

TOWN OF KILL DEVIL HILLS, NORTH CAROLINA

CODE OF ORDINANCES

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TOWN OFFICIALS
OF
KILL DEVIL HILLS, NORTH CAROLINA

MAYOR	Sheila F. Davies, Ph.D.
MAYOR PRO TEM	Mike Hogan
COMMISSIONER	Terry Gray
COMMISSIONER	Nelson "Skip" Jones, Jr.
COMMISSIONER	John Windley
TOWN MANAGER	Debora Peele Díaz
TOWN ATTORNEY	Casey Varnell
TOWN CLERK	Mary E. Quidley

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CODE OF ORDINANCES
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related field; however, interest, commitment, and enthusiasm are characteristics required of all potential appointees.

(C) The members of the Community Appearance Commission shall be appointed by the Board of Commissioners to serve terms of three years each; provided, however, that the initial members shall serve staggered terms. If a vacancy occurs in the membership of the Commission, the Board of Commissioners shall appoint a successor to fill the unexpired term. All members of the Commission shall serve at the pleasure of the Board of Commissioners and may be removed by the Board with or without cause.

(1) A member of the Board of Commissioners.

(2) A member of the Planning Board, appointed by the membership of the Planning Board, shall serve in an ex officio status on the Community Appearance Commission; this position shall have no vote on matters before the Community Appearance Commission. The Planning Board representative shall provide assistance and guidance on issues and matters under consideration by the Planning Board that may have pertinent bearing on issues and matters before the Community Appearance Commission.

(3) The Town Manager shall assign such staff members to provide support to the Community Appearance Commission as deemed necessary and appropriate.

(D) At its organizational meeting, the Community Appearance Commission shall select a Chairman and Vice-Chairman. Thereafter, at its first meeting during a new calendar year the Community Appearance Commission shall select a Chairman and Vice-Chairman. The officers shall be eligible to succeed themselves.

(E) Faithful attendance at the meetings of the Commission is considered a prerequisite for the continuation of membership on the Commission. A majority of the Commission members may recommend to the Board of Commissioners, for action, the removal of any member who misses more than one-third of the meetings during any 12-month period.

(Ord. 12-19, passed 9-10-12; Am. Ord. 13-7, passed 5-13-13; Am. Ord. 16-12, passed 4-9-18)

§ 31.21 DUTIES OF THE APPEARANCE COMMISSION.

The Community Appearance Commission shall serve the Board of Commissioners in an advisory capacity. The Commission's responsibilities may include, but are not necessarily limited to:

(A) Studying the visual needs of the town and recommending plans to carry out programs that will, in accordance with the powers herein granted, enhance and improve the visual quality and aesthetic characteristics of the town;

(B) Initiating, promoting and assisting in the implementation of programs of general community beautification in the town;

(C) Coordinating the activities of individuals, agencies and organizations, public and private, whose plans, activities and programs bear upon the appearance of the town;

(D) Preparing both general and specific plans for the improved appearance of the town. These plans may include the entire town or any part thereof, and may include private and public property. The plans shall set forth desirable standards and goals for the aesthetic enhancement of the town or any part thereof within its area of planning and zoning jurisdiction, including public ways and areas, open spaces and public and private buildings and projects;

(E) Participating in the implementation of the plans it develops;

(F) Formulating and recommending to the Planning Board and Board of Commissioners the adoption or amendment of ordinances, including the zoning code, subdivision regulations and other local ordinances proposing to regulate the use of property to enhance the appearance of the town;

(G) Directing the attention of town officials to necessary enforcement of any ordinance that may improve the appearance of the town;

(H) Seeking voluntary adherence to the standards and policies of the plans developed by the Community Appearance Commission;

(I) Promoting public interest in and an understanding of its recommendations, studies and plans;
(Ord. 12-19, passed 9-10-12)

§ 31.22 MEETINGS OF THE COMMUNITY APPEARANCE COMMISSION.

(A) The Community Appearance Commission is a public body and as such shall use *Suggested Rules of Procedure for Small Local Government Boards* as its official procedural guide. It shall keep an accurate record of the business transacted before it, which records shall be open to the public. A record of the attendance of its members shall be kept.

(B) The Community Appearance Commission may meet monthly, but shall meet at least once quarterly; all meetings shall be open to the public in accordance with the North Carolina Open Meetings Law, G.S. 143-318. Special meetings, at the call of the chairman, shall be held as necessary. A quorum shall consist of four members of the Community Appearance Commission.
(Ord. 12-19, passed 9-10-12)

(a) The Board's authorized representative shall issue the applicant a license when the Board's authorized representative determines that the application is complete and the applicant is in compliance with this section.

(b) When a license is issued to a solid waste collector, the solid waste collector shall affix a sticker indicating that the solid waste collector has a valid license to all of its solid waste collection vehicles that are to be operated in the town. The Board's authorized representative shall issue stickers to the solid waste collector at the time the license is issued. Licensees may obtain additional stickers from the Board's authorized representative.

(c) If the Board's authorized representative denies an applicant a license, the applicant may request a hearing before the Board by giving written notice of appeal to the Town Manager within five working days of receipt of the Board's authorized representative's decision denying the license. After a hearing on the appeal, the Board shall either affirm the denial or direct the Board's authorized representative to issue the license.

(5) *Revocation.* When the Board's authorized representative finds that a licensee has violated this section or the conditions of the license, the licensee shall receive written notice of the violation and be informed that if another violation occurs within 30-working days, or in the case of continuing violation if it is not corrected within ten-working days, the license will be revoked. If another violation occurs within the 30-working day period, or if the continuing violation is not corrected within ten-working days, the Board's authorized representative shall give the licensee written notice that the license is revoked. Upon receipt of the revocation, the licensee shall cease collecting, transporting or disposing of solid wastes in any area of the town immediately. The Board's authorized representative may reinstate a revoked license after the revocation has been in effect for 30-working days if the Board's authorized representative finds that the conditions causing the violation have been corrected. A licensee whose license has been revoked may appeal the revocation to the Board by giving written notice of the appeal to the Board's authorized representative within five working days of receiving notice of revocation from the Board's authorized representative. After a hearing on the appeal, the Board shall either affirm the revocation or direct the Board's authorized representative to reinstate the license.

(D) *License fee.* The licensee shall pay to the town or its authorized representative, the sum set by the designated representative, not to exceed \$50, for the issuance of the license, and the sum of \$1 for each sticker to be affixed to each solid waste collection vehicle.

(E) *Non-transferability of licenses.* Solid waste licenses are non-transferable and non-assignable.

(F) *Responsibilities of licensee.*

(1) The licensee shall serve every person who contracts with it for solid waste collection in such a manner that the licensee does not cause the person to be in violation of this section.

(2) The licensee shall dispose of all solid waste generated within any area of the town at the facility or the transfer stations.

(3) A licensee shall submit an annual report to the Board's authorized representative containing the following information:

- (a) A list of the collection vehicles the licensee used in the town during the reporting year;
- (b) The total amount of solid waste collected in the town and the locations where the solid waste was disposed of during the reporting year;
- (c) A certification that all solid waste the licensee collected in the town was disposed of at the facility or the transfer stations; and
- (d) Any other information the Board's authorized representative may reasonably request.

(G) *Enforcement.*

(1) *Penalty.* Any person who is found in violation of this section shall be subject to a civil penalty of not to exceed \$500 as provided in G.S. § 153-123. Each day's violation shall be treated as a separate offense.

(2) *Remedies.* This section may be enforced by equitable remedies, and any unlawful condition existing or in violation of this section may be enforced by injunction and order of abatement in accordance with G.S. § 153A-123.
(Ord. 09-12, passed 7-13-09)

WASTE CONTAINERS

§ 50.15 WASTE COLLECTIONS AND CONTAINERS.

(A) *Waste collections.* All improved properties in the town shall have a town-approved waste container, roll-out container or dumpster, on site which shall be utilized for the collection of rubbish. All rubbish placed in containers shall be securely wrapped or bagged. No loose material such as sawdust, ashes or packing materials shall be placed in any waste container.

(B) *Waste container required.* Any private home, rental cottage or general business, such as a gift shop, real estate office, bank, home occupation or other sales or service business, shall have a town-approved refuse waste container, roll-out container or dumpster, based on the volume of waste generated or anticipated to be generated.

(1) *Roll-out containers.* Each improved residential property in the town shall have at least one roll-out container in which to keep and maintain the rubbish to be disposed of. For any location determined by the Public Services Department to need more than one roll-out container, the owner shall

provide up to three roll-out containers. In the event that the Public Services Department determines that three roll-out containers are not sufficient to contain the rubbish generated on-site, the town shall require the owner to purchase a dumpster or dumpsters of a sufficient capacity to contain the rubbish generated on-site by the residence. The town will not pick up rubbish, whether bagged or unbagged, that is not within the container, and the placement of such material outside the container is strictly prohibited.

(2) *Dumpsters.* Each improved commercial or residential property for which a dumpster is required in the town shall have a dumpster or dumpsters of sufficient capacity necessary to contain the rubbish generated on-site by the commercial use as determined pursuant to the town-approved site plan and/or solid waste capacity survey. The town will not pick up rubbish, whether bagged or unbagged, that is not within the dumpster and the placement of such material outside the container is strictly prohibited.

(3) The following table shall be used to determine the minimum number and type of waste containers required for single-family residential purposes:

<i>Number of Bedrooms</i>	<i>Minimum Number and Type of Container Required</i>
One to four	One roll-out container required
Four if east of US 158	Two roll-out containers required
Five to six	Three roll-out containers required
Seven to 18	One dumpster required
Over 18	Two dumpsters required

(C) *Site reevaluation.* If the volume of solid waste to be collected at a particular site exceeds the capacity of the container on more than two occasions in a 12-month period, the property owner shall be required to purchase an additional container of a size determined to be adequate by the Public Services Department. If a site is determined to be noncompliant with the provisions of this section, prior to exercising the remedies outlined in § 10.99, the town shall give return-receipt mailed or hand-delivered notification of the violation to the property owner at the address shown on the ad valorem tax records. The owner shall have 14 days from the mailing date or hand-delivery date to comply with the provisions of this chapter.

