainment related businesses or facilities.
- E. There shall be no more than one (1) bar that utilizes the same address or on the same tax parcel. No other principal or accessory use may occupy the same building, structure, property or portion thereof with any sexually oriented business.
- F. A minimum 6-foot high opaque fence or vegetative buffer shall be erected adjacent to the property line of abutting residences.
- G. *Parking.* Parking areas related to the establishment shall be located no closer than 75 feet to the property line of abutting residences.

Note 7. Building & Roofing Materials Storage & Sales Yards

- A. Outdoor storage of materials shall not be located within any required yard
- B. Storage shall be located in a designated area abutting the associated building(s).
- C. Storage areas must be fully screened from ground level view from adjacent residential properties and public streets.

Note 8. - Child Care Center (O&I, NB)

The childcare center shall meet all state licensing requirements.

The outdoor play area shall meet state licensing standards or have at least seventy-five (75) square feet of play space per child. The indoor play area shall meet state licensing requirements of twenty-five (25) square feet per child, whichever greater

Outdoor play space shall be fenced on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space.

Note 9. – Gaming establishments, adult

- A. Adult gaming establishments may operate from 9:00 am until 11:00 pm, Mondays through Saturdays.
- B. Adult gaming establishments shall not be located in the same building or on the same property where any public or private education facility, church, synagogue, temple, or any other religious building, bar, childcare center, all residential dwellings, any general gaming establishment as a principal use, or

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any other existing adult gaming establishment is located. Adult gaming establishments shall also not be placed on properties within 600 feet of any of the aforementioned uses, measured from the closest point between the building housing the adult gaming establishment and the building housing the use from which the establishment must be distanced.

- C. Adult gaming establishments are prohibited in or as a part of any check cashing facility.
- D. All alcohol sales and consumption of alcohol is prohibited.
- E. No adult gaming establishment shall permit any person under the age of 18 to conduct games in the establishment or to supervise games in the establishment.
- F. The maximum number of terminals/computers/machines/gaming terminals and the maximum number of patrons using the electronic machines at one time shall be 25.
- G. The gaming units should have certified software by one of the three (3) prevailing national certification companies.

Note 10. Group Home.

- A. Compliance with state licensing must be verified.
- B. A site plan must be submitted that shows:
 - Location of parking
 - Landscaping and screening. Parking areas shall be screened from adjoining properties
- C. May not be located within one-half mile radius of another group home.

Note 11. Home Occupation – A home occupation is permitted only as an incidental use inside of the home and is subject to the following conditions:

- A. Must be conducted entirely within the dwelling. Not over 25 percent of the total actual floor area including basement shall be used for a home occupation
- B. Only products made by the occupants may be sold on the premises.
- C. No mechanical or electronic equipment shall be installed or used that causes noise or other interference in radio and television reception.
- D. No odors, noise, dust or other objectionable effects shall be emitted to the outside of the building.
- E. No outside storage shall be used in connection with the home occupation.
- F. Only residents of the dwelling may be engaged in the home occupation.

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- G. One identification sign is permitted but shall not exceed three (3) square feet in area. No such sign shall be permitted in a residential district.
- H. Except for a family childcare home or center, no person, other than a resident of the premises, shall be employed in connection with the home occupation. Examples of home occupations include but are not limited to: instruction in music, dance, art, or similar subjects; professional offices; barber/beauty services; catering; and handcrafting.

Note 12. Multifamily Dwellings (Apartments and condominiums)

- A. A site plan shall be required that shows:
 - Buildings with numbered and dimensioned residential sites
 - Walkways
 - Open space/ recreational areas and facilities
 - Common areas
 - Existing buildings and structures within 100 feet
 - Public or private easements or rights-of-way adjoining or intersecting the property.
 - Points of ingress and egress and proposed pattern of internal streets and automobile and pedestrian circulation and parking areas
 - Provision for control of stormwater runoff and erosion, approved by a NC registered engineer
 - Size and proposed location of signs.
 - Proposed solid waste storage facilities.
 - Proposed water system and fire-fighting facilities such as hydrants or sprinkler connections.
 - Location and heights of fences, walls and hedges
 - Lighting plan
- B. *Density*: An 8,000 square foot lot shall be provided for the first dwelling unit; an additional 4,000 square feet of land shall be provided for the second and 3,000 square feet for each subsequent dwelling unit in the same building. The overall density of development shall not exceed twelve (12) units per acre.
- C. *Building Setback Lines*: All principal buildings shall have a minimum front yard setback of forty (40) feet; side and rear yard setbacks shall be a minimum of thirty (30) feet.
- D. *Screening*: Screening shall be provided in accordance with the requirements of Chapter 8 Buffer Yards and Landscaping (Section 8-3 Roadside Landscaping and Section 8-5 Buffering Screening of Adjoining Incompatible Uses). If a berm is determined to be an adequate alternative screening method, the minimum height of the berm shall be six feet.

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- E. *Control of Potential Nuisance Uses:* Mechanical equipment rooms, air conditioning units or cooling towers, swimming pools, water filtration systems, children’s play areas, and sporting facilities shall not be placed within fifty (50) feet of adjacent land used or anticipated to be used as single-family residential areas.
- F. *Internal Relationships:* Structures, uses, and facilities shall be grouped in a safe, efficient, convenient, and harmonious relationship in order to preserve desirable natural features and minimize disturbances of the natural topography.
- G. *Streets (Interior):* Streets shall meet NCDOT pavement design guidelines and shall have a pavement width of 26 feet, 31 feet back of curb to back of curb, consistent with standards for public dedication. When possible, vehicular access to adjacent streets shall be controlled so as to minimize access points and promote free flow of traffic on public streets.
- H. *Signs:* Signage shall comply with the requirements for one sign per street frontage having access to the site . See Section 6-12. Signs Permitted Table
- I. *Open Space/Recreation:* Multi-family developments shall provide common open-space/recreation areas based on the number of bedrooms as established in the following table:

Number of Bedrooms Per Apartment	Minimum Space/ Bedroom (Sq. Ft.)
1-bedroom apartment	0
2-bedroom apartment	25
3-bedroom apartment	50
4-bedroom apartment	100

These recreational areas shall be reasonably located to assure safe and convenient access. These areas shall not be less than thirty (30) feet by thirty (30) feet in area. Developments which would provide less than 900 square feet based on the above formula shall be exempt from this requirement.

- J. *Parking:* Automobile parking spaces [a minimum of two (2) per unit] and drives shall not be located closer than ten (10) feet to the front, side, or rear of any building.
- K. *Building Relationships:* One (1) building wall that has both window and door openings shall be located no closer than fifty (50) feet to another building. One (1) building wall that has only window openings or only door openings shall be located no closer than twenty-five (25) feet to another building.
- L. *Courtyard:* Any group of buildings forming a courtyard shall have at least twenty-five (25) percent of the perimeter of such courtyard open for access by emergency vehicles.

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- M. Multifamily condominium developments shall conform to the requirements of the North Carolina Condominium Act, in Chapter 47C of the North Carolina General Statutes.

Establishment of a homeowners' association as a legal entity shall be accomplished before or as part of the final plat approval and recording. Membership in the homeowners' association shall be mandatory. The association shall be responsible for payment of liability insurance premiums; local taxes; maintenance of open space, recreational and other common area facilities; payment of assessments for common area public and private capital improvements; and maintenance and repair to exterior of attached residences. The organizing documents shall provide that if the homeowners' association defaults for 6 months in payment of ad valorem taxes to the Town, then each owner of a residential site shall be obligated for that residential site's pro rata share of the taxes owed the Town.

Note 13. Petroleum Products and Storage

The storage of gasoline for wholesale distribution or the siting of bulk terminal plants for any flammable gases or liquids shall be no closer than fifty (50) feet to any lot line. The storage thereof must comply with the Fire prevention Code.

Note 14. Places of Worship with Related Outdoor Uses

Places of worship with customary related outdoor uses, including cemeteries or play yards, shall be set back at least twenty (20) feet from any property line when there is construction of new facilities or expansion of existing facilities beyond the existing building footprint.

Note 15. Public Safety Facilities

- A. All vehicles and equipment shall be stored indoors (except for police vehicles).
- B. All buildings shall be set back at least twenty (20) feet from all property lines.
- C. The buildings shall be designed and landscaped in such a way as to blend in with the surrounding area.

Note 16. Tiny Houses as Accessory Use

- A. The primary and accessory homes must be owned by the same person.
- B. Maximum size for an accessory home is 800 square feet, but it can be no more than half the size of the principal house (for a freestanding building) and cover no more than 30 percent of the rear yard
- C. Must meet applicable zoning and set-back requirements.
- D. One parking space must be provided, and the primary and accessory home must share a driveway unless on a corner lot.

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- E. Roof and exterior walls and finishes must be compatible with those of the principal dwelling, and the property shall retain a single-family appearance from the street.
- F. Must be permitted by the zoning enforcement officer and inspected by the building inspector.
- G. Unit must comply with construction requirements in the most recent edition of the North Carolina State Residential Building Code including but not limited to:
 - 1. every dwelling unit must have toilet facilities – water closet, lavatory, and a bathtub or shower
 - 2. must have a kitchen area with a sink
 - 3. all plumbing fixtures must be connected to a sanitary sewer or to an approved private sewage disposal system – *Section R306.3* (Storage tanks are not acceptable)
 - 4. must be provided with a heating facility – *Section R303.8*
- H. If the unit is constructed through the NC Modular Construction Program, the unit must also meet the minimum construction and design standards for modular homes cited in *NCGS.143-139.1*.
- I. Use of a travel trailer or recreational vehicle (RV) as an accessory dwelling is prohibited in a residential district or on property devoted to residential use, except that use of a travel trailer or RV during temporary visits of two weeks or less shall be allowed.

Note 17. Townhouse Development

- A. A site plan shall be required that shows:
 - Buildings with numbered and dimensioned residential sites
 - Walkways
 - Open space/ recreational areas and facilities
 - Common areas
 - Existing buildings and structures within 100 feet
 - Public or private easements or rights-of-way adjoining or intersecting the property.
 - Points of ingress and egress and proposed pattern of internal streets and automobile and pedestrian circulation and parking areas
 - Provision for control of stormwater runoff and erosion, approved by a NC registered engineer
 - Size and proposed location of signs.
 - Proposed solid waste storage facilities.
 - Proposed water system and fire-fighting facilities such as hydrants or sprinkler connections.
 - Location and heights of fences, walls and hedges

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Lighting plan

- B. **Density:** The overall density of development shall not exceed twelve (12) units per acre.
- C. **Screening:** Screening shall be provided in accordance with the requirements of Chapter 8 Buffer Yards and Landscaping (Section 8-3 Roadside Landscaping and Section 8-5 Buffering Screening of Adjoining Incompatible Uses). If a berm is determined to be an adequate alternative screening method, the minimum height of the berm shall be six feet.
- D. **Streets (Interior):** Streets shall meet NCDOT pavement design guidelines and shall have a pavement width of 26 feet, 31 feet back of curb to back of curb, consistent with standards for public dedication. When possible, vehicular access to adjacent streets shall be controlled so as to minimize access points and promote free flow of traffic on public streets. Vehicular access to public streets shall be controlled so as to minimize access points and to promote free flow of traffic on public streets.
- E. **Signs:** Signage shall comply with the requirements for one sign per street frontage having access to the site. See Section 6-12. Signs Permitted Table.
- F. **Placement of Buildings:**
1. Setbacks from public street rights-of-way shall be the same as required by the zoning district where the townhouse development is located.
 2. Rear Yard: 20 feet
 3. Side yard for end dwelling: 15 feet
 4. At least 20 linear feet of open space shall exist between individual and unattached buildings in a townhouse development.
- G. **Open Space/Recreation areas:** Townhouse developments shall have common open space/recreation area(s) equal to 10% of the total lot area. These areas may provide active or passive recreation accessible to all residents of the development. Landscaping or buffer areas shall not count toward the 10% set-aside.
- H. **Parking:** Automobile parking spaces [a minimum of two (2) per unit] and drives shall not be located closer than ten (10) feet to the front, side, or rear of any building.
- I. **Courtyard:** Any group of buildings forming a courtyard shall have at least twenty-five (25) percent of the perimeter of such courtyard open for access by emergency vehicles.
- J. **Homeowners' Association:**
1. The establishment of a homeowners' association shall be mandatory. The homeowners' association shall be organized and established as a legal entity before or as part of the final plat approval and recording process. Membership in

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the homeowners' association shall be mandatory for each original purchaser and each successive purchaser of a residential site.

2. As a part of the approval process, the developer shall present to the Town the following documents, which shall be provided to every purchaser in perpetuity:
 - a. Articles of Incorporation
 - b. Bylaws
 - c. Annual budget: A proposed annual budget shall show monthly assessments which must be set at a sufficient level to ensure success of the association.

3. The association shall be responsible for payment of liability insurance premiums; local taxes; maintenance of open space, recreational and other common area facilities; payment of assessments for common area public and private capital improvements; and maintenance and repair to exterior of attached residences. . The organizing documents shall provide that if the homeowners' association defaults for 6 months in payment of ad valorem taxes to the Town, then each owner of a residential site shall be obligated for that residential site's pro rata share of the taxes owed the Town.

Note 18. Trailer, Recreational Vehicle (House Trailer) or Travel Trailer, Stored on Residential Property

Due to size and bulk, except for temporary loading and packing, trailers and RV's (recreational vehicles) as defined in this Ordinance shall be stored only behind the residence, in the rear yard, on residential property and not in a side driveway or on the street. This restriction does not apply to trailers, not for human occupancy, that are towed for hauling materials and supplies.

CHAPTER 5 SPECIAL USES

Section 5-1. Objectives and Purposes.

- A. Permitting special uses adds flexibility to this chapter. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the special use permit procedures, property uses which would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties.
- B. The uses for which special use permits are required are listed in Section 5.3 Regulations for Special Use Permits, along with a detailed description of the procedures which must be followed in the issuance of each such permit. Uses specified in this section shall be permitted only upon the issuance of a special use permit.

Section 5-2. Special Use Permits Granted by Board of Adjustment.

- A. Special use permits may be granted by the Board of Adjustment for the uses enumerated in the Regulations for Special Uses in Section 5-3. The Board shall have an opportunity to review and provide written comments on the application before the meeting at which the Town Council conduct a quasi-judicial hearing and render a final decision.
- B. The owners of all the property included in the petition for a special use permit shall submit an application to the Town Clerk at least three weeks before the regular monthly Board of Adjustment meeting at which it is to be considered. Such application shall include all of the requirements pertaining to it as described in this section.
 - 1. On receiving a complete application for a Special Use Permit, the Board of Adjustment shall give notice of a quasi-judicial hearing on the application in the manner provided by NCGS 160D-406(b). As provided by NCGS 160D-705 the hearing shall be quasi-judicial; and the Board shall swear in all witnesses and shall follow all proceedings for an evidentiary hearing set out in NCGS 160D-406.
- C. The Board of Adjustment shall consider the application and shall provide the applicant an opportunity to present evidence, cross examine witnesses and present rebuttal evidence. Unlike a legislative hearing, only those witnesses proposing and opposing the special use who would be directly and substantially affected by the decision may speak at the hearing.
- D. At the conclusion of the hearing, the Board of Adjustment may grant or deny the special use permit. As provided by NCGS 160D-406(j) the Board of Adjustment shall determine the facts based on competent, material and substantial evidence in the record. The voting requirements for granting a variance (NCGS 160D-406(i)) are *not* applicable to granting of

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special use permits.