(D) *Noncompliance; procedures.* If any waste container site or container does not meet the town's specifications or should a site or container which complied with the specifications on the effective date of the ordinance from which this chapter was derived subsequently become noncomplying for any reason, prior to exercising the penalties outlined in § 10.99, the town shall give the property owner

notification of the location and manner in which a site or container does not comply with this chapter. A copy of the applicable standards shall be attached to the notice or otherwise appear on the face of the notice. This notification of the violation shall be return-receipt mailed or hand-delivered to the property owner at the address shown on the ad valorem tax records. The owner shall have 14 days from the mailing date or hand-delivery date to comply with the provisions of this chapter.

(Ord. 00-08, passed 5-24-00; Am. Ord. 16-7, passed 11-15-17) Penalty, see § 10.99

§ 50.16 PURCHASE AND DELIVERY OF WASTE CONTAINERS; DUMPSTER PAD REQUIRED.

(A) *Requirement.* Each property owner, prior to issuance of an occupancy permit by the Planning and Inspections Department, or upon purchase of property where no container for waste collection has been issued, shall purchase from the town a suitable waste container or containers which shall, upon purchase, belong to and become the responsibility of the property owner.

(B) *Price.* The price for the initial, additional or replacement container or containers shall be pursuant to the adopted fee schedule for the town.

(C) *Delivery.* The town will deliver the required waste container or containers prior to issuance of an occupancy permit or at the time the property is purchased and an application is made for a waste container. No occupancy permit shall be issued and no container shall be delivered until the price of such container or containers is paid to the town.

(D) *Dumpster pads.* Those properties requiring dumpsters shall construct a dumpster pad in accordance with the specification provided by the Public Services Department. Such pads shall be completed before the delivery of a dumpster or dumpsters and before the issuance of an occupancy permit.

(Ord. 00-08, passed 5-24-00)

§ 50.17 MAINTENANCE OF WASTE CONTAINERS AND WASTE CONTAINER SITES.

(A) *Maintenance of container.* The property owner shall be responsible for the maintenance and repair of all waste containers and for the replacement of such container or containers if damaged, lost, stolen or destroyed. Maintenance of such containers shall include but is not limited to keeping the container rust free, painted, clean and water tight. Lids for roll-out containers and dumpsters shall be required and must be closed at all times. If a container has been determined to be noncompliant, or upon violation of this section, prior to exercising the remedies outlined in § 10.99, the town shall give return-receipt mailed or hand-delivered written notification of the violation to the property owner at the address shown on the ad valorem tax records. The owner shall have 14 days from the mailing date or hand-delivery date to comply with the provisions of this chapter.

(B) *Maintenance of container site.* For the purposes of this chapter, container site shall include the pad, enclosure and access or the right-of-way area on which the roll-out container is placed. The property owner shall keep the container site clean, free of overflow materials from the waste container, litter and/or debris. Property owners shall maintain accessibility to the container, pad and enclosure and keep the container, pad and enclosure in good repair. If a container site has been determined to be noncompliant, or upon violation of this chapter prior to exercising the remedies outlined in § 10.99, the

town shall give return-receipt mailed or hand-delivered written notification of the violation to the property owner at the address shown on the ad valorem tax records. The owner shall have 14 days from the mailing date or hand-delivery date to comply with the provisions of this chapter.

(Ord. 00-08, passed 5-24-00) Penalty, see § 10.99

§ 50.18 USE OF WASTE CONTAINERS.

Waste containers as required by the town are intended for use by the property owner and any other person or persons in lawful possession of the premises where the container is located and the rubbish generated and none other. Any unauthorized use of any waste container in the town shall constitute a violation of the provisions of this chapter.

(Ord. 00-08, passed 5-24-00)

§ 50.19 PLACEMENT AND PICK UP SCHEDULES.

(A) *Placement.* The placement of roll-out containers and dumpsters shall be determined by the Public Services Department and this chapter.

(1) For collection, roll-out containers shall be placed within two feet of the town's street rights-of-way on a schedule determined by the Town Manager as recommended by the Public Services Department. The property owner or resident shall remove the roll-out container or containers from within the street right-of-way following each collection.

(2) Each dumpster shall be located as designated on an approved site plan. When the need for a dumpster occurs after site plan approval, or due to the generation of waste beyond that which can be adequately contained in three roll-out containers, the location of the dumpster pad and dumpster shall be determined by the Public Services Department. No dumpster pad or dumpster shall be located within the public rights-of-way of the town, nor shall be serviced or collected from public rights-of-way.

(B) *Schedule.* Collection scheduled for residential and commercial sites shall be as follows:

(1) The Board of Commissioners shall establish, and may amend from time to time, a schedule for regular collection of refuse at all residential and commercial sites.

(2) Holiday collection schedules shall be established by the Town Manager upon recommendation by the Public Services Department.

(Ord. 00-08, passed 5-24-00; Am. Ord. 08-26, passed 9-8-08; Am. Ord. 16-7, passed 11-15-17)

CHAPTER 51: WATER SERVICE

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*GENERAL PROVISIONS***§ 51.01 EACH STRUCTURE TO HAVE SEPARATE CONNECTION; EXCEPTIONS.**

(A) Each individual business or new residential building or structure shall have a separate connection to the town water supply system. This requirement shall not apply to cottage courts or similar businesses under one ownership and operated as one business, where such business has several structures situated upon the business plot or tract of land all under one ownership.

(B) Application for utilities service shall be submitted in the name of the owner or, if more than one structure is located on the lot or parcel of land, then in the name of each owner of a structure or condominium unit to be served.

(C) Replacement structures, and upgrades of existing structures in excess of 50% of the ad valorem tax value of the structure, not currently on the water supply system shall be required to connect to the system if service is available.

(D) The town's responsibility for maintenance ends at the connection to the customer's service line.

(E) All meters, associated valves and valve boxes are property of the town. Only town employees are authorized to service, repair or operate these fixtures.

(Ord. passed - -)

(B) *Technical and other requirements.*

(1) All irrigation service connections, the irrigation meter and all related appurtenances shall be installed in accordance with the same regulations, policies and procedures that apply to all service connections.

(2) Irrigation meters shall not be used for any other domestic purpose.

(C) *Fees and charges.*

(1) Shall be established by the Board of Commissioners.

(2) System development fees shall be waived for new irrigation system connections, only.
(Ord. 09-17, passed 10-12-09; Am. Ord. 13-2, passed 2-11-13; Am. Ord. 16-16, passed 6-11-18)

DATA TO BE SUBMITTED BY DEVELOPER

§ 51.20 STANDARDS FOR CONSTRUCTION.

All design and construction associated with the water system shall be in conformance with Title 15 A, Subchapter 18C of the North Carolina Administrative Code, "Rules Governing Public Water Systems" and the latest version of the town's standard specifications and details for water construction.
(Ord. 12-14, passed 5-23-12)

§ 51.21 DRAWINGS AND SPECIFICATIONS.

(A) The developer shall provide the Building Official of the town with three sets of drawings and specifications for approval. He shall provide the Public Services Director with two copies.

(B) Every effort shall be made by the Utilities Division to approve drawings and specifications within 30 days.

(C) The plans shall include, as a minimum:

(1) A diagram of the project drawn to a scale of at least one inch equals 50 feet and submitted on 22-inch by 36-inch paper;

(2) A topographical survey of the right-of-way required by the Utilities Division;

(3) All proposed work, including affected streets and underground utilities;

(4) The location of water lines, valves, hydrants and miscellaneous fittings with regard to existing topography of the centerline of the right-of-way;

(5) The location of all points at which water lines cross culverts or sewers with an indication of the size and invert of existing pipe line and ground elevations;

(6) Location of all proposed water services;

(7) Location and method of connection to existing water system; and

(8) Engineer's seal.

(D) The specifications shall include as a minimum:

(1) A list of materials and construction methods to be used;

(2) A procedure for testing and chlorination of the line; and

(3) A letter of approval from the North Carolina Department of Environment, Health and Natural Resources.

(Ord. passed - - ; Am. Ord. 12-14, passed 5-23-12)

§ 51.22 RIGHT-OF-WAY AGREEMENTS OR EASEMENTS.

Prior to construction of any utilities lines within town street boundaries or across or upon any private property, all necessary right-of-way agreements or easements, which easements shall include easements to the town for the purposes set forth in § 51.05, and any permits required by any federal, state or local government agency shall be obtained and copies furnished to the Utilities Division.

(Ord. passed - - ; Am. Ord. 12-14, passed 5-23-12)

§ 51.23 PERFORMANCE BOND.

A performance bond approved by the town or a certified check shall be posted with the town for 100% of the work.

(Ord. passed - - ; Am. Ord. 12-14, passed 5-23-12)

§ 51.24 PERMITS, LICENSES AND TAXES.

The developer shall procure all permits and licenses, pay all charges, fees and taxes and give notices necessary for the proper and lawful prosecution of the work.
(Ord. passed - - ; Am. Ord. 12-14, passed 5-23-12)

§ 51.25 DEVELOPER'S RESPONSIBILITY FOR WORK.

(A) Until final written acceptance of a project by the town, the developer shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof due to the action of the elements or from any other cause, whether arising from the execution or from the nonexecution of the work. The developer shall rebuild, repair, restore and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof.

(B) In case of suspension of work from any cause whatever, the developer shall be responsible for the project and shall take such precautions as may be necessary to prevent damage to the project, provide for drainage and shall erect any necessary temporary structures, signs or other facilities at the developer's expense.