- E. The special use permit, if granted, shall include approval of plans as may be required and the following findings:
- (1) The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
 - (2) The use meets all required conditions and specifications of the permit;
 - (3) The use will not substantially injure the value of adjoining or abutting property, or the use is a public necessity; and
 - (4) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the town and its environs.
- F. The Board of Adjustment may make additional conditions, in addition to the findings as will, in its opinion, ensure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and clearly in keeping with the public welfare. All such additional conditions shall be entered in the minutes of the meeting at which the special use permit is granted, on the special use permit certificate itself, on the approved plans submitted therewith, and shall have the applicant's written consent. All specific conditions shall run with the land and shall be binding on the original applicants for the special use permit, their heirs, successors and assigns.
- G. In addition to the conditions specifically imposed in this chapter and such further conditions as the Board of Adjustment may deem reasonable and appropriate, special uses shall comply with the height, area and parking regulations for the zoning district in which they are located. All special uses other than planned unit developments and planned business developments shall comply with yard regulations for the zoning district where they are located.
- H. The decision shall be in writing, signed by the chair or other duly authorized member of the Board and shall be filed with the town clerk and agreed to in writing by the applicant.
- I. Appeal. The decision of the Board of Adjustment, as with any quasi-judicial decision, shall be subject to review by the superior court of Alamance County by proceedings in the nature of certiorari pursuant to NCGS 160D-406(h). A petition for review shall be filed with the clerk of superior court within 30 days after the applicant has received written notice of the decision.
- J. For failure to comply with the plans approved by the Board of Adjustment or with any other conditions imposed upon the special use permit, the permit shall thereupon immediately become void and of no effect.

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Section 5-3. Regulations for Special Use Permits.

Generally. Detailed regulations for the special uses subject to this division are set forth in the regulations for special uses and the notes related to those provisions in this section.

A. Bed and Breakfast Homes

Special Use Districts: R-20, R15, R-8, O&I

1. *Residential Operators:* The facility must be operated by someone who resides full time in the residence.
2. *Structure:* The use shall be located in a structure which was originally constructed as a dwelling. A maximum of eight (8) guest rooms are allowed.
3. *Food:* Meals served on the premise shall be only for guests. Meals shall be limited generally to breakfasts and afternoon teas.
4. *Public Health:* All facilities shall comply with the rules governing the Sanitation of Bed and Breakfasts as specified in 15A NCAC 18A.2200.
5. *Signs:* Signage shall be limited to one home occupation sign not to exceed three (3) square feet in area, which shall be mounted or freestanding.
6. *Guests:* All guests shall be limited to a maximum stay of fourteen (14) days.
7. *Parking:* Parking for guests shall be provided in the rear.

B. Child Care

1. Child Care Center (a program where three or more unrelated children less than 13 years old receive care on a regular basis at least once a week for more than four hours per day but less than 24 hours.
 - a. Special use districts: NB
 - b. *Parking requirements:* 1 1/2 off-street spaces for each five pupils
Sufficient paved driveway to accommodate at least two vehicles at one time for loading and unloading passengers in addition to any off-street parking area.
 - c. In residential districts, day care shall not be operated between the hours of 7 p.m. and 6 a.m.
 - d. In a residential district, the facility shall be screened from abutting residential property by dense plantings.
 - e. All state and/or county licensing and inspection to be maintained at all times.
 - f. *Minimum setbacks in residential district:*
Front yard: 30 feet from any public or private street;

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Rear yard setback: 35 feet;

Side yard setbacks: 20 feet; and

Corner lots: a minimum of 30 feet from each street.

- g. All children outside play areas shall be enclosed with at least a four-foot high fence and located only within the side and/or rear yards

2. Family childcare home (2 to 8 children in home of owner-occupant)

- a. Special use districts: R-20, R-15, and R-8
- b. The operation must be licensed by the North Carolina Department of Health and Human Resources.
- c. A childcare home shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling. All building and lot standards for residential dwellings shall be maintained
- d. Not permitted in Duplexes, Condominiums, Townhomes, or Apartment Units.
- e. The childcare home operation shall be located within a Single-family House and shall be occupied by the operator of the service.
- f. Outdoor play space shall be located in the rear yard and fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space. The area of the play space must meet state licensing standards or be not less than seventy-five (75) square feet per child outdoors and twenty-five (25) square feet per child indoors play area for each child, whichever is greater.

C. Continuing Care Retirement Community. See Planned Unit Development

D. Manufactured Home Parks

Special use districts: R-20

1. *Required Plans:*

Plans meeting the following requirements shall be prepared and presented to the Zoning

Enforcement Officer, who shall give them to the Planning Board to review. A survey plat of the proposed park shall be prepared by a registered surveyor and shall be drawn to scale on a map no larger than 24" x 36". Such plans must show:

- a. the area to be used for the proposed manufactured home park;
- b. the ownership and use of neighboring properties;
- c. the proposed common entrance and exit;
- d. driveways, walkways, and off-street parking spaces;
- e. the location of manufactured home spaces, recreation areas (if any) and service buildings

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- f. the location of sanitary conveniences including laundries and refuse receptacles; and the proposed plan of water supply, sewage disposal and electric lighting.
- g. A fee to cover administrative costs, shall be paid to the Zoning Enforcement Officer before site plans are reviewed by the Planning Board.

2. *Manufactured Home Park Size, Lots, Layout and Numbering:*

- a. The lot area shall be at least three (3) acres. All areas included in the park shall be clearly shown on site plans as required by this Ordinance.
- b. There must be at least twelve (12) manufactured home spaces available for occupancy prior to the issuance of an occupancy permit by the Zoning Enforcement Officer.
- c. Each manufactured home in a home park shall occupy at minimum an 8,000 square foot space with an overall density not to exceed nineteen (19) manufactured homes per five (5) acre tract.
- d. No manufactured home or its ancillary structure shall be closer than twenty (20) feet to another manufactured home or its ancillary structure.
- e. All manufactured homes shall be set back at least twenty (20) feet from side and rear lots lines of the manufactured home space and at least thirty (30) feet from the front property line of the manufactured home park.
- f. All manufactured homes abutting a state or Town maintained road shall be oriented to ensure that the longest side is parallel-or as close as possible-to the front lot line.
- g. For Emergency 911 purposes, each unit or space shall be appropriately numbered for ease of identification.

3. *Water and Sewer Required:*

Each park shall be supplied with public or community water and sewer.

4. *Classes of Units Allowed:*

Only Class A units, excluding the requirements for a permanent masonry foundation, shall be permitted within new parks and/or expansions to existing parks.

5. *Skirting and Anchoring of Units:*

- a. A permanent masonry foundation shall not be required; however, vinyl underpinning shall be installed within thirty (30) days after siting within a park. Should circumstances warrant, a thirty (30) day extension may be obtained from the Zoning Enforcement Officer.
- b. Each manufactured home shall be properly anchored in accordance with provisions of the most recent adopted edition of the State of North Carolina Regulations for Manufactured Homes.

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6. *Buffers:*

- a. The park shall have a clearly defined buffer of at least twenty (20) feet along the rear lot line and the two (2) side lot lines and forty (40) feet along the public road providing access to the park entrance.
- a. The property owner shall maintain plantings in the buffer in sound condition. Maintenance includes replacement of plants which are damaged and/or dying.
- b. The buffer shall be composed of shrubs, deciduous and/or evergreen trees which will grow to a height of five feet or more after the first full growing season and which will grow to at least 12 feet at maturity. It shall not contain playgrounds or other active recreation uses and storage or parking facilities.

7. *Interior Street System:*

- a. *Streets and roadways (Interior):* Streets for internal circulation shall meet NCDOT pavement design guidelines and shall have a pavement width of 26 feet, 31 feet back of curb to back of curb, consistent with standards for public dedication.
- b. Dead end streets are prohibited.
- c. No manufactured home within the park shall have direct access to any road other than the interior road(s) serving the park.

8. *Parking:*

Two (2) off-street parking spaces shall be provided for each manufactured home space. Required parking spaces shall be included within the minimum square footage required for each manufactured home space. The driveway and parking spaces shall be paved.

9. *Sanitation & Animal Control:*

- a. The park owner shall provide centrally located waste and recycling collection dumpsters for weekly collection.
- b. Residents shall store all garbage and refuse in suitable trash containers covered with tight fitting covers.
- c. Proper animal control shall be the responsibility of each pet owner.

10. *Lighting:*

The park owner shall provide adequate lighting at appropriate intervals.

11. *Signage:*

One identification sign is permitted per major entrance to the park shall be required. Signs shall be set back at least ten (10) feet from the front property line. Illumination is restricted to indirect white lighting.

12. *Ownership Information:*

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Manufactured home park operators shall be required under this ordinance to comply with NCGS 105- 316(a)(1), which requires that each year manufactured home park operators furnish the County Tax Supervisor with the name of the owner and a description of each manufactured home located in the park.

E. Planned Business Development (Shopping Centers, Industrial Parks) Special Use Districts. O&I, HB, I

An area of land under unified control developed for business, commercial or industrial uses, consisting of one or more principal structures or buildings and accessory structures or buildings on a plot not subdivided into customary streets and lots.

1. *Minimum area:* One acre, 250-foot minimum plot width.

Site considerations:

- a. Such developments shall abut a major highway or a collector street and shall have direct access thereto.
- b. Minimum setback of buildings from the street right-of-way shall be 40 feet. This setback shall be measured from the major access street abutting the development. The first ten feet from the right-of-way shall be developed for grass, plants and sidewalks and shall not be used for any purpose except necessary entrances and exits and shall not be used for off-street parking.
- c. Points of ingress and egress shall consist of a driveway or roadway at least 20 feet in width and shall be located a sufficient distance from highway intersections to minimize traffic hazards, inconvenience and congestion.
- d. The number, width and location of curb cuts shall be such as to minimize traffic hazards, inconvenience and congestion.
- e. Parking areas shall have a paved surface, and all parking areas and traffic lanes shall be clearly marked.
- f. Required buffers when planned business development adjoins or abuts a residential zone or residential use permitted by this chapter.
- g. A greenbelt planting strip, not less than ten feet in width, shall be planted prior to opening of the business along the side of the property abutting or joining a residential district. Such a greenbelt shall be planted at random with evergreens and other trees which eventually will grow to a height not less than ten feet.

2. *Required plans.* Plans shall be submitted as may be required, showing:

- a. Topography of the site, at contour intervals no greater than five feet.
- b. Dimensions of the property and adjacent lots and streets.
- c. Location and proposed use of all buildings with dimensions and ground area thereof.
- d. Streets, traffic circulation and parking areas with spaces.
- e. Service areas, off-street loading facilities, service drives and dimensions thereon.
- f. All pedestrian ways.

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- g. A title, giving the names of the developers, the date, the scale of the plan and the person preparing the plan.
 - h. Proposed landscaping, with property buffers between other uses.
 - i. Size and location of signs.
 - j. Proposed water system and firefighting facilities, such as hydrants or sprinkler connections.
 - k. The location and heights of all fences, walls and hedges.
 - l. Profiles of publicly maintained water and sewer lines.
 - m. Profiles, cross sections and slopes of on-site, off-site ditches carrying water runoff.
 - n. Erosion and sedimentation control plan.
 - o. Lighting plan, where applicable.
3. *Streets (Interior)*: Streets shall meet NCDOT pavement design guidelines and shall have a pavement width of 26 feet, 31 feet back of curb to back of curb, consistent with standards for public dedication. Vehicular access to adjacent streets shall be controlled so as to minimize access points and promote free flow of traffic on public streets.

F. Planned Unit Development (includes continuing care retirement community, cluster home developments, other non-standard lot developments).

Special use districts: R-20, R-15 and R-8

A planned unit development (PUD) is an area of land under unified control to be developed as a single entity for a number and variety of dwelling units, attached and/or detached, and related uses, the plan for which may not correspond in lot size, type of dwelling or lot coverage to the regulations of the residential zoning district in which the PUD is located. With permission of the Town Council, a planned unit development may also include approved mixed uses such as commercial or business uses.

1. *Minimum Area*: 3 acres
2. *Modifications of Dimensional Requirements and Density*. The yard regulations set forth in Chapter 7 may be modified for a planned unit development. However, the density of a Planned Unit Development, excluding driveways and streets, may not exceed the maximum density of the base zoning district. The development itself shall have a minimum frontage of 80 feet, which shall be used only for driveways, landscaping and screening.
3. *Plans Required*. Plans shall be submitted showing:
 - a. Topography of the site, at contour intervals no greater than five feet.
 - b. Dimensions of the property and adjacent lots and streets.
 - c. Location, use and ownership of all buildings with dimensions and ground area

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thereof.

- d. Public and private streets, parking areas with spaces.
 - e. All pedestrian ways and sidewalks
 - f. A title, giving the names of the developers, the date, the scale of the plan and the person preparing the plan.
 - g. Proposed landscaping, with property buffers between other uses.
 - h. Storm drainage and sanitary sewers, where applicable.
 - i. Size and location of signs.
 - j. Proposed water system and firefighting facilities such as hydrants or sprinkler connections.
 - k. The location and heights of all fences, walls and hedges.
 - l. Profiles of publicly maintained water and sewer lines
 - m. Profiles, cross sections and slopes of on-site, off-site ditches carrying water runoff.
 - n. Erosion and sedimentation control plan.
 - o. Lighting plan where applicable.
 - p. Location and amount of open space, active or passive recreation area.
4. *Site Considerations.*
- a. Points of ingress and egress shall consist of a driveway or roadway at least 20 feet in width and *shall* be located a sufficient distance from highway intersections to minimize traffic hazards, inconvenience and congestion.
 - b. The number, width and location of curb cuts shall be such as to minimize traffic hazards, inconvenience and congestion.
 - c. Parking areas shall have a paved surface, and all parking areas and traffic lanes shall be clearly marked.
 - d. Storm and sanitary sewage shall be provided as approved by the Planning Board.
 - e. A greenbelt planting strip, not less than 20 feet in width, shall be planted prior to opening of the housing, along all street sides of the property. Such greenbelt shall be planted with evergreens and other trees, at least 11 plants per 100 linear feet planted at random, which eventually will grow to a height not less than 12 feet.
 - f. Topographic or other natural features, such as berms, offering screening shall be acceptable in lieu of foliage. The greenbelt at the front of the property shall be located so as to provide reasonable continuity in alignment with adjacent property.
 - g. Adequate screening shall be provided by means of planting or fencing as needed to project adjacent property.
5. *Streets (Interior):* Streets shall meet NCDOT pavement design guidelines and shall have a pavement width of 26 feet, 31 feet back of curb to back of curb, consistent with standards for public dedication. Vehicular access to adjacent streets shall be controlled so as to minimize access points and promote free flow of traffic on public streets.

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6. *Open Space/Recreation areas:* PUDs shall have common open space/recreation area(s) equal to 10% of the total lot area. These areas may provide active or passive recreation accessible to all residents of the development. Landscaping or buffer areas shall not count toward the 10% set-aside.
7. *Common Areas:* Land not shown as lots or reserved for residential development shall be commonly owned land. Such land, including open space/recreation areas, shall be designated on the development plan as common area to be held in separate ownership for the use and benefit of residents of the PUD.
8. *Parking:* Off-street parking and loading shall be provided in accordance with Chapter 8.
9. *Signs:* Signs on premises shall be regulated as follows:
 - a. *Type of Sign:* Identification.
 - b. *Permitted Number of Signs:* One ground sign per entrance to the development.
 - c. *Maximum Area of Ground Sign:* 16 (sixteen) square feet.
 - d. *Permitted illuminations:* Indirect lighting, non-flashing illumination and motionless.
 - e. *Permitted location:* Within the bounds of the property.
10. *Homeowners' Association.* The developer shall submit a draft of the articles of incorporation for the homeowners' association. The articles of incorporation shall provide that all owners of property within the development share automatic membership rights and assessment obligations for the maintenance of these areas. The automatic membership rights and assessment obligations of all owners of property within the PUD shall be so covered by covenants running with the land and other contractual provisions as to ensure the property maintenance of all commonly owned areas and shall include provisions for liens against the individual properties and legally enforceable personal obligations on the part of the individual property owners within the development. Before grant of a special use permit, the articles of incorporation shall be approved by, the town attorney. A homeowners' association shall not be required for a Continuing Care Retirement Community which is under unified control and management.

G. Telecommunications Towers

Special Use Districts: Industrial district

1. *Purpose:* The purpose of this regulation is to establish a framework within which to identify characteristics of telecommunication tower siting. To this end, it has been established that various types of towers are available, colocation is highly advantageous, and siting on public lands offers substantial advantages. Review, siting and/or colocation of any telecommunications tower shall comply in all respects with G.S. 160D, Article 9, Part 3 "Wireless Telecommunications Facilities."
2. *Where Permitted:*

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I District

- a. Transmission towers may be sited on any publicly or privately held tract of land exceeding one-half (1/2) acre in size. A special use permit shall be required. Adequate fencing and landscaping shall be required.
 - b. Towers may be erected on an existing building without requiring a special use permit. The tower shall not exceed thirty (30) feet or thirty (30) percent of the height of the building, whichever is greater.
3. *Type of Tower Permitted:*
Within any district where permitted, either a lattice tower or monopole shall be permitted. The Board of Adjustment will carefully consider the advantages and disadvantages of each prior to a final decision. Any erected tower should be neutral in color. Tower manufacturers shall be required to provide evidence of the self-collapsing features of any tower erected.
4. *Colocation and Height Stipulations:*
- a. After the initial tower has been sited, future expansions shall obligate the existing and/or new carriers to colocate unless it can be clearly shown that such a requirement cannot adequately meet the projected customer needs.
 - b. Height limitations shall not exceed 199 feet in the RA and both industrial districts.
 - c. When colocating, there is no necessity for an otherwise required special use permit.
5. *Supplemental Use of Towers:*
- a. Adequate provisions by the carrier should be made to ensure that the placement of transmitters for emergency services is made available.
 - b. No commercial messages shall be placed on any tower.
6. *Old Towers and Advanced Technology:*
- a. Abandoned towers [those not used for a period of six (6) months or more] shall be removed by the carrier(s).
 - b. Should technology changes render the height of the tower(s) excessive, the Zoning Enforcement Officer may require that the tower be reduced in height, replaced, or removed. See subsection (i.) below.
7. *Power Output:*
It shall be the carrier's responsibility to present evidence that the power output from the tower does not exceed federally approved levels for exposure to electromagnetic forces.
8. *Periodic Review of Permits:*
The permit for the construction of a tower shall be for a period not to exceed seven (7) years. At the end of each period, the tower owner(s) shall submit to the planning board designated technical and market information documenting the continued need for the tower and the lowest feasible tower height. If this tower height is seventy (70) percent or less of the existing height of the tower, the owner shall be required to reduce the tower height to the lower height.

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9. *Setbacks:*

In the RA and both industrial districts, setback requirements of one (1) additional foot for each foot that the tower exceeds seventy-five (75) feet shall apply.

H. Utility Substations, Transformer Stations, Telephone Exchanges, Pump and Lift Stations

Special Use Districts: Low density residential, Medium density residential, High density residential, O&I, NB, HB and I

1. *Setbacks:* All structures shall meet the setback requirements for the district in which they are located.
2. *Lighting:* Lighting shall be located so as not to cast direct lighting on adjacent properties.
3. *Dust:* All non-paved storage areas shall be maintained in a manner to limit the amount of dust leaving the storage area.
4. *Fencing:* Security fencing shall be provided around any outside storage area.
5. *Landscaping:* Landscaping shall be constructed or placed in such a way as to blend in with the surrounding area.

I. Veterinary services, Animal hospitals

Special Use Districts: HB, I

1. *Setbacks:*
Outdoor pens and runs must be placed a minimum of twenty-five (25) feet from any side lot line and twenty-five (25) feet from any rear lot line. For residential lots, outdoor pens shall be placed no closer than one-hundred (100) feet to any property line as measured from any point on any property line.
2. *Fencing & Screening:*
Outdoor animal pens and play yards shall be fenced with a five foot high fence and screened by a thickly planted buffer that reaches a height of five (5) feet within three (3) years.
3. *Incineration:* There shall be no incineration of animal carcasses.

CHAPTER 6

SIGNS

Section 6-1. Purpose

It is the purpose of this chapter to permit signs of a commercial, industrial, and residential nature in appropriate sites throughout the Town of Swepsonville. Although signs are a necessary part of the community, the size and placement of signs should be controlled in order to: 1) protect property values, both residential and commercial; 2) protect the physical appearance of the community; and 3) reduce distractions or obstructions that may contribute to traffic hazards.

Section 6-2. Definitions

1. **Billboard.** See "Off-Premises Sign."
2. **Business Sign.** See "On-Premises Sign."
3. **Construction Sign.** A sign on the lot of a building to be constructed or under construction, alteration, or repair, stating, but not limited to, the purpose for which the building is intended, the names of the architects, engineers, contractors, developers, financiers, or others involved, the square footage of the structure or other pertinent data.
4. **Directory Sign.** A sign on which the names and locations of occupants or the use of a building is given.
5. **Emergency/Warning Sign.** A sign warning the public of a danger to public health and safety.
6. **Flashing Sign.** A sign which displays flashing, blinking, or intermittent light of changing intensity.
7. **Freestanding Sign.** A sign which is supported from the ground and which is wholly independent of any other structure for support.
8. **Home Occupation Sign.** A sign identifying a permitted home occupation conducted on the premises of the dwelling unit occupied by the operator of such home occupation.
9. **Illuminated Sign.** A sign internally or externally illuminated in any manner by an artificial light source.
10. **Institutional Sign.** A sign denoting the name of and service provided by a public, religious or charitable institution.
11. **Integral Sign.** A memorial sign or tablet indicating the name of a building and/or the date of erection and cut into masonry or constructed of bronze, brass, iron, or other incombustible materials and mounted on the face of a building.
12. **Local Interest Sign.** A sign of a temporary nature used to advertise or announce a particular event of normally local concern.
13. **Monument Sign.** A sign set on its own foundation, sunk into the ground, or permanently fastened to, or painted on, a permanent structure.
14. **Occupant/Street Number Sign.** A sign bearing only the name of the principal occupant of a residence and/or the street number of a structure.

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15. **Off-Premises Sign.** A sign which directs attention to a business, profession, commodity, service, or entertainment sold or offered off the premises where such sign is located or to which it is attached.
16. **On-Premises Sign.** A sign which directs attention to a business, profession, commodity, service, or entertainment sold or offered on the premises where such sign is located or to which it is attached.
17. **Painted Wall Sign.** A sign painted directly on the wall of a structure.
18. **Pole Sign.** A sign that is attached to a pole and elevated in the air.
19. **Political Campaign Sign.** A sign pertaining to a candidate for public office or to a political party and/or its view and beliefs.
20. **Portable Sign.** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to signs designed to be transported by means of wheels; signs converted to A-or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.
21. **Projecting Sign.** A sign attached perpendicular to a building wall.
22. **Public Sign.** A sign erected by a government agency.
23. **Public Service Sign.** A sign directing the public to a public facility, such as a public telephone, restroom, hospital, school, historic or scenic place.
24. **Real Estate Sign.** A sign offering for sale, lease, or rent the property upon which the sign is located.
25. **Signboard.** A specific background upon which symbols are affixed or the smallest rectangle which would completely enclose all parts of the sign.
26. **Subdivision or Tract Name Sign.** A sign located on a subdivision or tract and identifying the name of the subdivision or tract.
27. **Temporary Sign.** A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.
28. **Time and Temperature Sign.** An illuminated sign which displays time and/or temperature by means of a light display.
29. **Traffic Directional Sign.** A sign directing vehicular traffic movement within the property on which the sign is located.
30. **Wall Sign.** A sign painted on the outside of a building or attached parallel to the face of a building wall and confined within the limits of such a wall.
31. **Sign Area.** The area measured by the smallest square, rectangle, triangle, circle or combination thereof which will encompass the entire advertising copy area, excluding architectural trim and structural members. In computing area, only one (1) side of a double-faced sign shall be considered.

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Section 6-3. Permit Required, Generally

No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit except those signs permitted in Paragraph 2 which follows and without being in conformity with the provisions of this Ordinance. Each sign shall also meet all the structural requirements of the Building Code.

Section 6-4. Signs Not Requiring A Permit

The signs listed below shall not require a permit from the Zoning Enforcement Officer. However, all signs using electrical wiring and connections shall require an electrical permit.

- A. *Occupant and House Number*: Signs shall not exceed one (1) square foot in area and may bear only property numbers, post office box numbers, names of occupants, or other identification not having commercial notations.
- B. *Public Directional or Informational*: Such signs are erected and maintained by public agencies and governments. The sign area shall not exceed thirty-two (32) square feet.
- C. *Professional and Home Occupation*: There shall be allowed one (1) professional or home occupation sign per dwelling, not to exceed three (3) square feet in area, which shall be mounted flat against a wall or door or hung from a mailbox or lamp post. No such sign may be illuminated in a residential district.
- D. *Temporary Lease, Sale, or Rent*: One (1) temporary real estate sign not exceeding four (4) square feet in area in residential districts and thirty-two (32) square feet in area in non-residential districts may be placed on a property that is for sale, lease, rent, or barter. When the property fronts on more than one (1) street, one (1) sign shall be allowed on each street frontage.
- E. *Construction*: During the construction, repair, or alteration of a structure, temporary signs which denote builder, or other participants in the project, or its occupants to be, may be placed within the required yard setbacks as ground or wall signs. The total area of such signs shall not exceed fifty (50) square feet.
- F. *Integral*: These may be cut into any masonry surface.
- G. *Local Interest Events*: Such signs are to be taken down within three (3) days after the scheduled event.

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- H. *Political Campaign*: Such signs are regulated by G.S. 136-32 and must be removed by the end of the 10th day after the primary or election as provided by G.S. 136-32 as written or hereafter amended.
- I. *Sandwich*: Signs either at the doorway or in the parking lot of the business as long as they are folded and taken inside at the close of business and are put back outside when the business reopens.
- J. *Window Signs*: Signs that are affixed to the window of a building will not require a permit. If internally illuminated, window signs will be subject to illumination guidelines below.
- K. *Yard Sale Signs*: Such signs are to be taken down within three (3) days after the scheduled event.

Section 6-5. Projection onto Public Rights-of-Way

No signs or other structures may project beyond the curb line of any street or other public way.

Section 6-6 Prohibitions.

No signs shall be posted on utility poles.

Section 6-7. Traffic Safety

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct nor interfere with the effectiveness of railroad or traffic signs, signals, or devices. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape. No sign shall be placed so as obstruct or interfere with traffic visibility or the right of way of an alley or public street.

Section 6-8. Nonconforming Signs

Non-conforming signs shall be allowed to remain. Under the following conditions, non-conforming signs shall comply with the regulations of this Ordinance.

1. Any alterations of a non-conforming sign shall make that sign conform to the regulations of this Ordinance.
2. Any non-conforming signs on a building which is vacant for a period of sixty (60) days shall be altered to conform to the regulations of this Ordinance.
3. Repairing signs may be allowed if damaged over fifty (50) percent of its assessed value by any means (e.g. fire, flood, wind, exploding, other calamity or otherwise deteriorated) without conforming to the requirements of this ordinance as long as

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active and building use is continued through the repair. If the sign is replaced, it must conform to this ordinance.

4. Non-conforming signs, when removed for other than normal maintenance, may not be erected again, nor may such signs be replaced with other non-conforming signs.

Section 6-9. Illumination

Illumination devices such as, but not limited to, digital LED, flood, or spotlights, shall be placed and so shielded as to prevent the rays of illumination being cast upon neighboring buildings and/or vehicles approaching from either direction.

Section 6-10. Maintenance






All signs, together with all their supports and braces, shall be kept in good repair and in neat and clean condition. No sign shall be continued which becomes, in the opinion of the Zoning Enforcement Officer, structurally unsafe and endangers the safety of the public or property. The Zoning Enforcement Officer may order the removal of any sign that is not maintained in accordance with the provision of this section. Such removal shall be at the expense of the owner or lessee and shall occur within ten (10) days after written notification has been issued. If such order is not heeded within thirty (30) days, the Zoning Enforcement Officer shall remove the sign at the expense of the owner or lessee.

Section 6-11. Signs Permitted Table




Signs are permitted in all business districts (O&I, NB, CBD, HB) and in the industrial district subject to the following restrictions and will require a permit from the enforcement officer. No more than 3 of the following signs (not including awning, directory, directional or window) shall be allowed per lot.

Sign Type		Sign Area Allowance (sq ft)	Max Sign Height (ft)	Downtown District Area	Sign Illumination	Maximum Number	Other Requirements
Awning		6		6	Ambient		
Canopy		16	n/a	Not permitted	Ambient Internal	One Per Canopy	Properties fronting on more than one street may have one canopy sign per street frontage

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Sign Type		Sign Area Allowance (sq ft)	Max Sign Height (ft)	Downtown District Area	Sign Illumination	Maximum Number	Other Requirements
Directory		16	6	16	Ambient External Internal	One per street frontage having access to the site	Only allowed for sites with multiple buildings. Shall not be displayed so as to be prominently visible from off-site locations
Directional		5	5	5	Ambient External Internal		
Monument		48	15	15' tall 20' long w/ masonry base	Ambient External Internal	One per street frontage having access to the site	Sign usually has a solid ground foundation. Sign structure should not block site distance of ingress or egress to the property.
Pole		40	20	Not permitted	Ambient Internal	One per street frontage providing access to the site	
Projecting – Blade		32		32	Ambient External Internal		At least 10 feet above sidewalk or 15 feet above driveway or alley. Projecting signs shall not

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Sign Type		Sign Area Allowance (sq ft)	Max Sign Height (ft)	Downtown District Area	Sign Illumination	Maximum Number	Other Requirements
Projecting – V-Type							project more than 4 feet from the side of the building.
Wall		2 square feet per lineal frontage of the building wall sign is attached to, up to 120 square feet		0.5 square feet per lineal frontage or 48 sq ft maximum	Ambient External Internal	One per street or parking frontage per occupancy	Sign shall not extend more than 8 inches beyond the wall surface.
Window		30% of glass area of store front		25% of glass area of store front	Ambient External Internal	One per window	

Combinations of any of the above signs shall meet the more stringent requirements for the individual sign.

Section 6-12. Fees. No permit shall be issued until the exact dimensions and area of the sign have been filed with the Zoning Enforcement Officer and the appropriate fees paid.

Section 6-13. Sign Area Computation for Multiple Signs. The square footage of multiple signs on a single pole shall be the sum of the individual signs plus that of the area between them; the total square footage shall not exceed that permitted any one (1) separate sign.