(C) No lines shall be covered without authorization by the Utilities Division, nor shall new lines be turned on without final approval by the town.
(Ord. passed - - ; Am. Ord. 12-14, passed 5-23-12)

RATES AND CHARGES**§ 51.35 APPLICATION FOR SERVICE.**

(A) Application for service shall be accepted on proof of ownership for each unit and the payment of current system development fees which permanently apply to the specific location and are not transferable to other property. The meter shall be installed upon the payment of the applicable system development fees, tap fees, unless previously paid by the developer of the subdivision, and surety deposit accompanied by currently required septic permits, current survey and other applicable building permits. System development fees (SDF) are not accepted unless accompanied by a building permit.

(B) A surety deposit of an amount adopted and amended, from time to time, by the Board of Commissioners and kept on file in the Town Clerk's office shall be required of each owner before utilities service is extended to the property of any person.

(C) When property being served by the town's utilities system is sold, the surety deposit, less any outstanding bill, shall be returned to the seller. The new owner shall pay the deposit required by the utilities rates fee schedule. Notification of transfer of ownership is required in writing and charges begin with the closing date of the sale, if closing date has passed then date of notification.

(D) Any SDF (previously IHF) on file after September 14, 2009 is eligible for a refund of any credit balance of the SDF that was not used due to an approved revision to the site plan within 18 months of the issuance of the building permit or no later than occupancy if occupancy occurs before the expiration of the 18 months immediately following issuance of the building permit.

(Ord. passed - - ; Am. Ord. 09-14, passed 9-14-09; Am. Ord. 12-14, passed 5-23-12; Am. Ord. 16-16, passed 6-11-18)

§ 51.36 UTILITIES RATES AND CONNECTION FEES.

Except as may be otherwise provided by this chapter, all persons using utilities furnished by the town's utilities systems shall pay tap fees, system development fees and surety deposits in accordance with the utilities rates fee schedule as adopted by the Board of Commissioners and as amended from time to time. A copy of the utilities rates fee schedule shall be kept on file with the Town Clerk.

(Ord. passed - - ; Am. Ord. 12-14, passed 5-23-12; Am. Ord. 16-16, passed 6-11-18)

§ 51.37 METERS.

(A) Utility meters shall be read every three months or as otherwise directed by the Board of Commissioners.

(B) An individual meter shall be required for each premise and for each separate service connection to a premise as outlined in § 51.01(A). The meter will be furnished and connected by the town as part of the service connection. The town reserves the right in all cases to stipulate the size, type, and make of the meter to be used on any connection.

(C) All meters and meter connections shall at all times remain the sole property of the town and shall not be interfered with in any respect. All meters will be maintained by, and at the expense of the town so far as ordinary wear and tear are concerned, but the customer will be held responsible for damages due to other causes. In case of damage other than normal wear and tear, the town will repair or replace the meter and the costs shall be paid by the customer.

(D) The town reserves the right to remove and test any meter at any time and to substitute another meter in its place.

(Ord. passed - - ; Am. Ord. 12-14, passed 5-23-12)

§ 51.38 BILLING DATE; PAST DUE DATE; PENALTY FOR LATE PAYMENT; PENALTY FOR RETURNED CHECK; DISCONNECTION OF SERVICE FOR NONPAYMENT.

(A) In the event that utilities service is disconnected because of the failure of the owner to comply with any of the provisions of this section, the fee for reconnection of utilities service shall be that as adopted and amended from time to time by the Board of Commissioners and on file with the Town Clerk.

(B) Unpaid utilities bills become delinquent 30 days from the date mailed and are subject to a late charge penalty of 10%.

(C) There shall be a penalty, as determined from time to time by the Board of Commissioners, for any check used to pay a utilities bill or statement which is not accepted for any reason by the bank upon which it is drawn.

(D) If a utilities bill or statement is not paid on or before the first day of the seventh week following the original mailing date of the unpaid statement or bill, the utilities service shall be cut off and terminated.

(E) An administrative service penalty, as determined from time to time by the Board of Commissioners, shall be charged for any service that is not paid on or before the first day of the seventh week following the original date of the unpaid statement or bill as set forth on the utilities bill or statement.

(F) When a water service is terminated for nonpayment as described in this section for a period of two quarters, no further bills shall be sent. When a meter has been removed and/or disconnected and remains inactive for an additional period of 18 months or six quarters, the service shall be removed and the account deemed "VOID." All fees shall be taken off the books and the accounting stopped. The account shall cease to exist. In order for service to be reactivated, all fees, tap fees, system development fees and surety deposit will be required. Credit will be given for payment of previous system development fees, up to but not exceeding the amount of the current system development fee.
(Ord. passed - ; Am. Ord. 12-14, passed 5-23-12; Am. Ord. 16-16, passed 6-11-18)

§ 51.39 RECONNECTION OF WATER SERVICES.

(A) The fee to turn utilities service on after it has been disconnected for nonpayment of application fees/lack of owner's signature shall be determined from time to time by the Board of Commissioners and kept on file in the Town Clerk's office.

(B) After cut-off, a meter may be removed at the discretion of the Utilities Division to prevent damage or improper use.

(C) (1) Any owner who wishes to reinstate his water service after it has been terminated or the meter removed, provided that this service has been cut off or the meter removed for a period of less than two years, will be required to pay all back bills plus a penalty, as determined from time to time by the Board of Commissioners, to bring the account up to date.

(2) Any new applicant for utilities service at the site of a terminated or removed meter for less than two years will be required to pay the surety deposit before service will be reinstated.

(D) If a utilities meter is re-read/calibrated at the request of any utilities user, and it is found to be accurate, then the utilities user shall pay the re-read/calibration fee as established from time to time by the Board of Commissioners and kept on file in the Town Clerk's office.

(E) Repairs to a water meter, lock, or box shall be made by the Utilities Division. As determined appropriate, the actual cost, including parts and labor, for the repair or replacement shall be paid for by the property owner or the individual or company causing the need for the repair or replacement.

(F) Any utilities user requesting that utilities service be temporarily interrupted without the removal of the water meter shall continue to pay the minimum utilities user charge fee as established from time to time by the Board of Commissioners and kept on file in the Town Clerk's office.

<i>Billing Adjustments</i>	
Adjusted bill amount	Payment period
< \$500	6 months
\$500-\$1,000	12 months
> \$1,000	24 months

(D) Payment plans shall be subject to the following:

(1) The customer shall execute a written agreement setting out the terms of repayment and providing that upon any default in payment or sale of the property the entire balance shall be due and payable.

(2) The customer/owner selling property shall notify the closing attorney/agent of any outstanding balance at the time of closing. Any outstanding balance shall be paid to the town by the closing attorney or agent in full at the time of closing.

(E) Water service customers that are also serviced by the town's wastewater treatment facility will be subject to divisions (C)(1) through (4) above and:

(1) If a water loss is identified as above and the above procedures are followed, and the water loss is determined not to have entered the wastewater system, the wastewater bill is averaged as above and the overage not calculated for billing purposes.

(2) If the water loss is determined to have entered the wastewater system through the customer's connection, no adjustment will be applied to the wastewater billing.

(Ord. passed - -; Am. Ord. 05-11, passed 7-11-05; Am. Ord. 08-34, passed 11-19-08; Am. Ord. 10-24, passed 11-10-10; Am. Ord. 12-14, passed 5-23-12; Am. Ord. 14-01, passed 1-13-14; Am. Ord. 14-13, passed 6-25-14)

§ 51.42 SYSTEM DEVELOPMENT FEE.

The Town of Kill Devil Hills has complied with and is complying with the following requirements set forth by the Public Water and Sewer System Development Fee Act, being Session Law 2017-138, also known as House Bill 436 (HB 436), in order for a local government to adopt a system development fee:

(A) The fee should be calculated in a written analysis ("SDF Analysis") prepared by a financial professional or licensed professional engineer (qualified by experience and training or education) who employs generally accepted accounting, engineering, and planning methodologies to calculate system development fees for water and sewer systems:

- (1) Provides analysis regarding the selection of the appropriate method of analysis;
 - (2) Documents and demonstrates reliable application of the methodology to the facts and data, including all reasoning, analysis, and interim calculations underlying each identifiable component of the system development fee;
 - (3) Identifies all assumptions and limiting conditions affecting the analysis and demonstrates that they do not materially undermine the reliability of the conclusions reached;
 - (4) Calculates a system development fee per service unit of new development and includes an equivalency or conversion table to use in determining the fees applicable for various categories of demand; and
 - (5) Covers a planning horizon of between ten and 20 years.
- (B) The SDF Analysis must be posted on the town's website, and the town must solicit comments and provide a means by which people can submit their comments, for a period of at least 45 days.
- (C) Comments received from the public must be considered by the preparer of the SDF Analysis.
- (D) There must be a public hearing held prior to considering adoption of the SDF Analysis.
- (E) The town must publish the system development fee in its annual budget ordinance.
- (F) The town cannot adopt a fee that is higher than the fee calculated by the SDF Analysis.
- (G) The town must update the SDF Analysis at least every five years.
(Ord. 16-15, passed 6-11-18)

WATER CONSERVATION

§ 51.50 DECLARATION.

In the event of an imminent or declared state of emergency endangering the safety, health or welfare of the people of the town, or threatened danger or destruction of property arising from the shortage or imminent shortage of water, the Mayor is hereby authorized and empowered to issue a public proclamation declaring the existence of a state of emergency and to define and impose appropriate

prohibitions and restrictions resulting from the water shortage applicable to all persons within the jurisdiction of the town in order to meet the exigencies of the imminent or declared state of emergency. (Ord. 02-12, passed 7-8-02; Am. Ord. 08-23, passed 8-11-08)

§ 51.51 WHEN DECLARED.