Section 6-14. Vacant Buildings. It shall be the owner's responsibility to remove any on or off-premises signs within sixty (60) days after departure when vacating a building. Upon noting that the sixty (60) day period has expired, the Zoning Enforcement Officer may remove said sign(s) at the prior owner's expense.

Section 6-15. Off-Premises Advertising Signs. Off-premises signs will be guided by Article 11 - Outdoor Advertising Control Act of G.S. 136.

**CHAPTER 7
AREA, YARD AND HEIGHT REQUIREMENTS**

Section 7-1. Residential Dimensional Requirements

TABLE 1 – RESIDENTIAL DIMENSIONAL REQUIREMENTS

Districts	Minimum Lot Area Square Feet (a)	Minimum Yard Requirements (Feet) (e)					Maximum Height (b)	Max. Lot Coverage Principal & Accessory Structures	Accessory Structures Maximums
		Lot Width	Front Yard Setback	Side Yard Setback	Side Yard Setback Abutting a Street	Rear Yard Setback			
R-20	20,000	100	30	10 (c)	25 (c)	20 (d)	35	40%	900 sq. ft.
R-15	15,000	90	30	10 (c)	25 (c)	20(d)	35	35%	600 sq. ft.
R-8	8,000 (for 1 dwelling unit) Plus 4,000 (for 2 nd dwelling unit) Plus 3,000 (for each unit over 2)	80 (1 dwelling unit) Plus 20 (for 2 dwelling units)	30	10 (c)	25(c)	20(d)	35	40%	300 sq. ft.

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AREA, YARD AND HEIGHT REQUIREMENTS**

- a. The Alamance County health department may impose a higher lot size on a case by case basis for individual septic systems.
- b. Maximum height is 35 feet unless the depth of the front and total width of the side yards are increased by 1 foot for each 2 feet or fraction thereof for height exceeding 35 feet.
- c. Accessory buildings shall be located no closer to any street than the side yard setback for the district where it is located. No accessory building or structure except a utility substation or similar structure shall be located in any easement.
- d. Accessory buildings shall have a minimum setback from the rear lot line of five (5) feet. No accessory building or structure except a utility substation or similar structure shall be located in any easement.
- e. Cul-de-sac lots shall have a minimum frontage of 20 ft. at the street right-of-way line and a radius of 50 ft to face of curb.

Section 7-2 Nonresidential Dimensional Requirements

TABLE 2- NONRESIDENTIAL DIMENSIONAL REQUIREMENTS*

Districts	Minimum Lot Area Square Feet	Minimum Yard Requirements				Maximum Height	Max. Lot Coverage Principal & Accessory Structures
		Lot Width	Front Yard Setback (b)	Side Yard Setback	Rear Yard Setback		
Office & Institutional	N.A.(a)	N. A.	30	20	20	50	

**CHAPTER 7
AREA, YARD AND HEIGHT REQUIREMENTS**

Districts	Minimum Lot Area Square Feet	Minimum Yard Requirements				Maximum Height	Max. Lot Coverage Principal & Accessory Structures
		Lot Width	Front Yard Setback (b)	Side Yard Setback	Rear Yard Setback		
Neighborhood Business	N.A.(a)	N.A.	30	10(a)(d)	20(a)(d)	35(b)	N.A.
Central Business District	N.A.(a)	N.A.	N.A.	N.A.(a)	N.A.(a)	35(b)	N.A.
Highway Business	N.A.(a)	N.A.	20	20(a)	20(a)	(c)	N.A.
Industrial	10,000	100	20	20(a)	20(a)	(e)	N.A.

NOTES

- (a) There are no minimum yard area requirements except that where a lot abuts any residential district there shall be a side or rear yard clearance of at least thirty (30) feet. Furthermore, upon any side or rear lot line which abuts a residential district, there shall be a densely planted and maintained buffer strip. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining residential lots, and no buffer shall be required upon any yard which abuts a public street.
- (b) Every building erected or structurally altered to exceed 35 feet in height shall be set back from the front lot line on the ratio of one foot for each two foot rise above said 35 feet, but in no case shall the required setback exceed ten feet.

CHAPTER 7
AREA, YARD AND HEIGHT REQUIREMENTS

- (c) The depth of the front and total width of the side yards must be increased by one foot for each two feet or fraction thereof for height exceeding 35 feet.
- (d) Upon any side or rear lot line which abuts a residential district, there shall be a densely planted and maintained buffer strip. No such buffer shall, however, extend nearer to a street right-of-way line than the established building line of the adjoining residential lots, and no buffer shall be required upon any yard which abuts a public street.
- (e) The depth of the front and total width of the side yards herein shall be increased by one foot for each two feet or fraction thereof of building height in excess of 50 feet.

** Any nonresidential district used for residential purposes shall at a minimum meet the Low Density District residential dimensional requirements.*

CHAPTER 7
AREA, YARD AND HEIGHT REQUIREMENTS

Section 7-3. Adjoining and Vacant Lots

If two (2) or more adjoining and vacant lots are in single ownership at any time after the effective date of this Ordinance, and such lots individually have less area and/or width than the minimum requirements of the district in which such lots are located, such lots shall be considered as a single lot which meets the minimum requirements of this Ordinance for the district in which such lots are located.

Section 7-4. 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, except for street widening. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance, except under a special use permit allowing residential cluster developments.

Section 7-5. Height Limitation

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, telecommunications towers, chimneys, smokestacks, conveyors, flag poles, radio towers, television towers, masts, aerials, and similar structures, except as otherwise provided in the vicinity of airports.

Section 7-6. Accessory Building in Rear and Side Yards

See Note 1 Accessory buildings and structures, Section 4-13. Notes to the Table of Permitted Uses – Development Standards

Section 7-7. Front Yard Setbacks

The front yard requirements of this Ordinance shall not apply to any lot where the front yard coverage on developed lots, located wholly or in part within 100 feet to each side of such lot and located within the same block and zoning district and fronting on the same street as such lot, is less than the minimum required front yard. In such cases, the front yard on such lot may be less than the required front yard but not less than the average of the existing front yards on the developed lots; provided, that the front yard on such lot shall not be less than one-half (1/2) of the required front yard for the district. Measurements for this and all other front yard setback shall be made from the pavement edge of the street or the right-of-way. If there is no recorded right-of-way, add fifteen (15) feet to the minimum front yard.

Section 7-8. Conditions for Modifications of Required Yards

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AREA, YARD AND HEIGHT REQUIREMENTS

Requirements for front, rear and side yards may be modified under the following conditions.

- A. Cornices, eaves, steps, gutters, bay windows less than ten (10) feet wide, fire escapes, fire balconies, fire towers and similar features may project not more than two and one-half (2 ½) feet into any required yard.
- B. Necessary retaining walls and fences less than six (6) feet high, when located in the rear and side yard, shall be exempt from the yard requirements of this Ordinance. However, on a corner lot, no opaque fence more than three (3) feet in height shall be located within any yard or building setback required so as to interfere with the clear vision area. The height of any fence located within a yard abutting on a street line shall be measured from the sidewalk; if there is no sidewalk, or curb, then it shall be measured from the center line of the street. All other fence heights shall be measured from natural grade. Terraces, steps and uncovered porches which are not in any part more than four (4) feet above the ground floor level and not within two and one-half (2 ½) feet of any lot line shall be exempt from the yard requirements of this Ordinance.

Section 7-9. Street Access (references to private streets deleted March 6)

No building shall be erected on a lot which does not have access to a street constructed to meet NCDOT pavement design guidelines and a pavement width of 26 feet, 31 feet back of curb to back of curb, consistent with standards for public dedication.

Section 7-10. Obstruction to Vision at Street Intersections

On a corner lot in any district, there shall be no opaque fence, wall, or hedge so as to block the clear vision area which is intended to minimize a potentially dangerous traffic situation.

Section 7-11. Projection to Public Rights-of-Way

No signs or other structures may project beyond the curb line of any street or other public way.

CHAPTER 8 BUFFER YARDS AND LANDSCAPING

Section 8-1. Purpose of Buffering/Landscaping Requirements

The purpose of this Chapter is to establish minimum standards for landscaping and buffering to promote public safety, privacy, and well-being and to protect an abutting property from less characteristics of the property for which buffering is required due to a dissimilar district, use, and/or primary transportation route. It is also intended to protect and preserve the appearance, character, and value of property and surrounding neighborhoods, provide for temperature modification and shading, and to mitigate adverse visual effects, overhead lighting, wind and dust, and increased activity associated with urban development.

A list of Recommended Tree and Shrubs Species that comply with this chapter and that are recommended for this region are in Appendix A to this Ordinance. The Appendix also contains a list of trees discouraged because of growth patterns or susceptibility to disease.

Section 8-2. Definitions

Canopy (Overstory) Tree. A species of tree which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.

Understory Tree. Trees that grow beneath the canopy (overstory). A species of tree which normally grows to a mature height of 15 to 35 feet.

Shrub. A low, usually several-stemmed woody plant. A shrub must be a minimum of 18 inches at planting and reach a minimum height of 36 inches within 3 years of planting.

Section 8-3. Roadside Landscaping Requirements, Parking Lots with More Than 10 Spaces

- A. *Roadside Screening Along Public Right-of-Way:* All parking lots containing 10 or more parking spaces shall include a minimum 5 foot wide maintained natural or planted buffer yard to screen the parking lot from all adjoining public road rights-of-way.
- B. *Composition of Roadside Buffer*
 - 1. *Trees.* The required roadside buffer yard shall contain at least 1 canopy tree for each 40 linear feet of road frontage and each tree shall be a minimum of 8 feet in height and 2 inches in caliper when initially planted. Each tree shall be a species which can be expected to attain a minimum height of 40 feet and have a crown width of 30 feet or greater at maturity.
 - 2. *Shrubs.* The required buffer yard shall also contain shrubs planted at a rate of 15 per 100 linear feet of road frontage.

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3. *Other Materials.* All portions of the roadside buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, ground cover, or natural mulch of a minimum depth of 3 inches.

Section 8-4. Landscaping in Parking Areas for 20 or More Spaces

- A. *Required Planting Area:* Each off-street parking area designed for 20 or more spaces, which has been issued a zoning permit after the effective date of this Ordinance and each area to which spaces are added totaling 20 or more spaces after the effective date of this Ordinance shall have provided and maintained 1 planting area for every 20 spaces constructed.
- B. *Truck Maneuvering Areas Exempt:* Areas designed and dedicated for truck maneuvering are exempt from the requirement.
- C. *Planting Area Composition and Location:* Each planting area shall have an unobstructed width dimension of not less than 7½ feet and shall not be less than 110 square feet in area. Each planting area shall be protected by curbing, bollards, or parking barriers and contain at least 1 (one) canopy tree.

Planting areas shall be located within the parking area and islands, or around the perimeter of the parking areas within 16 feet of the pavement or curb. At least 50% of the planting areas shall be islands within parking areas.

Section 8-5. Buffering/Screening of Adjoining Incompatible Land Uses

- A. *Attached Housing (Multi-Family or Single-Family Attached) Abutting Single Family Residential*

When 2 or more multi-family or single-family attached housing buildings or 5 or more multi-family residential or single-family attached dwelling units are proposed for property directly abutting a single-family residential use or property zoned single-family residential, the multi-family use shall provide the following screening:

1. A minimum 15 foot perpetually maintained natural or planted buffer yard provided along all property lines directly abutting a single-family use or zoned lot.
2. The buffer yard shall contain 3 canopy trees and 5 understory trees per 100 linear feet of buffer yard. Canopy trees shall be a minimum of 8 feet high and 2 inches in caliper when planted. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper when planted.
3. The buffer yard shall also contain 15 shrubs per 100 linear feet of buffer yard.
4. All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, groundcover, or natural mulch 3 inches deep, minimum.

- B. *Commercial/Office Uses Abutting Residential*

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When a commercial/office use is proposed for a property adjoining a residential use or residentially zoned lot, the commercial/office use shall provide the following screening:

1. A minimum 20 foot maintained natural or planted buffer yard shall be provided along all property lines directly abutting a residentially used or zoned lot.
2. The buffer yard shall contain 3 canopy trees and 7 understory trees per 100 linear feet of property line. Canopy trees shall be a minimum of 8 feet high and 2 inches in caliper when planted. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper when planted.
3. The buffer yard shall also contain 25 shrubs per 100 linear feet of buffer yard.
4. All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, groundcover, or natural mulch 3 inches deep, minimum.

C. Industrial Uses Abutting Residential

When an industrial use is proposed for property that adjoins a residential use or a residentially zoned lot, the industrial use shall provide screening to meet the following standards:

1. For property zoned Industrial, a minimum 30 foot maintained natural or planted buffer yard shall be provided along all property lines directly abutting a residentially used or zoned lot.
2. The buffer yard shall contain 4 canopy trees and 10 understory trees per 100 linear feet of property line. Canopy trees shall be a minimum of 8 feet in height and 2 inches in caliper when planted. Understory trees shall be a minimum of 4 feet high and 1 inch in caliper when planted. The buffer yard shall also contain 33 shrubs per 100 linear feet of buffer yard.
3. All portions of the buffer yard not planted with trees or shrubs or covered by a wall or other barrier shall be planted with grass, groundcover, or natural mulch a minimum of 3 inches deep.

**CHAPTER 8
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D. Summary Chart of Buffer Requirements to be Provided by Developer

Abutting Uses		Buffer Yard Composition & Location			
Proposed Development	Existing use or Zone	Buffer Width, Location	Trees	Shrubs	Other Materials
Attached Residential (Multi-Family or Attached Single Family)	Single Family Residential	Min. 15 foot natural or planted buffer planted along property lines abutting the single-family use or zoned lot.	3 canopy trees, 5 understory trees per 100 linear ft. buffer yard. Canopy trees = min. 8 ft high, 2 in. trunk caliper when planted Understory trees = min. 4 ft high, 1 in. trunk caliper when planted.	Also to include 15 shrubs per 100 linear ft. buffer yard	Areas not planted with trees or shrubs or covered by a wall or other barrier, planted with grass, groundcover, or natural mulch at min. depth 3 in.
Commercial or Office	Residential	Min. 20 ft. natural or planted buffer. Planted along property lines abutting a residentially used or zoned lot.	3 canopy trees and 7 understory trees per 100 linear ft. of property line Canopy trees = min. 8 ft. high, 2 in. trunk caliper when planted. Understory trees = min. 4 ft. high and 1 in trunk caliper when planted.	Also to include 25 shrubs per 100 linear ft. of buffer yard.	Areas not planted with trees or shrubs or covered by a wall or other barrier, planted with grass, groundcover, or natural mulch at min. depth 3 in.
Industrial	Residential	For LI and HI zone – Minimum 30 ft. natural or planted buffer; planted along property lines abutting a residentially used or zoned lot.	4 canopy trees and 10 understory trees per 100 linear ft. of property line. Canopy trees = min. 8 ft. high, 2 inches trunk caliper when planted.	Also to contain 33 shrubs per 100 linear feet of buffer yard.	Areas not planted with trees or shrubs or covered by a wall or other barrier, planted with grass, groundcover, or natural mulch at min. depth 3 in.

Section 8-6. Alternative Screening Methods

Under certain circumstances the application of the standards delineated in this Chapter may be either inappropriate or ineffective in achieving the purposes of this Ordinance. When screening is required by this Chapter or by other provisions of this Ordinance and the site design,

CHAPTER 8 BUFFER YARDS AND LANDSCAPING

topography, unique relationships to other properties, lot configuration, spatial separation, natural vegetation, or other special considerations exist relative to the proposed development, the developer may submit a specific plan for screening to the Zoning Enforcement Officer. This plan must demonstrate how the purposes and standards of this Ordinance will be met by measures other than those listed in this Section. If approved by the Zoning Enforcement Officer, the alternative screening plan may be utilized to meet the requirements of this Ordinance.