A state of emergency shall be deemed to exist whenever, in the opinion of the Mayor, the availability and supply of water is critical such that a mechanical malfunction or breakdown of the town's pumps, a rapid drawdown of the water supply (aquifer may occur), or salt water intrusion would so deplete the water supply and availability of water as to threaten the availability of water for human consumption, firefighting purposes and other protection of lives and property, and the conservation of water is necessary in order to provide safety and protect lives, safety and property within the town. A state of emergency shall also be decreed to exist at any time the County of Dare declares a water shortage.

(Ord. 02-12, passed 7-8-02; Am. Ord. 08-23, passed 8-11-08)

§ 51.52 NOTICE TO GENERAL PUBLIC OF WATER SHORTAGE.

In the event Dare County declares a water shortage of any of the four degrees of severity hereinafter set forth, the Mayor is authorized and empowered to give notice to the general public of the existence of such state and the severity thereof. In order to protect the health and safety of the citizens of the town supplied water by the Dare County regional public water system, the Mayor may place in effect restrictive provisions hereinafter authorized. Notice shall be given by public press announcements and by signing an executive order. The order shall become effective 24 hours following the issuance of the order and delivery of a copy to the local newspaper and radio stations.

(Ord. 02-12, passed 7-8-02; Am. Ord. 08-23, passed 8-11-08)

§ 51.53 COMPLIANCE REQUIRED IN THE EVENT OF A WATER SHORTAGE.

(A) In the event the Mayor issues the notice described in § 51.52, then and in that event it shall be unlawful for any person, firm, or corporation to use or permit the use of water from the water system of the town for any purposes hereinafter set forth until such time as this subchapter be amended or repealed, or until the Mayor has declared such provisions no longer in effect.

(B) In exercising this authority, considerations shall be given as to the following criteria:

(1) Water levels in the wells, capabilities of the water production and distribution systems, drawdown rates, outlook for precipitation, daily water use patterns, seasonal and long term weather patterns, and the availability of water from other sources.

(2) Hospitals, nursing homes, and healthcare facilities shall comply with all restrictions imposed on residential and non-residential water customers as may be applicable to each individual institution to the extent compliance will not endanger the health of the patients or residents of the institution.

(3) Each hospital, nursing home, or healthcare facility shall survey its water usage patterns and requirements and implement such additional conservation measures as may be possible, without endangering the health of its patients or residents, to achieve a further reduction in the institution's water usage.

(Ord. 02-12, passed 7-8-02; Am. Ord. 08-23, passed 8-11-08)

§ 51.54 RESTRICTIONS APPLICABLE TO VARIOUS WELL STATIC LEVELS.

The severity of the water shortage shall be determined primarily by the well static levels in light of levels expected at given times of the year and expected demands and potential rainfall. The restrictive measures in effect at each stage are as follows:

(A) Stage I Water Conservation Alert.

(1) In the event the well water static levels do not conform to seasonal expectations as determined by the Dare County Water Director and advised to the Town Public Services Director, or daily water demand is approaching 95 % of system capacity as determined by the Dare County Water Director and advised to the Town Public Services Director, a Stage I Water Conservation Alert may be declared in effect.

CHAPTER 52: SEWER SERVICE

Section

General Provisions

- 52.01 County certificate prerequisite to electrical service
- 52.02 Regulation of facilities with subsurface or ground absorption methods of discharge
- 52.03 Rate and charges

Wastewater Treatment System

- 52.15 Wastewater systems line maintenance and responsibility
- 52.16 Grease trap regulations
- 52.17 Application of regulations
- 52.18 Prohibited substances
- 52.19 Right of entry of inspectors
- 52.20 Compliance determination
- 52.21 Analysis of commercial wastewaters
- 52.22 Sampling frequency
- 52.23 Revocation of permission to discharge
- 52.24 Notification of violation; satisfactory correction
- 52.25 The Southern Sanitary District

- 52.99 Penalty

GENERAL PROVISIONS

§ 52.01 COUNTY CERTIFICATE PREREQUISITE TO ELECTRICAL SERVICE.

Before any electrical power company supplying electricity to any area within the town may connect its power lines to the wiring of any dwelling or proposed dwelling within the town, it shall first determine that there is in operation on such property a sewage disposal system which complies with the minimum health requirements of the Dare County Health Department. This obligation on the part of the

electrical company shall be deemed fulfilled when the owner of such property shall have presented to the company a certificate from the Dare County Sanitarian that a sewage disposal system meeting county requirements is in operation.

(Ord. passed - -)

§ 52.02 REGULATION OF FACILITIES WITH SUBSURFACE OR GROUND ABSORPTION METHODS OF DISCHARGE.

To adequately protect the town water reservoir it is necessary that construction of septic tanks and other sources of pollution within the limits of the zone of depression be regulated as follows:

(A) No construction of septic tanks or nitrification fields or other possible sources of pollution shall be permitted within 500 feet horizontal distance of the edge of the town water reservoir;

(B) Between the distance of 500 feet and 1,200 feet from the edge of the town water reservoir, the number of septic tanks or nitrification fields shall be limited to no more than one field per 40,000 square feet.

(Ord. passed - -)

§ 52.03 RATE AND CHARGES.

Rates and charges for sewer services shall be as set forth in §§ 51.35 *et seq.*

WASTEWATER TREATMENT SYSTEM

§ 52.15 WASTEWATER SYSTEMS LINE MAINTENANCE AND RESPONSIBILITY.

The town's responsibility for maintenance of all town owned wastewater system lines shall begin and end at the street right-of-way, property line and/or town installed cleanout.

(Ord. passed - -)

§ 52.16 GREASE TRAP REGULATIONS.

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

COMMERCIAL USERS. Any user other than single-family user and two-family residential users of the Ocean Acres Sewer System located in the Southern Sanitary District.

GREASE TRAPS. Devices used to remove excessive amounts of grease that may interfere with wastewater treatment, restrict flows in collection mains or clog inlet or outlet structures.

RESIDENTIAL USERS. Single-family and two-family users of the Ocean Acres Sewer System located in the Southern Sanitary District.

(B) *Design.*

(1) Commercial users that discharge large volumes of kitchen wastewater shall have installed on their premises a grease trap facility or device based upon the following use requirements.

1 to 60 seats	=	minimum of a 1,000 gallon grease trap
61 to 120 seats	=	minimum of a 1,500 gallon grease trap
121 to 180 seats	=	minimum of a 2,000 gallon grease trap
181 to 240 seats	=	minimum of a 2,500 gallon grease trap

(2) Grease trap tank size shall increase 500 gallons for every 60 seats added to the above formula.

(C) *Construction features.*

(1) Grease traps are generally made of precast concrete and are purchased completely assembled. However, very large units may be field-constructed. Grease traps come in single- and double-compartment versions.

(2) Grease traps are usually buried so as to intercept the building sewer. They must be level, located where they are easily accessible for cleaning and close to the wastewater source. Where efficient removal of grease is very important, an improved two-chamber trap has been used which has a primary (or grease-separating) chamber and a secondary (or grease-storage) chamber. By placing the trap as close as possible to the source of wastewaters, where the wastewaters are still hot, the separating grease at the surface of the first chamber can be removed by means of an adjustable weir and conveyed to the separate secondary chamber, where it accumulates, cools and solidifies. This decreases the requirement for cleaning and allows better grease separation in the first chamber.

(3) The inlet, outlet and baffle fittings are typically of "T" design with a vertical extension 12 inches (30 cm) from the tank floor and reaching well above the water line. To allow for proper maintenance, manholes to finished grade should be provided. The manhole covers should be of gas-tight construction and should be designed to withstand expected loads.

(D) *Operation and maintenance.* Each commercial user shall submit to the town a schedule of the proposed frequency of having the grease trap pumped out. This schedule shall be reviewed by the Wastewater Operator of the Public Services Department for acceptability, approval of which will be authorized or denied. Once an acceptable level of frequency is approved, Public Services Department contracted services staff shall inspect commercial users at least bimonthly while in operation, and more frequently if necessary, to determine compliance with this subchapter. A report shall be filed in the Public Services Department on their findings.

(Ord. passed - -; Am. Ord. 16-17, passed 6-11-18)

§ 52.17 APPLICATION OF REGULATIONS.

These regulations apply to treating kitchen wastewaters from commercial users as defined in § 52.16.

(Ord. passed - -)

§ 52.18 PROHIBITED SUBSTANCES.

The following substances are prohibited: solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as but not limited to: toxic, industrial or hazardous wastes, grease, garbage with particles greater than ½-inch in dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshing, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, paint, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing waste.

(Ord. passed - -)

§ 52.19 RIGHT OF ENTRY OF INSPECTORS.

Inspectors or authorized employees of the town whose duty it may be to enter upon private premises to examine meters, pipes, grease traps or other fixtures used in the town's water and/or wastewater service or for the purpose of inspection, observation, measurement, sampling or testing of the water and/or wastewater characteristics shall have free access at all reasonable hours to all parts of such premises for the purpose of inspection, meter reading, sampling, testing, monitoring, examination of fixtures and observation of the manner in which water is used and/or discharged. In case any authorized town representative is refused admittance to any premises for any such purpose or is hindered or prevented from making such examination or monitoring, the water shall be turned off and shall not be turned on again until free access is given. Any person completing and filing an application to discharge

(C) The hearing officer shall render a decision within ten days from the hearing date and shall cause the decision to be personally served upon the offender or delivered by certified mail/return receipt requested. The hearing officer shall further send a copy of such decision resulting in a "disconnect order" to the Dare County Health Department for further enforcement of the applicable health regulations as they may apply to such offending party.

(D) Any appeal from the hearing shall be in the nature of certiorari to the Superior Court of Dare County and shall be accompanied by a bond of sufficient amount with surety to compensate the town for damages to the sewer system resulting from such violation, based on the evidence adduced at the hearing, and no stay of enforcement shall be permitted without such bond, to be approved by the hearing officer and the Clerk of Superior Court of Dare County.