A combination of natural vegetation, fences, walls, and berms may be used to achieve the screening requirements of this Section provided that the following standards are met:

- A. Walls (a minimum of 6 feet in height and constructed of masonry, stone, or pressure treated lumber) or an opaque fence (a minimum of 6 feet in height) may be used to reduce the widths of the buffer yards required in this Section. A chain link or similar type fence with screening is unacceptable.
- B. Understory trees may be substituted for canopy trees if, in the opinion of the Zoning Enforcement Officer upon conferring with the electrical utility provider, a conflict exists with overhead utility lines.
- C. Any berm used for screening purposes shall have a minimum height of 3 feet, a minimum crown width of 3 feet, and a side slope no greater than 3:1. The berm shall have the required amount of understory trees and shrubs as defined in this Chapter.

Section 8-7. Protection of Existing Trees in Required Buffer Strips

The preservation of existing trees that are proven to be healthy and appropriate for screening is mandatory in required buffer strips and is to be used as credit toward a portion of the buffer required by this Chapter.

Section 8-8. Maintenance

In order for any landscape screening to fulfill the purpose for which it was established, it must be properly maintained. The owner of the property and any tenant on the property where screening is required will be jointly and severally responsible for the maintenance of all required screening materials. Maintenance includes actions necessary to keep screening materials healthy, neat, and orderly in appearance and free of litter and debris. Any live screening materials such as shrubs and trees which may die must be replaced in compliance with the minimum standards of this Ordinance. All screening and landscaping areas must be protected from damage by motor vehicles or pedestrians which could reduce the effectiveness of the screening.

Section 8-9. Obstructions Prohibited

Landscaping and screening materials should not obstruct the view of motorists using any road, driveway, or parking aisle.

CHAPTER 8
BUFFER YARDS AND LANDSCAPING

Section 8-10. Guarantee in Lieu of Immediate Installation of Landscaping and Screening Materials

It is recognized that land development occurs continuously, and that vegetation used in landscaping or screening should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this Ordinance and reduce the potential expense of replacing landscaping or screening materials which were installed in an untimely or improper fashion, the developer may provide an adequately secured performance bond or other security to ensure that all of the requirements of this Section will be fulfilled.

Section 8-11. Screening of Dumpsters

All solid waste storage facilities are to be enclosed and screened from the view of adjoining residences, residentially zoned lots, or road rights-of-way. Such screening may consist of natural vegetation, fences, walls, or berms and shall be installed, located, or constructed so as to create an effective screen and keep the dumpster from being viewed off-site. The screening shall be at least 2 feet taller than the highest point of the dumpster. All dumpsters shall be placed on a concrete pad that is large enough to provide adequate support and allows for drainage. The enclosure must have a gate to allow for access and security. The gates must be closed at all times except for when on-site users are discarding debris or when the designated trash pickup company is retrieving from the receptacle.

Section 8-12. Screening of HVAC

HVAC units, when ground mounted, must be located at the rear of the building or along the side where it cannot be seen from the front of the building. When HVAC is roof mounted sufficient screening is required to screen the unit(s) from the public view.

CHAPTER 9
OFF-STREET PARKING AND LOADING

Section 9-1. Applicability, Off-Street Parking

There shall be provided at the time of the construction or enlargement, permanent off-street parking in the amount specified by this chapter. Such parking space may be provided in a parking garage or properly graded open space. A parking space shall consist of an area at least eight (8) feet wide and at least twenty (20) feet deep.

This requirement shall not apply in the Downtown Mixed Use Business District.

Section 9-2. Certification of Minimum Parking Requirements

Each application for a building or zoning permit submitted to the Zoning Enforcement Officer as provided for in this Ordinance shall include information as to the location and dimensions of off-street parking, loading space, and the means of ingress, egress, and regress to such space. This information shall be in sufficient detail to enable the Zoning Enforcement Officer to determine whether or not the requirements of this Chapter are met. In determining parking space requirements, all fractional requirements shall be rounded to the next higher whole number.

Section 9-3. Combination of Required Parking Space

The required parking space for any number of separate uses may be combined in one (1) lot. However, 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, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays. Evidence of a signed agreement specifying the days and times when facilities are available for sharing shall be presented to the Zoning Enforcement Officer.

Section 9-4. Remote Parking Space

With the exception of Section 9-3 above, if the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on as the principal use, such space may be provided on any land within 400 feet of the main entrance of the principal use. However, such land must be in the same ownership as the principal use or under a lease agreement, and a permit shall be obtained from the zoning enforcement officer certifying that that the conditions required by this Section have been met.

**CHAPTER 9
OFF-STREET PARKING AND LOADING**

Section 9-5. Minimum Parking Requirements

A. Residential, Home Occupation, Home Office

Residential, Home Occupation, Home Office	Number of Parking Spaces
Dwellings	
Duplex units	Two (2) spaces per residence on the same lot
Single-Family Residence	Two (2) spaces per residence.
Multi-family units	Two (2) spaces per residence on the same lot
Family Childcare in Residence (more than 2 but less than 9 children)	Three (3) spaces in addition to the residence requirements
Home Business, Office or Home Occupation	One (1) space in addition to residence requirements if on-street parking is not available

B. Public and Semi-public Uses; Office & Institutional

Public and Semi-public Uses; Office & Institutional	Number of Parking Spaces
Assisted Living Residences	0.75 (three-fourths) spaces per dwelling unit
Auditoriums or Theaters	One (1) space for each four (4) seats
Childcare Centers and Preschools	One (1) space per employee, plus one for <u>five (5)</u> enrollees
Churches	One-third (1/3) of space times the seating capacity.
Hospitals	One (1) space for each (2) beds intended for patient use, exclusive of nursery bassinets
Medical Clinics	Three (3) spaces for each clinical provider plus one (1) parking space for each additional employee
Nursing Homes	One (1) parking for each five (5) patient beds, plus one (1) space for each employee on largest shift
Public or Private Clubs	One (1) space for each 200 square feet of gross floor space (GFS)

**CHAPTER 9
OFF-STREET PARKING AND LOADING**

Public and Semi-public Uses; Office & Institutional	Number of Parking Spaces
Public Utility Building	One (1) space for each employee
Schools, Elementary and Middle Schools	One (1) space for each classroom and administrative office
Schools, High Schools	Five (5) spaces for each instruction room, or one parking space for each four (4) assembly seats, whichever is greater.

C. Business, Retail, Office and Professional Uses

Business, Retail, Office and Professional Uses	Number of Parking Spaces
Banks	One (1) space per 300 sq. ft. of gross floor area plus stacking for 4 vehicles at each drive-thru window or automated teller machine
Convenience stores with and without gas pumps	One (1) space per 200 sq ft.
Funeral homes	One (1) space for each four (4) seats in the chapel or parlor.
Motels, Bed and Breakfast Establishments	One (1) space for each room to be rented plus one (1) additional parking space for each employee present at the time of peak business
Offices, Doctors, Dentists	One (1) space for each fifty (50) square feet of waiting room spaces, plus one (1) space for each examining room, plus one (1) space for each employee
Offices, General and Professional	One (1) space for each 200 square feet of GFS
Restaurants (Including Drive-Throughs)	One (1) space per four (4) seats.
Retail and Commercial Developments Including Strip Developments and Shopping Centers	One (1) space for each 200 square feet of GFS.

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Retail uses not otherwise indicated	One (1) space for each 200 square feet of GFS.
Service stations, Full-Service	Five (5) spaces for each grease rack and five (5) spaces for each wash rack.
Theaters	One (1) space for each four (4) seats in the auditorium

D. Industrial and Wholesale Uses

Industrial and Wholesale Uses	Number of Parking Spaces
Wholesale Uses	Two (2) spaces for each three (3) employees on the largest shift.
Industrial Uses	One (1) space for each employee (applied to the largest shift).
Special Situations in Which None of the Above Conditions Apply	Shall be as determined by the Zoning Enforcement officer.

Section 9-6. Parking Lot Design to Support Pedestrian Safety, Comfort and Access

Larger parking lots attract more vehicles and more pedestrians. Therefore, it is extremely important to carefully design features that minimize vehicle-pedestrian interaction. The following are important factors for the developer and Zoning Enforcement Officer to consider. The following are required for structures over 10,000 sq/ft. Exceptions to the following pedestrian recommendations must be approved by the Zoning Enforcement Officer during the site plan review process (see example graphic of site design).

Encourage Parking in Rear & Side Yards. An effective way to attract pedestrians to a store and to reduce pedestrian-vehicle interaction is to minimize the amount of parking area that a pedestrian must traverse to enter a store. Locating parking spaces in side and rear yards is strongly encouraged (while maintaining any required setbacks).

Maintain Open Sight Lines. Especially at major turning points inside the parking area.

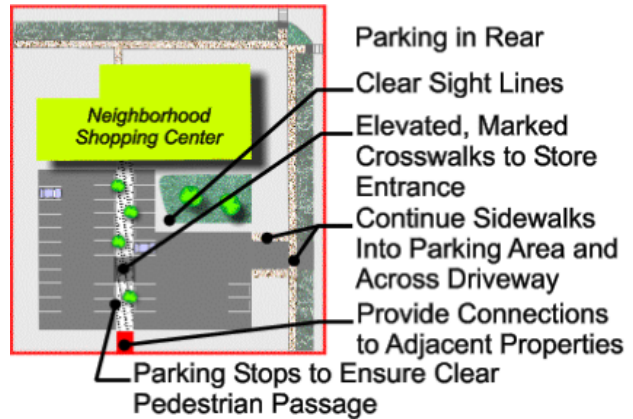
Provide Well-Marked Pedestrian Access Perpendicular to Store Fronts. Whenever possible, provide perpendicular pedestrian access into the front of a major shopping center or employer. The final crossing to the store entrance(s) should be well-marked, preferably with a raised crosswalk and/or colored demarcations to provide clear visual cues to the driver. Moving the main parking aisle away from the principal entrance is another option.

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Supply Adequate Pedestrian-Scale Lighting.

Adequate lighting is often perceived as a personal security issue in many large parking areas. It should be provided but should avoid disabling glare (looking into a direct light source and being partially blinded) or causing light pollution to adjoining properties. Lighting should also be provided at a pedestrian scale. This means lowering the height of some light poles and providing lighting at key locations, such as the entrances and exits to shops.

<https://www.fpcgreensboro.org/member-resources/>



Credit: Louis Berger, Inc.

Square Feet of Gross Floor Area	Required Number of Berths
25,000 – 40,000	2
40,000 – 100,000	3
100,000 – 160,000	4
160,000 – 240,000	5
240,000 – 320,000	6
320,000 – 400,000	7
Plus, one additional berth for each 90,000 square feet above 400,000 square feet.	

CHAPTER 10 NONCONFORMING SITUATIONS

Section 10-1. Uses of Land or Structures in General

Except as specifically provided in this chapter, 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. A nonconforming situation is the use of land or existence of a structure that, after the effective date of this Ordinance, is prohibited in the district in which it is located.

Section 10-2. Nonconforming Uses of Open Land

A nonconforming use of open land consists of open lots used for storage yards, car lots, auto wrecking, junkyards, and similar uses where the only buildings on the lot are incidental and accessory to the open use of the lot and where the use is not permitted in the zoning district where it is located.

Such nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming. Fencing or other screening of the use does not change its status as a nonconforming use of open land.

Section 10-3. Nonconforming Uses of Structures

A nonconforming use of a structure is a function or purpose, occurring in the particular structure, that is not permitted in the zoning district in which the structure is located.

- A. *Enlargement of Structures That Are a Nonconforming Use is Prohibited:* Use of a structure for purpose that has been made nonconforming by adoption of this ordinance or by rezoning may not be enlarged or altered in a way that increases its nonconformity.
- B. *Maintenance and Repair:* Normal maintenance and repair of a structure used for a nonconforming purpose is permitted and encouraged, provided it does not extend the nonconformity.
- C. *Change to Conforming Use:* Any nonconforming use of a structure ~~of land~~ may be changed to a conforming use, or, with the approval of the Board of Adjustment, a nonconforming use may be changed to a use more in character with the uses permitted in the district as long as there is no structural enlargement.
- D. *Extension of Use Within a Nonconforming Structure:* A nonconforming use of a structure shall not be extended or enlarged except into portions of the structure, which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use. No structural alterations shall be made in any structure occupied by a

CHAPTER 10 NONCONFORMING SITUATIONS

nonconforming use, except those required by law or ordinance or ordered by the Building Inspector to secure the safety of the structure.

- E. *Discontinuance of a Nonconforming Use of Structure:* When any nonconforming use of a structure is discontinued for a continuous period of 180 days, any future use of the structure shall be limited to those uses permitted in that district under the provisions of this ordinance. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision. If active operations are discontinued for a continuous period of twelve (12) months with respect to a nonconforming use, such building, buildings, or land shall thereafter be occupied and used only for a conforming use.

- F. *Single-Family Residence Exception:* Any structure used for a single-family residence that has been made nonconforming by adoption of this ordinance or by rezoning may be replaced with a structure of the same or a larger size, as long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback. In particular, a manufactured home may be replaced with a larger manufactured unit. Minor variances in setbacks due to lot size may be presented to the Board of Adjustment for consideration. This policy is adopted in the interest of maintaining an adequate stock of housing in Swepsonville.

Section 10-4. Nonconforming Structures

A nonconforming structure is a structure that does not meet all of the dimensional requirements of this ordinance for lot coverage, height, yards or other characteristics of the structure or its placement on the lot.

- A. *Lawful Structures May be Continued:* Any structure that was lawful as to its dimensions at the effective date of the adoption, amendment or readoption of this Ordinance but could not be built under its present provisions may be continued as long as it remains.

- B. *Enlargement Prohibited:* Nonconforming structures shall not be enlarged or expanded.

In limited circumstances, the Board of Adjustment, after notice and hearing, may issue a permit for enlargement. The following minimum conditions, in addition to any other reasonable conditions, shall be met in order for the Board to grant an extension of the nonconforming structure:

1. The enlargement does not increase the space devoted to the nonconforming use
2. The enlargement does not increase the dimensional nonconformity of the use (yard, height, setback requirements)

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3. The enlargement does not enclose previously unenclosed land
- C. *Maintenance and Repair*: Normal maintenance and repair of a nonconforming structure is permitted and encouraged provided it does not extend the nonconformity.
- D. *Change or Expansion of Uses Within Nonconforming Structures*: If no structural alteration or enlargements are made, the Board of Adjustment, after notice and hearing, may permit an extension of a use or a change to a use more compatible with the district. In permitting such extension or change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance. Such extension or change shall not be permitted to take place beyond the building in which it occurs.
- E. *Damage or Destruction*: If a nonconforming building is destroyed by any means to an extent of more than fifty (50) percent of its assessed value at time of destruction, such building may not be restored for any nonconforming use.

Section 10-5. Nonconforming Lots

- A. *Vacant Lots*: A nonconforming vacant lot is defined as a lot for which a plat or deed has been recorded in the office of the Alamance County Register of Deeds, which at the time of adoption of this Ordinance failed to comply with the minimum area and/or width requirements of the district in which it is located. Any such nonconforming lot may be used for any of the uses permitted in the district in which it is located provided that:
 1. Where the lot area is not more than twenty (20%) percent below the minimum specified in this Ordinance, and other dimensional requirements are otherwise complied with, the Zoning Enforcement Officer is authorized to issue a zoning compliance permit;
 2. Where the lot area is more than twenty (20%) percent below the minimum specified in this Ordinance or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions; and
 3. Notwithstanding the foregoing, whenever two (2) or more adjoining vacant lots of record are in single ownership at any time after the adoption of this Ordinance and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots shall be combined to create a single lot or lots which meet the minimum requirements of this Ordinance.

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- B. *Nonconforming Lots with Structures*: A nonconforming lot with structures is defined as a lot occupied by a building or buildings or structures at the time of the adoption of this Ordinance, that fails to comply with the minimum requirements for area, width, yard and setback for the district in which they are located. These lots may continue to be used.

Section 10-6. New Uses or Construction

After the effective date of this Ordinance, all new construction and the moving, altering, and enlarging of existing structures shall conform to the use, area, and bulk regulations for the district in which it is, or is to be, located.

Section 10-7. Conforming Uses

After the effective date of this Ordinance, existing structures or the use of land or structures which conform to the regulations for the district in which they are located may be continued, provided that any structural alteration or change in use shall conform to this Ordinance

CHAPTER 11
VESTED RIGHTS AND DEVELOPMENT AGREEMENTS

ARTICLE I. VESTED RIGHTS

Section 11-1. Process to Claim Vested Right

A landowner claiming a statutory or common law vested right may submit information to substantiate that claim of a vested right pursuant to North Carolina General Statute 160D-108 on a form to be provided by the Town at the same time as application is made for a zoning map amendment, subdivision plan approval, a conditional zoning, a special use permit, a site plan approval or a planned unit development approval. The Zoning Enforcement Officer shall make an initial determination as to the existence of the vested right. The decision of the zoning officer may be appealed under NCGS 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by NCGS 160D-405(c).

Section 11-2. Types and Duration of Statutory Vested Rights

Amendments to Swepsonville development regulations shall not be applicable or enforceable with regard to development that has been permitted or approved pursuant to NCGS 160D-108 as long as one of the types of approvals listed in this subsection remains valid and unexpired. Each type of vested right listed in this subsection is defined by and is subject to the limitations provided in this section. Vested rights established under this section are not mutually exclusive. The establishment of a vested right under this section does not preclude the establishment of one or more other vested rights or vesting by common law principles. Vested rights established by Swepsonville approvals are as follows:

- A. Six months - Building permits. - Pursuant to NCGS 160D-1109, a building permit expires six months after issuance unless work under the permit has commenced. Building permits also expire if work is discontinued for a period of 12 months after work has commenced.
- B. One year - Other local development approvals. - Pursuant to NCGS 160D-403(c), unless otherwise specified by statute or local ordinance, all other local development approvals expire one year after issuance unless work has substantially commenced. Expiration of a local development approval shall not affect the duration of a vested right established under this section or vested rights established under common law.
- C. Two years - Site-specific vesting plans - A vested right for a site-specific vesting plan shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by Swepsonville ordinance. See Section 11-3 for Requirements for Site Specific Development Plans.

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- D. Seven years - Multiphase developments. - A multiphase development shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multiphase development. For purposes of this subsection, "multiphase development" means a development containing 100 acres or more that (i) is submitted for site plan approval for construction to occur in more than one phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.
- E. Indefinite - Development agreements. - A vested right of reasonable duration may be specified in a development agreement approved under NCGS 160D-1001.

Section 11-3. Requirements for Site-Specific Vesting Plans

- A. For the purposes of this section, a "site-specific vesting plan" means a plan submitted to the Town of Swepsonville describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a site plan, a preliminary or general development plan, a special use permit, a conditional zoning, or any other development approval as guided by Town of Swepsonville ordinance.
- B. What constitutes a site-specific vesting plan shall be defined by the relevant development regulation, and the development approval that triggers vesting shall be so identified at the time of its approval. At a minimum, the regulation shall designate a vesting point earlier than the issuance of a building permit. A variance shall not constitute a site-specific vesting plan and approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.
- C. Relation to building permits. - A right vested as provided in this section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of NCGS 160D-1109 and NCGS 160D-1113 shall apply, except that the permit shall not expire or be revoked because of the running of time while a vested right under this section exists.

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VESTED RIGHTS AND DEVELOPMENT AGREEMENTS

Section 11-4. Process for Approval and Amendment of Site-Specific Vesting Plans

- A. Notice and hearing - If a site-specific vesting plan is based on an approval required by the Town of Swepsonville development regulations, a notice and hearing is required for that underlying approval. If the duration of the underlying approval is less than two years, that shall not affect the duration of the site-specific vesting plan established under this subdivision.

If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by NCGS 160D-602 shall be held. The Town of Swepsonville may approve a site-specific vesting plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such conditional approval shall result in a vested right, although failure to abide by its terms and conditions will result in a forfeiture of vested rights. The Town of Swepsonville shall not require a landowner to waive vested rights as a condition of developmental approval. A site-specific vesting plan shall be deemed approved upon the effective date of the local government's decision approving the plan or such other date as determined by the governing board upon approval.

- B. Substantial modification of plan and conditions - An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the Town . A substantial modification must be reviewed and approved in the same manner as the original approval.

Section 11-5. Minor modifications

- A. Minor modifications may be approved by the Town Administrator upon making written findings that the proposed modifications would not significantly change the use, intensity, or design of the development, would be consistent with the purposes and goals of the plan, would comply with this Ordinance, and would not adversely affect the public health, safety, or general welfare.
- B. Minor modifications shall not include:
- a substantial change in the boundaries of the development;
 - a substantial change in floor area or number of parking spaces;
 - substantial changes to pedestrian, bicycle or vehicular access or circulation beyond the boundaries of the plan; or
 - substantial changes in the amount or location of open space within the boundaries of the plan;
- C. When the Administrator grants a minor modification, the Administrator will issue a Development Agreement Minor Modification Letter to the developer/applicant. The

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VESTED RIGHTS AND DEVELOPMENT AGREEMENTS

Administrator shall also advise the Council in writing of the nature of the modification and decision.

Section 11-6. Continuing Review

Following approval or conditional approval of a statutory vested right, the Town may make subsequent reviews and require subsequent approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval. The Town may revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable development regulations.

Section 11-7. Exceptions

The provisions of this section are subject to the following:

- A. A vested right, once established precludes any zoning action that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved vested right, except when any of the following conditions are present:
 1. The written consent of the affected landowner.
 2. Findings made, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the approved vested right.
 3. The extent to which the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the local government, together with interest as is provided in NCGS 160D-106. Compensation shall not include any diminution in the value of the property that is caused by such action.
 4. Findings made, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the vested right.
 5. The enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved site-specific vesting plan or phased development plan, in which case the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.

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- B. The establishment of a vested right shall not preclude the application of overlay zoning or other development regulation that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations shall become effective with respect to property that is subject to a vested right established under this section upon the expiration or termination of the vested rights period provided for in this section.

- C. Notwithstanding any provision of this section, the establishment of a vested right under this section shall not preclude, change, or impair the authority of a local government to adopt and enforce development regulation provisions governing nonconforming situations or uses.

Section 11-8. Miscellaneous Provisions

A vested right obtained under this section is not a personal right but shall attach to and run with the applicable property. After approval of a vested right, all successors to the original landowner shall be entitled to exercise such rights. Nothing in this section shall preclude judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter existing common law.

Section 11-9. Termination of a Vested Right

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

- A. The written consent of the affected landowner.
- B. Findings made, after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the approved vested right.
- C. The extent to which the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the local government, together with interest as is provided in NCGS 160D-106. Compensation shall not include any diminution in the value of the property that is caused by such action.
- D. Findings made, after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the vested right.

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- E. The enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the approved vested right, in which case the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, after notice and an evidentiary hearing.

ARTICLE II. DEVELOPMENT AGREEMENTS

Section 11-10. Development Agreements

A. Purpose

The purpose of this Article is to establish standards and procedures for the Town to enter into Development Agreements for long-term, large-scale developments, in recognition of the following findings and statements of intent:

1. *Large-Scale Development Projects and Long-Term Commitment of Resources*
Large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.
2. *Potential Community Impacts*
Such large-scale developments often create potential community impacts and potential opportunities that are difficult or impossible to accommodate within traditional zoning processes.
3. *Careful Integration between Public Capital Facilities Planning, Financing, Schedules*
Because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing and construction schedules and the phasing of the private development.
4. *Stable Development Standards*
Because of their scale and duration, such large-scale projects involve substantial commitments of private capital by private developers, which private developers are unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of the development.
5. *Nontraditional Development Types*
Because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing the impacts on the surrounding areas.
6. *Negotiating Flexibility*
To better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.
7. *Plan Consistency*
In negotiating for such developments, it is the intent of the Town to remain

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VESTED RIGHTS AND DEVELOPMENT AGREEMENTS

consistent with the adopted plans, policies, and goals of the Town as they relate to land use and capital improvements.

B. Authority

The Town may enter into a Development Agreement with a developer, subject to the procedures and standards of this Chapter. In entering into such a Development Agreement, the Town may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law. If more than one local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the Development Agreement.

C. Relationship to Prior Development Approvals

Although an application for a Development Agreement generally is submitted and reviewed before, or in conjunction with, the first development approval required for the proposed development (e.g., a Mixed Use Development), such an application may be submitted and decided at any stage of the development. If the application is submitted after development approvals have been granted, either the Development Agreement should incorporate the terms and conditions of those prior approvals or any approval of the Development Agreement shall be contingent upon any amendments to those prior approvals necessary to ensure conformance between the Development Agreement and applicable development approvals.

D. Initiation

An application for a Development Agreement may be initiated by any person who may submit applications in accordance with the provisions of this Chapter.

E. Procedures

1. Application Contents

An application for a Development Agreement shall include a proposed Development Agreement that shall, at a minimum, include all of the following:

- a) A legal description of the property subject to the agreement and the names of its legal and equitable property owners.
- b) The duration of the agreement.
- c) A development schedule, including commencement dates and interim completion dates at no greater than five-year intervals.
- d) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.

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- e) A description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development.
- f) If the Development Agreement provides that the Town shall provide certain public facilities, the Development Agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development (such as meeting defined completion percentages or other performance standards).
- g) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property.
- h) A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the necessity of complying with the law governing their permitting requirements, conditions, terms, or restrictions.
- i) A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the Town for the public health, safety, or welfare of its citizens.
- j) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- k) An indemnification and "hold harmless" clause whereby the developer/property owner holds the Town and its agents harmless from liability for damages, injury, or death that may arise from the direct or indirect operations of the owner, developers, contractors, and subcontractors that relate to the project.

The proposed Development Agreement may include the following:

- 1) A provision that the entire development or any phase of it be commenced or completed within a specified period of time.
- 2) Other defined performance standards to be met by the developer.
- 3) Other matters not inconsistent with law.

The application shall include a master plan that depicts the general configuration and relationship of the principal elements of the proposed development, including major uses, general building types, pedestrian and vehicular circulation, open space, public facilities, and phasing.

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2. *Review and Report by Town Administrator or Enforcement Officer*

As part of the staff review of the application, the Administrator/Enforcement Officer or the designee may negotiate revisions to the proposed Development Agreement consistent with the provisions of Subsection G Development Agreement Standards.

3. *Review and Recommendation by Planning Board*

Following staff review, preparation of a staff report, and provision of public notification in accordance with Subsection G. Development Agreement Standards, the staff shall recommend that:

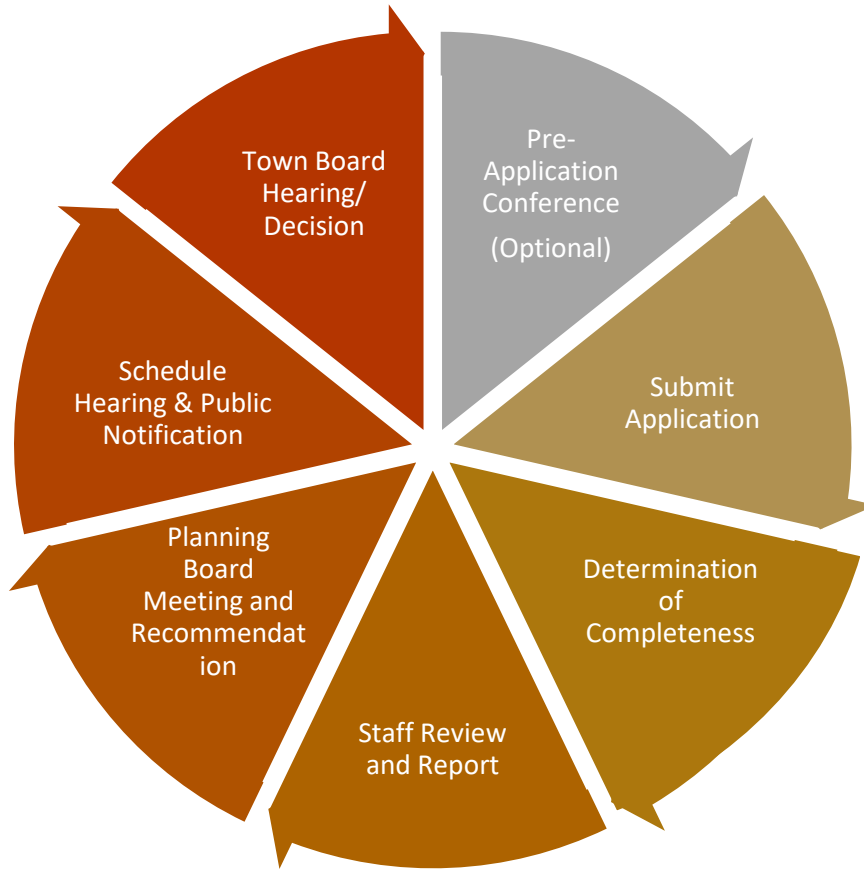
- the Town enter into the Development Agreement as submitted;
- the Town enter into the Development Agreement application subject to modifications agreed to by the applicant, in writing; or
- the Town not enter into the Development Agreement.

4. *Review and Action by Governing Board*

Following Planning Board review, the governing body shall conduct a legislative public hearing on the application in accordance with public hearing guidance. Thereafter the Board may vote:

- To enter into the Development Agreement as submitted;
- To enter into the Development Agreement, subject to modifications agreed to by the applicant, in writing;
- Not to enter into the Development Agreement; or
- Remand the application to the Planning Board for further consideration.

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VESTED RIGHTS AND DEVELOPMENT AGREEMENTS
DEVELOPMENT AGREEMENT PROCEDURES DIAGRAM



F. Recording the Agreement

Within 14 days after entering into a Development Agreement, the Town shall record the agreement with the Alamance County Register of Deeds.

G. Development Agreement Standards

In consideration of the Town's participation in a Development Agreement, a development subject to the agreement must meet the following criteria:

1. *Planned Development*

The information regarding the property subject to the Development Agreement shall contain details of the property and the planned development in accordance with NCGS 160D Article 10 Development Agreements.

2. *Phasing and Duration of Development*

The development shall demonstrate phasing and participation in the proposed agreement shall be of reasonable terms that shall be specified in the agreement.

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3. *Impact on Capital Improvements*

The development shall demonstrate the impact on existing and future provisions of capital improvements by the Town including at least one of the following: transportation, potable water, sanitary sewer, solid waste, stormwater management, educational, parks and recreational, and health systems and facilities.