(E) A ten-day period for the satisfactory correction of the violation is provided. Any offender shall, within the ten-day period, permanently cease all violations.

(Ord. passed - -)

§ 52.25 THE SOUTHERN SANITARY DISTRICT.

(A) The town is operating the wastewater treatment facility within the Southern Sanitary District as a public enterprise under the provisions of G.S. § 160A-311 and within a district established under provisions of G.S. § 153A-301 and as authorized by the General Assembly of North Carolina which made such service districts permissible for municipalities.

(1) There shall be no new construction, repair, modification or addition to any structure within the Southern Sanitary District boundaries without first obtaining a valid permit for such building from the Planning and Inspections Department.

(2) (a) An applicant for such permit shall first apply to the Planning Department, presenting a sketch plan in detail or a plat prepared by a registered surveyor which fully illustrates the proposed improvement, repair or modification, including distance from the Fresh Pond.

(b) Residential users located outside of the 1,200 foot area of environmental concern (AEC) shall be served by on-site septic systems as approved by the Dare County Health Department and shall not be connected to the wastewater treatment facility. New commercial users located within the Southern Sanitary District either inside or outside of the AEC will be allowed to connect to the wastewater treatment facility with available capacity.

(3) *Disconnection.*

(a) Existing users of the wastewater treatment facility within the Southern Sanitary District and outside of the Fresh Pond AEC will be allowed to disconnect from the wastewater treatment facility provided an improvement permit can be obtained from the Dare County Health Department and all other requirements of the town code are met.

(b) Existing users located within the Fresh Pond AEC shall not be allowed to disconnect from the wastewater treatment facility.

(4) The applicant shall then file a regular building permit application with the town under the rules and regulations then in effect. The Planning and Inspections Department shall then conduct the usual procedures for issuance of permits and issue a permit upon compliance with the rules and regulations of the town then in effect upon payment of any required fees to the town.

(B) Construction of any permitted use in the Southern Sanitary District utilizing wastewater treatment facility service from other than the town.

(1) An applicant for a building permit within the Southern Sanitary District which will not require service from the town shall follow the usual procedures for application of a permit.

(2) In addition, the applicant shall provide a copy of the usual tri-party agreement then in use by the town relating to the wastewater treatment facility provider and copies of the necessary permits, easements and plats.

(C) If any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained or any building, structure or land is used in violation of this subchapter, the Town Building Inspector, the Dare County Sanitarian or any appropriate authority may institute, in addition to any other remedies, any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation to prevent the occupancy of such building, structure or land; or prevent any illegal act, conduct business or use in or about such premises.

(D) Violation of the provisions of these regulations shall be a misdemeanor under § 10.99. Each day in which any such violation shall continue shall be deemed a separate offense. Notwithstanding the criminal penalties, the Town Building Inspector or the Dare County Sanitarian may institute a civil action against the offender, seeking enforcement by appropriate equitable remedy authorized by G.S. §§ 160A-175, as amended.

(Ord. passed - -; Am. Ord. 16-17, passed 6-11-18)

§ 52.99 PENALTY.

(A) Any person who shall continue any violation beyond the time limit provided for in the aforementioned notice of violation shall be guilty of a misdemeanor. Each day in which any such violation continues shall be deemed a separate offense and shall be turned over to the District Attorney for prosecution.

(B) In addition to the above, any user that continues the violation of this chapter after the ten-day period following notification shall be assessed a penalty of \$100 per day, in addition to any repair costs, as a civil penalty for each day such violation continues beyond the ten-day period, by the Utilities Director or designee and collected as a civil penalty by an action in the General Court of Justice, District Court Division.

(C) Persons who violate this chapter or otherwise damage the town, its water supply, sewer systems, property or otherwise cause damage shall be liable for such damages as may be imposed by a court of law or equity or an administrative tribunal, and the town reserves all rights and privileges to seek damages and other remedies that may be available.

(D) If a public sewer becomes obstructed or damaged because of any substances improperly discharged into it, the person(s) responsible for such discharge shall be billed and shall pay for the expenses incurred by the town in cleaning out, repairing or rebuilding the sewer as well as damages incurred by the town arising from claims of private property owners which are caused by such obstruction or damage.

(Ord. passed - -)

CHAPTER 90: ABANDONED AND JUNKED VEHICLES

Section

- 90.01 Administration and enforcement
- 90.02 Definitions
- 90.03 Junked motor vehicle
- 90.04 Abandoned motor vehicle
- 90.05 Hazardous motor vehicle
- 90.06 Duty of owner
- 90.07 Declaration of public nuisance; exceptions
- 90.08 Notice to owner
- 90.09 Removal of vehicle
- 90.10 Exceptions

§ 90.01 ADMINISTRATION AND ENFORCEMENT.

The Planning Department shall be responsible for the administration and enforcement of this chapter. Nothing in this chapter shall be construed to limit the legal authority of the powers of officers of the town's Police and Planning Departments in enforcing any other laws or in any other way in carrying out their duties.

(Ord. 02-07, passed 5-22-02; Am. Ord. 05-18, passed 9-12-05)

§ 90.02 DEFINITIONS.

The following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. Is one that:

- (1) Is left on any public street or highway for longer than seven days; or

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- (2) Is left on property owned or operated by the town for longer than 24 hours; or
- (3) Is left on private property without the consent of the owner, occupant, or lessee thereof.

JUNKED MOTOR VEHICLE. A motor vehicle that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or moved in the manner which it originally was intended to move;
- (3) Does not display a current and valid license plate.

or

HAZARDOUS MOTOR VEHICLE. Any motor vehicle on private or public property that is declared to be a health or safety hazard by the Town Manager or designee for such purposes, when the vehicle is found to be:

- (1) A breeding ground or harbor for mosquitoes or other insects, snakes, rats, or other pests;
- (2) A point of weed growth and/or other vegetation over 12 inches in height; or
- (3) A point of collection for pools or ponds of water; or
- (4) A point of concentration of gasoline, oil or other flammable or explosive materials; or
- (5) So located that there is a danger of the vehicle falling or turning over; or

or

(6) A place in which debris, bottles or other solid waste is discarded and is present within the vehicle; or

(7) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or from exposed surfaces of metal, glass or other rigid materials; or

(8) The creation of another similar condition or circumstance which exposes the general public to safety or health hazards.

HIGHWAY. Is defined, pursuant to G.S. § 20-4.01(13), as the entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use

of the public as a matter of right for the purposes of vehicular traffic. The terms **HIGHWAY** and **STREET** and their cognates are synonymous.

MOTOR VEHICLE. All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

OWNER. An individual, firm, partnership, association, corporation, governmental agency or any combination thereof, holding and presenting the legal certificate of title to the particular vehicle. (Ord. 02-07, passed 5-22-02; Am. Ord. 05-18, passed 9-12-05; Am. Ord. 16-8, passed 11-15-17)

§ 90.03 JUNKED MOTOR VEHICLE.

Except as otherwise provided in this chapter, no junked motor vehicle shall be located by its owner on public grounds or private property within the town. No real property owner within the town shall permit or allow junked motor vehicles to be on the owner's real property. The owner of such junked motor vehicles or the real property owner upon which the vehicle is located shall cause the removal thereof. No owner of a junked motor vehicle or owner of property on which a junked motor vehicle is located shall allow the junked motor vehicle to remain on the public grounds or private property except as provided in this chapter. (Ord. 02-07, passed 5-22-02)

§ 90.04 ABANDONED MOTOR VEHICLE.

It shall be unlawful for any person to leave a motor vehicle:

(A) On any public street or highway longer than seven days; or

(B) On property owned or operated by the town for longer than 24 hours; or

(C) On private property without the consent of the owner, occupant or lessee thereof. (Ord. 02-07, passed 5-22-02; Am. Ord. 05-18, passed 9-12-05)

§ 90.05 HAZARDOUS MOTOR VEHICLE.

It shall be unlawful for the owner of a motor vehicle or for the owner, lessee or occupant of the real property upon which the motor vehicle is located to leave or allow to remain on the property any motor vehicle which is a hazardous motor vehicle. (Ord. 02-07, passed 5-22-02)

§ 90.06 DUTY OF OWNER.

The owner(s) of any abandoned, hazardous, or junked motor vehicle or property owner(s) on which the abandoned, hazardous, or junked motor vehicle is located shall cause the removal thereof immediately and shall pay all costs incident to such removal. No person shall allow such motor vehicle owned by him to remain after notice has been given to such person to have the vehicle removed. (Ord. 02-07, passed 5-22-02; Am. Ord. 05-18, passed 9-12-05)

§ 90.07 DECLARATION OF PUBLIC NUISANCE; EXCEPTIONS.

(A) The location or presence of any junked vehicle on any lot, tract, or parcel of land, occupied or unoccupied, improved or unimproved, within the town shall be deemed a public nuisance, and no person shall cause or maintain such public nuisance by wrecking, dismantling, rendering inoperable, abandoning or discarding any vehicle on the property of another or allow the same to be placed or to exist upon his own real property.

(B) This section shall not apply to:

(1) A motor vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property.

(2) A motor vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or

(3) Unlicensed, inoperable motor vehicles stored on private property; provided that the motor vehicles and outdoor storage areas are maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery or other appropriate means.

(Ord. 02-07, passed 5-22-02)

§ 90.08 NOTICE TO OWNER.

Any junked or abandoned motor vehicle or hazardous motor vehicle found to be in violation of this chapter may be removed to a storage area. When an abandoned or junked motor vehicle or hazardous motor vehicle is removed, the town shall give notice to the owner as required by G.S. §§ 20-219.10 and 20-219.11.

(Ord. 02-07, passed 5-22-02)

been made that such conditions constituting a public nuisance exist on the property and shall order the prompt abatement thereof within a reasonable time, not to exceed 15 days from the receipt of such written notice to avoid further action on behalf of the town. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall also be posted in a conspicuous place on the premises affected.

(`88 Code, § 12-3) (Ord. passed 11-9-83; Am. Ord. 93-13, passed 12-13-93; Am. Ord. 08-28, passed 9-24-08; Am. Ord. 14-18, passed 10-13-14)

§ 93.04 ABATEMENT BY TOWN.

If the owner of any premises on which a public nuisance is determined to exist, having been directed by the town to abate such nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within 15 days from receipt of such notice a court order shall be secured which causes the condition to be removed or otherwise remedied or otherwise abated by the town, excluding chronic violators, § 93.07.

(`88 Code, § 12-41) (Ord. passed 11-9-83; Am. Ord. 93-13, passed 12-13-93; Am. Ord. 16-1, passed 6-12-17)

§ 93.05 COSTS OF ABATEMENT.

The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of the premises on which the nuisance existed, and the Town Finance Officer shall mail a statement of such charges to the owner or other person in possession of such premises, with instructions that such charges are due and payable within 30 days from the receipt thereof.

(`88 Code, § 14-42) (Ord. passed 11-9-83; Am. Ord. 93-13, passed 12-13-93; Am. Ord. 14-18, passed 10-13-14)

§ 93.06 LIEN.

If charges for the removal or abatement of public nuisances are not paid within 30 days after the receipt of a statement of the charges, as provided for in § 93.05, the charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes as provided in G.S. § 160A-193.

(`88 Code, § 12-43) (Ord. passed 11-9-83; Am. Ord. 93-13, passed 12-13-93)

§ 93.07 ANNUAL NOTICE TO CHRONIC VIOLATORS.

(A) For the purposes of this section, a **CHRONIC VIOLATOR** is any person who owns property whereupon, in the previous calendar year, the town gave notice of violation at least three times under any provision of the public nuisance ordinance.

(B) If the property of a person, determined to be a chronic violator, is found to be non-compliant with the regulations of the nuisance ordinance, the town may take immediate action to remedy a violation. The expense to remedy the nuisance shall become a lien upon the property and shall be collected as unpaid taxes.

(C) The notice shall be sent in a manner consistent with § 93.03 and G.S. § 160A-200.1.
(Ord. 14-18, passed 10-13-14)

§ 93.08 CUMULATIVE REMEDIES.

The procedures in this chapter shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances, and this chapter shall not prevent the town from proceeding in a criminal action against any person violating the provisions of this chapter as provided in G.S. § 14-4 and as authorized by G.S. § 160A-193.

(` 88 Code, § 12-44) (Ord. passed 11-9-83; Am. Ord. 93-13, passed 12-13-93; Am. Ord. 14-18, passed 10-13-14)

CHAPTER 94: ANIMALS

Section

General Provisions

- 94.01 Definitions
- 94.02 Cruelty to animals
- 94.03 Bird sanctuary
- 94.04 Livestock prohibited
- 94.05 Animal enclosures
- 94.06 [Reserved]
- 94.07 Exotic or wild animals
- 94.08 Defecating on private or public property
- 94.09 Dog license tax
- 94.10 Restraint
- 94.11 Rabies inoculation
- 94.12 Alternate procedure for abatement of nuisance created by dogs
- 94.13 Impoundment
- 94.14 Redemption procedures
- 94.15 Adoption, payment of fees, penalties
- 94.16 Responsibilities and duties of custodian of animals
- 94.17 Animals to be seized humanely
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- 94.19 Animals biting persons or showing symptoms of rabies
- 94.20 Dangerous and potentially dangerous animals

Chicken Hens

- 94.25 Keeping hens
- 94.26 Chicken hen registration
- 94.27 Complaints

Dog Park

- 94.40 Dog park

GENERAL PROVISIONS**§ 94.01 DEFINITIONS.**

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

ANIMAL. Animal shall mean any and all types of animals, both domesticated and wild, male and female.

ANIMAL AT LARGE or **RUN AT LARGE.** Any animal off the premises of its owner and not under restraint as defined in § 94.10.

ANIMAL CONTROL SHELTER. Any holding or other facility designated by the Board of Commissioners for the detention of animals.

ANIMAL CONTROL OFFICER. A person designated as such to perform duties described by this chapter.

ANIMAL UNDER RESTRAINT. Any animal confined within a vehicle, or secured by leash or lead, cage, bridle or similar physical restraint to allow the animal to be controlled.

CHICKEN HENS. A domesticated female chicken.

DANGEROUS ANIMAL. An animal that:

- (1) Has killed or inflicted severe injury on a person; or
- (2) Is determined by the Chief of Police or the Dangerous Animal Appeal Board to be potentially dangerous as defined herein.
- (3) Any animal owned or harbored primarily or in part for the purpose of animal fighting, or any animal trained for animal fighting.

DANGEROUS ANIMAL APPEAL BOARD. The Board appointed as needed by the Town of Kill Devil Hills Board of Commissioners to hear appeals from the determination by the Chief of Police that an animal is a dangerous animal or a potentially dangerous animal and comprised of at least three members.

INOCULATION or **INOCULATION AGAINST RABIES.** These terms shall mean the vaccination or inoculation of a dog or cat with an antirabic vaccine approved by the United States Bureau of Animal Industry, the North Carolina State Department of Agriculture and the North Carolina State Board of Health and/or the local health director, as defined in G.S. § 106-364(2).

- (4) The coop and run must be located upon a permeable surface that prevents waste run-off.
- (5) The chicken run must adequately contain the chicken hens at all times.
- (6) Chicken hen food storage container(s) shall be weather-, insect-, and animal-proof and keep food dry and clean.
- (7) Chicken hens shall be placed in their coop by 10:00 p.m. and not let out into the chicken run prior to 6:00 a.m.
- (8) Chicken hens as defined and regulated in this chapter shall be limited to location in the Residential Low, Light Industrial 1, Light Industrial 2, and Government and Institution (Public and Private) Zoning Districts in the town.
(Ord. 13-11, passed 7-8-13; Am. Ord. 14-32, passed 5-13-15)

§ 94.26 CHICKEN HEN REGISTRATION.

The Town Manager shall establish a chicken hen registration process as a condition precedent to the location and construction of any chicken hen house and the keeping of chicken hens. Such registration shall include:

- (A) Certification of compliance with building and zoning regulations, and the standards enumerated in this chapter. Inspection and approval of the plans and construction of the chicken coop and run shall be coordinated by the Animal Control Division with the Planning and Inspections Department.
- (B) Payment of a fee established and amended from time to time by the Board of Commissioners.
(Ord. 13-11, passed 7-8-13; Am. Ord. 14-32, passed 5-13-15)

§ 94.27 COMPLAINTS.

- (A) Upon complaint, the Animal Control Division shall coordinate an investigation of any potential or actual violation of the standards pertaining to chicken hens, chicken hen houses, and chicken hen outdoor enclosures established by the Kill Devil Hills Town Code.
- (B) Any chicken hen, chicken coop or run found to be kept in violation of the relevant standards shall be considered nuisances. Removal and impoundment by the Animal Control Division will be in accordance with the provisions of this chapter.
- (C) The keeping of chicken hens shall be subject to the provisions of the relevant sections of Chapter 93, Nuisances, this chapter, and Chapter 153, Zoning of the Kill Devil Hills Town Code.
(Ord. 13-11, passed 7-8-13; Am. Ord. 14-32, passed 5-13-15)

DOG PARK**§ 94.40 DOG PARK.**

(A) *General.* The Board of Commissioners for the town hereby authorizes within the municipal limits of the town a dog park for the purpose of allowing the off-leash exercise of dogs. The Board further directs and authorizes the Town Manager to make rules and regulations for its operation that are consistent with this chapter.

(B) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ANIMAL CONTROL OFFICER. A sworn employee of the Kill Devil Hills Police Department's Animal Control Division.

ATTENDANT. A person 16 years or older who brings a dog to the dog park. Such person is expected to be competent and knowledgeable relative to the behavior of, and have control over, said dog(s) at all times while at or inside the dog park.

DOG PARK. An enclosed fenced facility designated by the Board for the purpose of allowing dogs, under the control of their attendants, to exercise and socialize off-leash.

FACILITY. See ***DOG PARK.***

OWNER. Person having legal ownership of any dog using the dog park.

VICIOUS ANIMAL. Any animal which has a propensity or tendency to do any act which might endanger the safety of persons and property of others in a given situation.

VISUAL CONTROL. The attendant can see the dog(s) at all times.

VOICE CONTROL. The attendant is able to control and recall the dog(s) at all times, and is not allowing the dog(s) to fight with other dogs. A dog under ***VOICE CONTROL*** must immediately come to the attendant when so commanded.

(C) *Dog park operations.* Established dog park will be operated year-round on a daily basis unless closed by the Town Manager for maintenance, special events, health and safety, or severe weather. Any law enforcement officer or Animal Control Officer has the authority to close the dog park at any time for health and safety or to investigate a violation of this section or other criminal offense.

(D) *Dog park general regulations.*

(1) To ensure the safety of the dogs, their attendants and others, the following are not permitted within the fenced area of the dog park:

- (a) Animals other than dogs;
 - (b) Aggressive dogs, those dogs deemed vicious or dogs who have a previous history of aggressive behavior toward other animals or humans;
 - (c) Female dogs in heat;
 - (d) Dogs less than four months old (note: due to vaccination advisories and recommendations for young dogs);
 - (e) Any dog known by its owner or attendant to be sick with an infectious, communicable illness or disease;
 - (f) Bicycles, roller blades, skates, skateboards, exercise equipment, radio controlled devices, strollers, children's riding toys or any other item(s) deemed unsafe or disruptive by any law enforcement officer or Animal Control Officer;
 - (g) Motorized vehicles and devices, except wheelchairs for the disabled;
 - (h) Glass containers;
 - (i) Alcoholic beverages or controlled substances;
 - (j) Tobacco products or vaping products, including electronic cigarettes;
 - (k) Drink or food of any type for human consumption; and
 - (l) Dog food, dog biscuits, dog bones, dog chews, dog treats, except training treats administered by the dog's attendant.
- (2) No more than three dogs per attendant are allowed in the dog park.
- (3) No dog may be permitted in the dog park without wearing a collar.
- (a) The collar must have attached the dog's valid license and rabies tag. Any law enforcement officer and Animal Control Officer may inspect dogs within the park for valid and required tags at any time.
 - (b) Spiked collars, choke collars, prong collars and electronic collars are prohibited.
- (4) An attendant must immediately remove his or her dog(s) from the dog park at any time the dog(s) become engaged in excessive barking or exhibits aggressive behavior toward any human or other dog.