H. Effect of Development Agreement

1. *Burdens and Benefits*

The burdens of the Development Agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

2. *Rights and Obligations*

Rights and obligations established by a Development Agreement shall not preclude or supersede rights and obligations established pursuant to other law regarding building permits, site specific development plans, phased development plans or other provisions of law.

3. *Building Code*

A Development Agreement shall not exempt the property owner or developer from compliance with the State Building Code.

4. *Subsequently Enacted Laws*

Unless the Development Agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a Development Agreement are those in force at the time of execution of the agreement.

5. *Application of Subsequently Adopted Laws*

Except for grounds specified in Section 160D-1-(e) of the North Carolina General Statutes, the Town may not apply subsequently adopted ordinances or development policies to a development that is subject to a Development Agreement.

6. *Change in State or Federal Law*

If State or Federal law is changed after a Development Agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the Development Agreement, the Town, by ordinance after notice and a hearing, may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the Development Agreement.

7. *Vested Rights*

This Ordinance does not abrogate any rights preserved by NCGS 160D-1-8, or that may vest pursuant to common law or otherwise in the absence of a Development Agreement.

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I. Approval of Debt

If any of the obligations of the Town in the Development Agreement constitute debt, the Town shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town, with any applicable constitutional and statutory procedures for the approval of this debt. The agreement shall be signed by the Town Attorney, Finance Director, and Town Administrator.

J. Periodic Review and Breach of Agreement

1. *Annual Review*

During any period of time in which a development permit is active, the Town shall review the development at least once every 12 months for compliance with the agreement. The developer shall be required to demonstrate good faith compliance with the terms of the Development Agreement. The failure to meet a commencement or completion date specified in the Development Agreement shall not, in and of itself, constitute a material breach of the agreement, but must be judged based upon the totality of the circumstances.

2. *Material Breach*

If the Town finds and determines that the developer has committed a material breach of the terms or conditions of the Development Agreement, the Town shall serve written notice of the breach upon the developer within a reasonable time after the periodic review. Such notice shall set forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and shall provide the developer a reasonable time in which to cure the material breach.

3. *Failure to Cure Material Breach*

If the developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the Development Agreement.

4. *Appeal*

The notice of termination or modification may be appealed to the Board of Adjustment for review and decision in accordance with Section 7-13(D Appeals).

K. Amendments to Development Agreement

1. *Mutual Consent*

A Development Agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.

2. *Major Modification*

Consideration of a proposed major modification of a Development Agreement shall follow the same procedures as required for initial approval of the agreement.

3. *Minor Modification*

The Town Administrator may approve minor modifications of the Development Agreement with the mutual consent of the other parties to the agreement, without following the same procedures as required for initial approval of the agreement,

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upon making written findings that the proposed modifications would not significantly change the use, intensity, or design of the development, would be consistent with the purposes and goals of the agreement, would comply with this Ordinance, and would not adversely affect the public health, safety, or general welfare. The process for evaluating and granting a minor modification shall be as provided in Section 11-5 of this Chapter.

L. Assumption of Jurisdiction Over Development Agreements

1. *Town Assumes Planning Jurisdiction*

If the Town assumes planning jurisdiction over property subject to a Development Agreement established by another jurisdiction, such development agreement shall be valid for the duration of the agreement, or eight years from the effective date of the Town's assumption of planning jurisdiction over the subject property, whichever is earlier.

2. *Rights and Obligations*

The parties to the development agreement and the Town shall have the same rights and obligations with respect to each other regarding matters addressed in the Development Agreement as if the property had remained in the previous jurisdiction.

3. *Modification or Suspension*

The Town may modify or suspend the provisions of the Development Agreement if the Town determines that the failure to do so would place the residents of the area subject to the Development Agreement, or the residents of the Town's planning jurisdiction, or both, in a condition dangerous to their health or safety, or both.

CHAPTER 12 PLANNING BOARD

Section 12-1. Planning Board

The Swepsonville Planning Board shall consist of five (5) members, plus representation from any extraterritorial area.

Section 12-2. Appointment of members

- A. Five (5) members shall be appointed by the Town Council from within the town limits.
- A. When the Town elects to exercise extraterritorial powers as provided by G.S. 160D-202, it shall provide for at least one extraterritorial representative on the Planning Board appointed by the Alamance County Commissioners, as provided by G.S. 160D-307. All members of the planning board shall exercise their jurisdiction and authority concerning all matters presented to the board.
- B. *Oath:* All members before entering their duties, qualify by taking an oath of office as required by NCGS 160A-61.

Section 12-3. Terms of Office

Initial appointments may be staggered by the mayor to ensure all members' terms do not expire in the same year. Terms for all seats shall expire in December of each respective year. As any staggered terms expire, appointments shall be made for terms of 3 years. Members shall hold office until their successors are appointed and qualified. Appointments to fill vacant seats shall be for the remainder of the terms.

Section 12-4. Duties

The duties of the Planning Board shall include:

- A. Initiate plans for the orderly development of the town and extraterritorial zoning jurisdiction area for recommendation to the Town Council.
- B. Initiate studies of the population, economy, land use, traffic and other factors impacting the resources, needs and public welfare of the present and future town.
- C. Regulation of the subdivision and platting of land within the town and outside as authorized by law.
- D. Make recommendations to the Town Council on zoning regulations and zoning map boundaries which from time to time may need to be amended, supplemented, changed, modified or repealed within the town jurisdiction or outside as authorized by law.
- E. Advise the Town Council on all matters related to the development of the town, particularly with respect to conditions which negatively impact the public

CHAPTER 12
PLANNING BOARD

welfare and to perform such other duties as may be assigned from time to time by the Town Council.

Section 12-5. Meetings, Records and Officers

All regular meetings of the planning board shall be held at Town Hall and shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member on each question; if absent or failing to vote, an indication of such fact; all of which shall be public record. The board shall elect officers (chair, vice chair and secretary) and adopt its regular meeting schedule for the coming calendar year to be filed with the Town Clerk.

Section 12-6. Notice of Determination and Appeals

If written notice of determination of a decision is not received at the public hearing or other methods and needs to be sent by mail, it is presumed to have been received on the third (3) business day after it is sent to the owner or the party who has sought the determination.

Section 12-7. Conflict of Interest

Members shall not vote on any decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

CHAPTER 13
BOARD of ADJUSTMENT

Section 13-1. Board of Adjustment

The Town Council is hereby designated to function as the Board of Adjustment as provided for in G. S. 160D-302.

- B. When the Town elects to exercise extraterritorial powers as provided by G.S. 160D-202, it shall provide for at least one extraterritorial representative on the Board of Adjustment to be appointed by the Alamance County Commissioners, as provided by G.S. 160D-307. All members of the Board of Adjustment shall exercise their jurisdiction and authority concerning all matters presented to the Board.
- C. Oath: All members before entering their duties, qualify by taking an oath of office as required by NCGS 160A-61.

Section 13-2. Powers

The Board of Adjustment shall have the following powers:

- A. Administrative review. The board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the zoning enforcement officer, building inspector or town official so empowered and in the enforcement of this chapter may be authorized and allowed for in NCGS 160D-405:
- B. Variances. The board shall authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter would result in unnecessary hardship with a four-fifths majority decision. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until it shall make a finding that:
 - 1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;
 - 2. The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare;
 - 3. Literal interpretation of the provisions of this chapter would deprive the applicant of a right commonly enjoyed by other properties in the same district under the terms of this chapter;
 - 4. The special conditions and circumstances do not result from the actions of the applicant; and
 - 5. Granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district.

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BOARD of ADJUSTMENT

- C. Special use permits. As provided in Chapter 5, the board shall conduct quasi-judicia hearings and grant special use permits when the required findings have been met.

Section 13-3. Notice

- A. *Mailed Notice:* The procedures adopted pursuant to this section shall provide that whenever there is a public hearing, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts.

This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. The person or persons mailing such notices shall certify to the Town Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.

- B. *Media Notice:* A notice of the public 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 fixed for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Section 13-4. Rules for Proceedings

- A. The Board of Adjustment shall hear and decide requests for variances and appeals of decisions of administrative officials charged with enforcement of the Zoning Ordinance. The board shall also hear and decide on requests for Special Use Permits as provided in Chapter 5.
- B. The Board of Adjustment shall elect a chair. A vice-chair shall be elected from its members and shall serve for the same term of years as the chair or until a successor is elected. The board shall appoint a secretary who may be a municipal officer, an employee of the town or a member of the board. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. The chair or in the absence of the chair the vice-chair may administer oaths and compel the attendance of witnesses by subpoena. All meetings of the board shall be open to the public.
- C. The concurring majority vote of the membership of the Board of Adjustment shall be required to overrule any decision of the zoning enforcement officer, building inspector or other town official empowered under this chapter, to decide in favor of the applicant on any matter upon which it is required to pass under this chapter. A variance requires a four-fifths majority vote.

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BOARD of ADJUSTMENT

- D. The Board of Adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances pursuant to NCGS 160D-406.
- E. On all appeals, applications and other matters brought before the Board of Adjustment, the board shall inform in writing all the parties involved of its decisions and the reasons therefore.
- F. During the hearing, objections regarding jurisdiction or other evidentiary facts must be ruled on by the chair as to whether to include or not include as evidence, giving deference to anyone who may bring competent, material and substantial evidence to the hearing that is not repetitive pursuant to NCGS 160D-406(d). The full board may be appealed to allow or disallow the evidence or material.

Section 13-5. Appeals to Board

- A. Appeals to the Board of Adjustment may be taken by any person aggrieved or by an officer, department, board, or bureau of the town affected by any decisions of the county building inspector, zoning enforcement officer, or other town official based on this chapter. Such appeal shall be taken within 30 days of the filing of the decision being appealed or the delivery of any required written notice of the decision, whichever is later, by filing with the town clerk and with the board of adjustment a written notice of appeal specifying the grounds thereof. All papers constituting the records upon which the action appealed from was taken shall forthwith be transmitted to the board of adjustment.
- B. The Board of Adjustment shall fix a reasonable time for the hearing of appeals or other matters referred to it and shall give due notice thereof to the parties in interest and shall decide the matter within a reasonable time no less than 30 days. Upon a hearing, any party may appeal in person or by agent or by attorney.
- C. Appeals of administrative decisions by staff, require that the staff member that made the determination appear at the hearing as a witness in the appeal if still employed. Otherwise, a different staff member in the same position must appear as a witness.

Section 13-6. Stay of Proceedings

Under this chapter, an appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that, because of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board of adjustment or by a court of record on application, on notice to the building inspector, and on due

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BOARD of ADJUSTMENT

cause shown.

Section 13-7. Appeals from Decisions of Board

Appeal from the decisions of the Board of Adjustment shall be to Superior Court of Alamance County. Such appeal must be made within 30 days after the filing of the board's decision with the Town Clerk.

Section 13-8. Conflict of Interest

A Board of Adjustment member when exercising any quasi-judicial function 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.

“Close familial relationship” means a spouse, parent, child, brother, sister, grandparent, or grandchild, the step, half and in-law relationships.

CHAPTER 14 AMENDMENTS

Section 14-1. Role of Town Council

The Town Council, as the governing body of the Town of Swepsonville, acts in its legislative capacity when considering proposed amendments to the text of this Ordinance or to the Zoning Map and shall observe the procedural requirements set forth in this Ordinance.

When considering amendments to this Ordinance or the Zoning Map, the Town Council shall follow the regular voting procedure and other requirements as set forth in other provisions of the Town Code, the Town Charter, or general law.

It is the intention of this Ordinance that the duties of the Town Council in connection with the Ordinance shall not include the hearing and passing upon of disputed questions that may arise in connection with the enforcement thereof, but that the procedure for determining such questions shall be as herein set out in this Ordinance. Furthermore, the duties of the Town Council in connection with this Ordinance shall be only the duty of considering and passing upon any proposed amendment, or repeal of this Ordinance as provided by law.

When adopting or rejecting any map or text amendment, the Council shall adopt a brief statement describing whether the action is consistent or inconsistent with any of the Town's approved plans. The statement should cite the nature of how or why the amendment is or is not consistent.

In addition, when adopting or rejecting any petition for a zoning map amendment, the Council shall adopt a statement analyzing the reasonableness of the proposal. It may consider (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 NCGS 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

The Board may adopt a single statement of reasonableness and plan consistency pursuant to NCGS 160D-605(a).

Section 14-2. Initiation of Amendments

Proposed changes or amendments may be initiated by the Town Council, the Planning Board, the Board of Adjustment, or by one or more interested parties. Written petitions from the public at large to amend this Ordinance shall be directed to the Swepsonville Planning Board at least thirty (30) days before the next regularly scheduled meeting of the Planning Board. A copy of the petition shall also be filed with the Clerk to the Town Council. The petition shall state the

CHAPTER 14 AMENDMENTS

nature of the proposed amendment, and, if applicable, a description of the property involved, names and addresses of the owners of the property, and a statement as to why the proposed amendment is necessary to promote the public health, safety, and general welfare.

Down-zoning prohibition: Third party down zonings or a rezoning that reduces allowable uses to a property are prohibited. The Town of Swepsonville or the landowner may initiate a down-zoning.

It shall be the responsibility of the Zoning Enforcement Officer to inform the applicant that in the case of a general rezoning amendment, the Planning Board will not evaluate the petition based on any specific proposal or development of the property unless it is a site specific development plan such as a proposed conditional rezoning as provided by this ordinance. Each petition for an amendment submitted by one (1) or more owners, optioners, or lessors, etc. of property within the town's jurisdiction shall be accompanied by a fee established by the Town Council intended to defray the cost of advertising and other administrative costs involved.

No proposed change in this Ordinance or Zoning Map, if denied by action of the Town Council may be resubmitted within a period of one (1) year from the date of such denial, unless the Board unanimously finds that changing conditions in the area or new information concerning the property requested for rezoning warrant resubmission for a change in this Ordinance or Zoning Map. However, should the denial be for a conditional use rezoning, it may be resubmitted within a period of six (6) months from the date of such denial.

Section 14-3. Action by the Planning Board

The Planning Board shall review each petition for amendment pursuant to NCGS 160D-604 (d). It shall make a written statement regarding the petition's consistency with a comprehensive plan, land use plan, or any other plan applicable to the Town Council within forty-five (45) days after receiving the petition. Failure of the Board to submit its recommendations within this time period shall constitute a favorable opinion.

If a zoning map amendment is approved that may be inconsistent with the future land use map in the adopted land development plan, the land development plan and associated map are considered amended, and each should have a note of the change in future land use affixed pursuant to NCGS 160D-605 (a)

Section 14-4. Notice for Public Hearing

- A. *Media Notice:* A notice of a legislative public hearing for a text amendment or a zoning map amendment shall be given once a week for two (2) consecutive calendar weeks in a newspaper of general circulation in Alamance County. Such notice shall be published the first time not less than ten days nor more than twenty-five (25) before the date fixed for the

CHAPTER 14 AMENDMENTS

hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

- B. *Mailed Notice:* Whenever there is a Zoning Map amendment, the owner of that parcel of land and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing and across any transportation corridors, shall be mailed a notice of the public hearing on the proposed amendment by first class mail. The notice shall be deposited in the mail at least ten (10) but not more than twenty-five (25) days before the date of the public hearing. The person or persons mailing such notices shall certify to the Town Council that fact, and such certificate shall be deemed conclusive in the absence of fraud.
- C. *Posted Notice:* Whenever there is a Zoning Map amendment. The Town of Swepsonville 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. If multiple parcels are being rezoning, not every parcel must be posted, but information posted should show the scale of the rezoning request with a map or multiple rezoning notices. The duration of the posted notice shall at a minimum run 25 days prior to the hearing until 10 days prior to the hearing.
- D. *Expanded Notice:* The above first class mail notice shall not be required if the Zoning Map amendment directly affects more than fifty (50) properties, owned by a total of at least fifty (50) different property owners and the Town elects to use the expanded published notice. In this instance, the Town may elect to either make the mailed notice provided for above or may as an alternative, elect to publish once a week for four (4) successive calendar weeks in a newspaper having general circulation in the area, an advertisement of the public hearing that shows the boundaries of the area affected by the proposed Zoning Map amendment and explains the nature of the proposed change. The final two (2) advertisements shall comply with and be deemed to satisfy the provisions of NCGS 160D-601.