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(5) An attendant must use a suitable container to promptly remove any feces deposited by his or her dog(s) and properly dispose of such waste material in designated receptacles.

(6) Children under the age of ten are prohibited from entering the dog park and all children in the dog park must be under the supervision, care and control of an attendant at least 16 years of age or older. The attendant or adult supervising the child is solely responsible for the child's proper behavior and safety. Children who are engaged in exciting or antagonizing any dog within the dog park by any means; but not limited to, shouting, screaming, waving their arms, throwing objects, running at or chasing dogs must be removed from the dog park immediately.

(7) An attendant must have a leash in-hand at all times while inside the dog park and must have the dog(s) on said leash when outside the dog park.

(8) An attendant must fill in any hole dug at the dog park by any dog under his or her control.

(E) Enforcement.

(1) A violation of any of the provisions of this section shall constitute a misdemeanor, punishable as provided in G.S. § 14-4.

(2) Any person in violation of any of the provisions of this section or any violation of posted dog park rules is subject to removal from the dog park and may be prohibited from future use of the dog park. Any law enforcement officer or Animal Control Officer has the authority to immediately remove any person in violation of this section or any posted rules and regulations.

(F) Liability.

(1) Any person using the dog park shall comply with all rules and regulations governing the use of the facility.

(2) The attendant of any dog utilizing the dog park is responsible for and liable for any and all injuries and damages caused by any dog under his or her control to any property, other dogs or other people.

(3) The attendant of any dog utilizing the dog park is assumed to have the full permission of the dog owner to have possession of said dog and to allow said dog to utilize the facility.

(4) Use of the dog park shall constitute the implied consent of the dog owner and/or attendant to all conditions of this section and shall constitute a waiver of liability to the town. As such, users of the dog park agree and undertake to protect, indemnify, defend and hold the town harmless for any injury or damage caused by, or to, their dog to any property, other dogs or other people during any time that said dog is unleashed at the facility.

(Ord. 16-24, passed 4-8-19)

TITLE XI: BUSINESS REGULATIONS

Chapter

- 110. BUSINESS REGISTRATION**
- 111. PEDDLERS AND ITINERANT VENDORS**
- 112. SEXUALLY ORIENTED BUSINESSES**
- 113. CABLE SERVICES**
- 114. BODY PIERCING ESTABLISHMENTS**
- 115. TAXICABS**
- 116. NATURAL GAS COMPANY**
- 117. RECYCLING**
- 118. ALCOHOLIC BEVERAGES**

CHAPTER 118: ALCOHOLIC BEVERAGES

Section

118.01 Wine, fortified wine, and mixed beverages on Sunday mornings

§ 118.01 WINE, FORTIFIED WINE, AND MIXED BEVERAGES ON SUNDAY MORNINGS.

The sale of malt beverages, unfortified wine, fortified wine and mixed beverages shall be allowed within Kill Devil Hills' corporate limits at any premises licensed pursuant to G.S. § 18B-1001 on Sundays beginning at 10:00 a.m.

(Ord. 16-4, passed 7-10-17)

(B) *Flood precautions.* All subdivisions shall be designed to be consistent with the need to minimize flood damage.

(C) *Utilities.* All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

(D) *AEC compliance.* All lots, improvements, structures, and utilities shall comply with the applicable Areas of Environmental Concern (AEC) Standards and any other rules promulgated pursuant to the Coastal Area Management Act of 1974.

(E) *Blocks.* The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the type of use contemplated, requirements of the zoning code, needs for vehicular and pedestrian circulation, control and safety of street traffic, limitations and opportunities of topography, and convenient access to water area. Length shall not be greater than 1,400 nor less than 400 feet. Blocks shall have sufficient width to allow two tiers of lots of minimum depth except where single-tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area. If there are more than four lots abutting on a highway, a frontage road may be required. Where deemed necessary by the Planning Board, a pedestrian walk may be required to provide convenient access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.

(F) *Non-residential and multi-family lots.* The size, shape and orientation of lots for purposes other than single-family and duplex residential uses shall be such as the Planning Board deems appropriate for the type of development and use contemplated.

(G) *Single-family and Duplex Residential lots.* Residential lots shall comply with the following requirements:

(1) *Lots shaped and filled.* Any lot shaped or filled must be approved as to quality and content by the Dare County Health Department.

(2) *Orientation of lot lines.* Side lot lines shall be substantially at right angles or radial to street lines.

(3) *Minimum lot width.* Lots within the Ocean Impact Residential Zone (OIR) shall have a minimum lot width not less than 50 feet measured at the front building setback line. Lots in all other zoning districts shall have a minimum width of not less than 75 feet measured at the front building setback line.

(H) *Lot size.*

(1) All lots in new subdivisions shall conform to the requirements of the zoning code for the zoning district in which the subdivision is located. Conformance means, among other things, that the

smallest lot in the subdivision must meet all dimensional requirements of the zoning code. It is not sufficient merely for the average lot to meet such requirements.

(2) No land area shall be omitted from a plat when to do so would have the effect of creating a residual parcel of inadequate size.

(a) *Area.* All lots served by an approved central water supply system shall have an area of not less than 15,000 square feet. Additional lot size may be required by the zoning code or when soil conditions in the area to be subdivided are classified as provisionally suitable as currently defined by the North Carolina Department of Human Resources, Division of Health Services, Environmental Health Section (codified as 10 NCAC 10A.1934-1968).

(b) *Building setback lines.* The minimum setback from property lines shall be recorded on the final plat.

(3) Residential subdivisions in the Residential Low Zoning District on parcels greater than five acres shall comply with the following:

(a) Lot size shall be a minimum of 7,500 square feet;

(b) Lot width shall be a minimum of 50 feet;

(c) Right-of-ways shall be dedicated to the town and must have a sidewalk or multi-use path on at least one side;

(d) Five percent open space shall be provided; and

(e) Twenty-five percent of the lots shall exceed the minimum lot size requirements.

(I) *Buffer strips.* The Planning Board may recommend the use of a buffer strip adjacent to major roads and commercial or industrial development which would be part of the platted lots but have the following restriction on the face of the plat: "This strip reserved for the planting of trees or shrubs by the owner; the building of structures is prohibited."

(J) *Utilities franchise services.* Telephone, electric, and cable television service within subdivisions shall be installed underground.

(Am. Ord. 04-20, passed 10-27-04; Am. Ord. 08-01, passed 1-2-08; Am. Ord. 10-02, passed 1-27-10; Am. Ord. 16-5, passed 9-11-17)

§ 152.38 SUITABILITY OF LAND.

(A) If, based on an inventory and evaluation of the soil and water resources of the tract under consideration, the Planning Board determines that a portion of that tract is not suited for the use proposed, that area shall not be platted for that use unless 1) the subdivider has permanently remedied the conditions which made the land unsuitable or 2) all requirements of the chapter are met by each lot without including the unsuitable land in the land area calculation.

(B) Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the Dare County Health Department, a structural engineer, and a soils expert determine that the land is suitable for the purpose proposed.

(C) Land which the Planning Board finds to be unsuited for development due to improper drainage, topography, soil characteristics, ground water elevation, susceptibility to flooding or failure to meet the criteria of G.S. Ch. 130, Art. 13C shall not be subdivided unless adequate methods are utilized to correct the unsuitable conditions. Any land disturbing activity, as defined in G.S. § 113A-52, shall be accomplished in accordance with the requirements of G.S. Ch. 113A, Art. 4. Any required land preparation must be completed prior to submission of the final plat for approval.

§ 152.39 STORM WATER DRAINAGE SYSTEM.

(A) The subdivider shall provide a surface water drainage system constructed to the standards of the town Storm Water Management Plan, the North Carolina Department of Transportation, and subject to the approval of the Planning Board.

(B) No surface water shall be channeled or directed into a sanitary sewer.

(C) Where feasible, the subdivider shall connect to an existing storm drainage system.

(D) Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.

(E) Surface drainage courses shall have side slopes of at least three feet of horizontal distance for each one foot of vertical distance, and courses shall be of sufficient size to accommodate the drainage area without flooding, and designed to comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act.

(F) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least 1 foot in each 200 feet of horizontal distance, or as directed by the Public Works Department.

(G) Streambanks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity. (As specified by the North Carolina Sedimentation Pollution Control Act.)

(H) Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law.

(I) In areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

Cross-reference:

Standards for subdivision proposals, see § 151.27

§ 152.40 SUBDIVISION NAME.

The name of the subdivision shall not duplicate nor closely approximate the name of an existing subdivision within Dare County.

Cross-reference:

Compliance with subdivision regulations, see § 150.49

§ 152.41 STREET/ROAD NAME SIGNS.

Streets and roads shall be named and the street names shall be indicated on signs designed, constructed, and placed in accordance with the existing policy of the town. New street names shall not duplicate existing street names in Dare County.

Cross-reference:

Uniform street address system, see §§ 150.40 et seq.

§ 152.42 UTILITY AND OTHER EASEMENTS.

Easements shall be provided as follows:

(A) Easements for underground or above ground utilities shall be provided, across lot or centered on rear or side lot lines and shall be at least ten feet wide for water and sanitary sewer lines and have the widths required by the utility companies involved for telephone, gas, and power lines.