The advertisement shall not be less than one-half (1/2) of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation. Property owners who reside outside the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail pursuant to this section. The staff member mailing the notice shall certify such to the Town Council. In addition to published notice, the Town shall post one (1) or more prominent signs on or immediately adjacent to the subject area reasonably calculated to give public notice of the proposed rezoning.

Section 14-5. Action by Town Council

- A. *General Use Rezoning:* During and following the public hearing, when considering a petition for rezoning to a general zoning classification, the Town Council will not evaluate a petition based on any specific proposal for the use or development of the property. The petitioner

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AMENDMENTS

will refrain from using any graphic materials or descriptions of the proposed development except for those which would apply to any use permitted by the requested classification

- B. *Conditional Rezoning*: A petition for rezoning to a conditional district shall be considered as provided in Chapter 4 Article 2. Any conditions related to the conditional zoning decided at the public hearing, shall be agreed to by the applicant or landowner in writing or written consent to ensure enforceability pursuant to NCGS 160D-703(b).
- C. *Statement of Consistency and Reasonableness*
1. Consistency statement; text or map amendment - As provided in G.S. 160D-605(a), when adopting or rejecting any zoning text or map amendment, the Town Council shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan and any other relevant plans

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.

2. Reasonableness statement; rezoning, map amendment - As provided in G.S. 160D-605(b), when adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Town Council. 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.

The plan consistency statement required by this section and the statement of reasonableness and may be approved as a single statement.

LIST OF RECOMMENDED TREE SPECIES FOR PLANING

Swepsonville, NC

The species below are suggested trees and shrubs based on their historical performance

Canopy Trees

* = may be used as buffer/screen D = Deciduous E = Evergreen PS = Partial Shade

Common Name / Scientific Name 'Cultivar'	D/E	Height (feet)	Sun Exposure	Drought Tolerant	Comments / Features
Beech, American / <i>Fagus grandifolia</i>	D	50-80 ft	Sun / PS	No	Dense shade tree producing little undergrowth; long lived
Birch, River / <i>Betula nigra</i> 'Heritage'	D	40-70 ft	Sun / PS	No	Good in urban areas; helps prevent stream erosion
*Cedar, Deodar / <i>Cedrus deodara</i>	E	40-60 ft	Sun	Yes	Lower limbs touch ground; can be subject to winter injury
*Cedar, Eastern Red / <i>Juniperus virginiana</i>	E	30-50 ft	Sun	Yes	Good for screening; attracts birds; easy to transplant
Cypress, Bald / <i>Taxodium distichum</i>	D	50-90 ft	Sun	Yes	Good street tree; small leaves that do not require raking
*Cypress, Leyland / X <i>Cupressocyparis leylandii</i>	E	60-70 ft	Sun / PS	Yes	Maintains good shape; excellent screening
Ginkgo / <i>Ginkgo biloba</i> (GRAFTED MALE ONLY)	D	40-70 ft	Sun	Yes	Male avoids female's fruit issues; pest and disease free
Hackberry / <i>Celtis occidentalis</i>	D	40-60 ft	Sun	Yes	Withstands adverse conditions; which broom can develop
Maple, Red / <i>Acer rubrum</i>	D	40-70 ft	Sun / PS	Yes	Valuable shade tree with bright colors; easily transplanted
Maple, Sugar / <i>Acer saccharum</i>	D	50-75 ft	Sun / PS	No	Excellent fall color; hard woods; prefer good soils
Oak, Laurel / <i>Quercus laurifolia</i>	E	50-70 ft	Sun / PS	Yes	Rapid growth; life span shorter than other oaks (50-70 years)
Oak, Live / <i>Quercus virginiana</i>	E	30-60 ft	Sun	Yes	Good street tree; magnificent and long lived; not deeply cold tolerant
Oak, Sawtooth / <i>Quercus acutissima</i>	D	30-50 ft	Sun	Yes	Holds leaves in winter, but drops nuts; toughest of all oaks
Oak, Scarlet / <i>Quercus coccinea</i>	D	50-80 ft	Sun	Yes	Brilliant autumn color and rapid growth; good street tree
Oak, Shumard / <i>Quercus shumardii</i>	D	40-70 ft	Sun	Yes	Excellent shade tree with dark red fall color
Oak, Southern Red / <i>Quercus falcata</i>	D	70-90 ft	Sun	Yes	Excellent shade tree native to the piedmont
Oak, Willow / <i>Quercus phellos</i>	D	60-80 ft	Sun	Yes	Excellent shade tree with small, easy to clean up leaves
*Pine, Austrian / <i>Pinus nigra</i>	E	40-60 ft	Sun	Yes	Tolerates urban conditions; dense dark green foliage
*Pine, Loblolly / <i>Pinus taeda</i>	E	30-60 ft	Sun / PS	Yes	Rapid growth; easy to transplant when young
Poplar, Tulip / <i>Liriodendron tulipifera</i>	D	60-90 ft	Sun	No	Stately, large tree valued for flowers and foliage
Sweetgum / <i>Liquidambar styraciflua</i> 'Rotundiloba'	D	60-95 ft	Sun / PS	Yes	Can cause litter problem except in 'Rotundiloba'; aggressive roots
Zelkova, Japanese / <i>Zelkova serrata</i>	D	50-80 ft	Sun / PS	Yes	Excellent shade tree with easy fall clean up; easy transplant

Where cultivars or varieties are listed, only that type should be used for Ordinance compliance.

Understory Trees

LIST OF RECOMMENDED TREE SPECIES FOR PLANING

Swepsonville, NC

The species below are suggested trees and shrubs due to historical performance in our region

* = may be used as buffer/screen D = Deciduous E = Evergreen PS = Partial Shade

Common Name / Scientific Name 'Cultivar'	D/E	Height (feet)	Sun Exposure	Drought Tolerant	Comments / Features
Cherry, Kwanzan / Prunus serrulata 'Kwanzan'	D	20-25 ft	Sun	No	Good color and no fruit; needs good soils; 25 year life span
Cherry, Yoshino / Prunus X yedoensis	D	20-40 ft	Sun	No	Excellent floral display; 15-20 year life span
*Cherry-Laurel, Carolina / Prunus caroliniana	E	20-40 ft	Sun / PS	No	Easy to transplant; good soils preferred
Crabapple / Malus spp.	D	15-25 ft	Sun	Yes	Attractive tree; falling fruit; best varieties - 'Centurion' and 'Zumi'
Dogwood, Flowering / Cornus florida	D	15-25 ft	PS	No	Keep away from heat sources like parking lots; needs good soil
Dogwood, Kousa / Cornus kousa	D	15-30 ft	Sun / PS	No	Blooms after leaves appear; more hardy than flowering dogwood
Hawthorn, Green / Crataegus viridis 'Winter King'	D	15-30 ft	Sun	Yes	Attractive blooms and fruit, thorny
Hawthorn, Washington / Crataegus phaenopyrum	D	20-30 ft	Sun	Yes	Attractive blooms and fruit, thorny
*Holly, Foster / Ilex X attenuata 'Fosteri'	E	15-30 ft	Sun / PS	Yes	Tolerates urban conditions; heavy fruit production
*Holly, Savannah / Ilex X attenuata 'Savannah'	E	20-30 ft	Sun / PS	Yes	Requires heavy fertilization for good leaf color
Common Name / Scientific Name 'Cultivar'	D/E	Height (feet)	Sun Exposure	Drought Tolerant	Comments / Features
Hornbeam, American / Carpinus caroliniana	D	20-30 ft	Sun / PS	Yes	Pest free; tolerates urban conditions; slow growth
Hornbeam, European / Carpinus betulus	D	40-60 ft	Sun / PS	Yes	Pest free; provides good shade; tolerates urban conditions
Magnolia, Sweetbay / Magnolia virginiana	E	10-60 ft	Sun / PS	No	Aromatic tree often found near water sources/wet soils
Maple, Hedge / Acer campestre	D	15-35 ft	Sun	Yes	Pest free; provides good shade; good hedge tree
Maple, Japanese / Acer palmatum	D	15-25 ft	Sun / PS	No	May suffer 'leaf scorch' with excess sun
Myrtle, Wax / Myrica cerifera	D	15-25 ft	Sun	Yes	Often grown in hedges for screening; can be cold sensitive
Pear, Aristocrat / Pyrus calleryana 'Aristocrat'	D	20-40 ft	Sun	Yes	Attractive spring bloom; limb structure stronger than 'Bradford'
Pear, Capital / Pyrus calleryana 'Capital'	D	20-40 ft	Sun	Yes	Attractive spring bloom; limb structure stronger than 'Bradford'
Pear, Redspire / Pyrus calleryana 'Redspire'	D	30-40 ft	Sun / PS	Yes	Attractive spring bloom; limb structure stronger than 'Bradford'
*Pine, Virginia / Pinus virginiana		15-40 ft	Sun		Susceptible to pine beetles if not kept healthy

LIST OF RECOMMENDED TREE SPECIES FOR PLANING

Swepsonville, NC

The species below are suggested trees and shrubs due to historical performance in our region

	E			Yes	
Plum, Purpleleaf / Prunus cerasifera 'Atropurpurea'	D	15-25 ft	Sun	No	Rapid growth; produces fruit; 20-25 year life span
Redbud, Eastern / Cercis canadensis	D	20-30 ft	Sun / PS	Yes	Does well in full sun or partial shade; purple blossoms in spring

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Shrubs

* = may be used as buffer/screen D = Deciduous E = Evergreen PS = Partial Shade

Common Name / Scientific Name 'Cultivar'	D/E	Height (feet)	Sun Exposure	Drought Tolerant	Comments / Features
*Abelia, Glossy / Abelia x grandiflora	D	3-6 ft	Sun / PS	Yes	Less expensive than most evergreens; easy to grow
*Barberry, Mentor / Berberis x mentorensis	D	4-5 ft	Sun / PS	Yes	Little maintenance needed; dependable and adaptable plants
*Barberry, Wintergreen / Berberis julianae	E	6-8 ft	Sun / PS	Yes	Good screen or barrier, few pest problems
Elaeagnus, Thorny / Elaeagnus pungens	E	10-15 ft	Sun / PS	Yes	Flowers appear in fall; fruit ripens in spring
*English Laurel / Prunus laurocerasus	E	10-18 ft	Sun / PS	Yes	Avoid excessive fertilizer; can be severely pruned
*Euonymus, Winged / Euonymus alatus	D	15-20 ft	Sun	Yes	Takes well to pruning and shearing; brilliant red in fall
*Forsythia, Border / Forsythia x intermedia	D	8-10 ft	Sun / PS	Yes	Transplants well; blooms appear before leaves
*Holly, Burford / Ilex cornuta 'Burfordii'	E	8-15 ft	Sun	Yes	Widely used as a small tree or hedge
*Holly, Inkberry / Ilex glabra	E	6-9 ft	Sun / PS	Yes	Leaves may discolor in cold winters; drought tolerant
Holly, Japanese / Ilex crenata	E	8-12 ft	Sun	Yes	Has a black berry largely hidden by leaves
*Holly, Lusterleaf / Ilex latifolia	E	8-20 ft	Sun / PS	Yes	No pest problems; requires male plant to produce berries
*Hydrangea, Oakleaf / Hydrangea quercifolia	D	4-6 ft	Sun / PS	Yes	Excellent flowers and fall foliage; needs mulch to cool root system
*Laurestinus / Viburnum tinus	E	6-12 ft	Sun / PS	Yes	Valuable evergreen barrier shrub; white spring flowers
Loropetalum / Loropetalum chinensis	E	6-12 ft	Sun / PS	Yes	Can be grown as a small tree; can be pruned after flowering
Mahonia, Leatherleaf / Mahonia bealei	E	5-7 ft	PS	Yes	Too much sun can bleach out spring color; dependable shrub
Nandina / Nandina domestica	E	4-8 ft	Sun / PS	Yes	Oriental feel with creamy white flowers

LIST OF RECOMMENDED TREE SPECIES FOR PLANING

Swepsonville, NC

The species below are suggested trees and shrubs due to historical performance in our region

Common Name / Scientific Name 'Cultivar'	D/E	Height (feet)	Sun Exposure	Drought Tolerant	Comments / Features
Photinia, Chinese / Photinia serrulata	E	7-12 ft	Sun / PS	Yes	Disease resistant, but susceptible to mildew
*Podocarpus / Podocarpus macrophyllus 'Maki'	E	8-12 ft	Sun / PS	Yes	Excellent screen; can withstand urban environments
*Privet, Japanese / Ligustrum japonicum	E	6-12 ft	Sun / PS	Yes	In leaf all year; requires moist soils; used as shrub and hedge
Spiraea, Bridlewreath / Spiraea prunifolia 'Plena'	D	5-9 ft	Sun	Yes	Large crops of white flowers in spring; red-orange fall colors
Spiraea, Reeves / Spiraea cantoniensis	D	4-6 ft	Sun / PS	Yes	White flowers appears in dense, bouquet-like clusters
*Spiraea, Vanhoutte / Spiraea x vanhouttei	D	5-8 ft	Sun / PS	Yes	Grows rapidly; good screen; durable and dependable
Wax-Myrtle / Myrica cerifera	E	10-15 ft	Sun / PS	Yes	Thrives in practically any environment; fixes atmospheric nitrogen

LIST OF TREE SPECIES NOT RECOMMENDED FOR PLANING**Swepsonville, NC**

The species below are not suggested trees and shrubs due to historical unsuitability
in our region

Common Name / Scientific Name	Poor Characteristic(s)
Ash, Green / <i>Fraxinus pennsylvanica</i> "Marsh. Seedless"	Susceptible to fungal disease
Box Elder / <i>Acer negundo</i>	A, shallow roots, weak wood
Catalpa / <i>Catalpa bignonioides</i>	Weak wood
Elm, Siberian / <i>Ulmus pumila</i>	Weak wood, slime flux
Honeylocust / <i>Gleditsia</i> spp.	The region is too warm for this species
Maple, Norway / <i>Acer platanoides</i>	The region is too warm for this species
Maple, Silver / <i>Acer saccharinum</i>	Aggressive, shallow roots, weak wood
Mulberry / <i>Morus</i> spp.	Messy fruit, odorous, shallow roots
Russian Olive / <i>Elaeagnus angustifolia</i>	Poor form, disease prone
Pear, Bradford / <i>Pyrus calleryana</i> 'Bradford'	Genetic flaw, brittle, odorous, prone to splitting
Pine, White / <i>Pinus strobus</i>	Disease and insect problems, shallow-rooted
Princess Tree / <i>Paulownia tomentosa</i>	Weedy tree, messy, weak wood
Tree-of-Heaven / <i>Ailanthus altissima</i>	Weedy tree, weak wood, odorous