(B) Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such finished width as will be adequate for the purpose.

(C) Where a subdivision of five or more lots that have one or more proposed lots adjacent to the Atlantic Ocean or estuarine shoreline, the subdivider shall provide a dedicated ten-foot wide access easement to remain unobstructed which can be improved by the town for use by the general public to access the ocean or estuarine shoreline. This requirement shall not apply if an improved public access, as classified in the current Shoreline Access Plan Update, is located within 500 feet of all waterfront lots within the proposed subdivision.

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ANTENNA, STEALTH. Wireless telecommunications antenna and related equipment designed to blend into the surrounding environment or integrated into the physical structure to which it is attached.

APARTMENT. A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation intended and designed to be used as a permanent residence. For the purposes of this chapter, apartment will also be referred to as multi-family dwelling.

APARTMENT HOUSE. See the definition for **DWELLING, MULTIPLE**.

APPRAISED VALUE. The cost of a structure as estimated by an appraiser certified by the State of North Carolina or designated and specified by the American Institute of Real Estate Appraisers.

AS-BUILT SITE PLAN. See the definition for **SITE PLAN, AS-BUILT**.

ASSISTED LIVING FACILITY. Residences designed, constructed and occupied exclusively for persons with disabilities and/or elderly that provide rooms, meals, personal care, supervision of self-administered medication and a range of health-care services on-site. An assisted living facility may provide other services, such as recreational activities, financial services, transportation, and housing for older persons as defined in the Fair Housing Act, Section 807(b)(2), or as may be amended.

AUTOMATED ICE VENDING STRUCTURE. Enclosed, free standing, unmanned structure with minimum gross floor area of 75 square feet, that produces and vends bagged and bulk ice.

AUTOMOBILE REPAIR AND MAINTENANCE. A retail or wholesale establishment designed and operated to repair or maintain passenger vehicles and sell related automotive supplies and fluids.

BASE FLOOD. The flood having a 1% chance of being equaled or exceeded in any given year. Also known as the 100-year flood.

BASE TRANSCEIVER STATION. Equipment that provides the link between wireless communications and land-based public telephone switching networks, including radio frequency transceivers, back-up power sources, power amplifiers and signal processing hardware, typically contained in a small building or cabinet.

BED AND BREAKFAST. A single-family detached dwelling that consists of a single dwelling unit, together with the rental of one or more dwelling rooms on a daily or weekly basis to tourists, vacationers or other transients; where the provision of meals, if provided at all, is limited to the breakfast meal; and where the bed and breakfast operation is conducted by persons who own and reside within the dwelling unit, with the assistance of not more than the equivalent of one full-time employee.

BEING CONDUCTED. A land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.

BERM. A ledge or deposit of material, especially sand or small rocks, on a horizontal surface for the purpose of separating two surfaces such as a space between the edge of pavement and a roadway ditch.

BLOCK, DECORATIVE. Concrete masonry units which are split faced or rock faced on exterior exposures.

BOARD OF ADJUSTMENT. The Board of Adjustment of the town.

BOARDING HOUSE. A residential unit that consists of at least one dwelling unit together with more than two rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units; where the rooms are occupied by longer term residents (at least month-to-month tenants) as opposed to overnight or weekly guests; and where the dwelling unit is occupied by the owners or operators of the boarding house.

BORROW. Fill material which is required for construction and is obtained from locations other than the construction site.

BREWERY. A building or establishment or portion thereof for brewing beer and other malt beverages.

BUFFER STRIP. A device of material and/or space used to provide sight and sound screening from adjoining properties. The required height and width of the buffer strip and the materials used vary according to use.

BUFFER ZONE. The strip of land adjacent to a lake or natural watercourse.

BUILDABLE AREA. The portion of a lot remaining after required setbacks have been accommodated.

BUILDING. Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind which has enclosing walls for 50% of its perimeter. The term **BUILDING** shall be construed as if followed by the words "or part thereof." (For the purposes of this chapter, each portion of a building separated from other portions by a fire wall shall be considered as a separate unit.) For the purpose of area and height limitations this definition shall be applicable to sheds and open sheds.

BUILDING FRONTAGE. The side where the main building entrance is located and in the general direction in which the principal building faces.

BUILDING, HEIGHT OF. The distance between the average elevation of the finished grade, such point to be computed at the corners of the proposed building foundation and the highest point of the structure, excluding chimneys, cupolas, cooling towers, elevators, bulkheads, scenery lots, monuments, domes, spires and parapet walls.

BUILDING, PRINCIPAL. A building in which is conducted the principal use of the lot on which it is located.

BUILDING SITE. Area of disturbed land and vegetation required for placement of a structure, its accessways and utilities, including area disturbed for parking lots, power lines, driveways, septic tank nitrification fields, cemeteries and hiking trails.

BULKHEAD. A wall that retains and stabilizes earth slopes.

CAMPER. A self-propelled vehicle or structure or a structure which is or may be situated upon or hauled by the body of a self-propelled vehicle, which contains sleeping or kitchen quarters or both sleeping and kitchen quarters.

CANDLEPOWER. Luminous intensity expressed in candelas.

CANOPY. Roof-like cover, including an awning, that projects from a wall of a building over a door, entrance or window; or a free-standing or projecting cover above an outdoor service area, such as at a gasoline service station.

CHANGE OF USE. A change to the essential character or nature of the activity conducted on a lot.

CLUSTER HOMES. Buildings containing separate bathing, kitchen, sanitary, and sleeping facilities designed to be occupied by not more than one family, with the buildings located in such a manner that all sides of any building and any appurtenant thereto are directly on a lot line.

COASTAL AREA. That territory adjacent to, adjoining, intersected by or bounded by the Atlantic Ocean or estuarine water.

CO-LOCATION. The location of wireless telecommunications equipment from more than one provider on one common tower, building or structure.

COMMERCIAL ACTIVITY. Any activity done for compensation (or as a result of compensation paid to another in order to engage in such activity) where the activity undertaken is conducted outside or inside of the perimeter walls of the structure.

COMMISSION. The North Carolina Sedimentation Control Commission.

COMMUNICATION BROADCAST STUDIOS AND SALES OFFICES. Studios including sales offices where communication and broadcast activities for radio and television are conducted.

COMMUNITY RECREATIONAL FACILITIES. A recreational facility which is constructed for, open to and available for public recreation.

COMPLETION OF CONSTRUCTION OR DEVELOPMENT. No further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

CONDITIONAL USE PERMIT. A permit issued by the Board of Commissioners that authorizes the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed by the Board.

CONDOMINIUM. A form of property ownership providing for individual ownership of space in a structure together with an individual interest in the land or other parts of the structure in common with other owners. (See G.S. Ch. 47C, or as amended.)

CONVENIENCE STORE. A retail store containing less than 3,000 square feet of gross floor area that is designed and stocked to sell small amounts of food, beverages and other household supplies and may sell gasoline, oil and other automotive fluids and accessories.

COTTAGE COURT. A group of three or more detached, single-family dwelling units, each with one or more bedrooms, located on a single lot, being under single ownership and used primarily for rental purposes.

DAY CARE CENTER. A child day care facility as defined in G.S. § 110-86(3). An adult day care facility as defined in G.S. § 131D-6(b).

DEALERSHIP, MARINE. A retail business for marketing new or used boats or the repair and service of same primarily housed in a structure and characterized by a mixture of uses upon a commercial site.

DEALERSHIP, MOTOR VEHICLE. A retail business for marketing new or used motor vehicles or the repair and service of same primarily housed in a structure and characterized by a mixture of uses upon a commercial site.

DECELERATION LANE. An added roadway lane that permits cars to slow down and leave the main vehicle traffic flow.

DECK/PATIO, COVERED. An unheated, open-air structure that may be partially enclosed with a roof and railing or walls not exceeding 42 inches in height from the deck/patio floor on at least one side. The area between the roof and the railings or wall may be covered with screening materials only, and can not be enclosed with windows or other materials.

DENSITY. The number of dwelling units or hotel units which may be constructed upon a parcel of land, as allowed by the various zoning districts.

DEPARTMENT. The North Carolina Department of Environment and Natural Resources.

DEVELOPER. A person who is responsible for any undertaking that requires a zoning permit, special use permit, conditional use permit or building permit.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations which adds to or changes the amount of impervious or partially impervious cover on a land area, thereby decreasing the infiltration of precipitation into the soil and altering the hydrologic characteristics of the area.

DIRECTOR. The Director of the Division of Land Resources of the Department of Environment and Natural Resources.

DISCHARGE POINT. That point at which runoff leaves a tract of land.

DISTRICT. The Dare County Soil and Water Conservation District created pursuant to G.S. Ch. 139.

DOG DAY CARE FACILITY. A facility providing such services as canine day care for all or part of a day, obedience classes, training, grooming, or behavioral counseling, provided that overnight boarding is not permitted.

DRAINAGE AREA OR WATERSHED. That area contributing water runoff to a given area measured in a horizontal plane which is enclosed by a ridge line.

DRIVEWAY. An area of land used for vehicular ingress and egress which may be improved in accordance with the specifications of this chapter.

DRIVEWAY, RESIDENTIAL. A driveway providing vehicular ingress and egress to and from property used for residential purposes.

DUNES, OCEAN.

(1) **PRIMARY.** First mounds of sand located landward of the ocean beaches having an elevation equal to the mean flood level for the area plus six feet.

(2) **FRONTAL.** In areas where there is a primary dune, that dune shall be deemed to be the frontal dune. Where there is no primary dune, the frontal dune is deemed to be the first mound of sand located landward of the ocean beach having sufficient vegetation, height, continuity and configuration to offer protective value. Man-made mounds seaward of the natural line of frontal dunes and dunes created after June 1, 1979 shall not be considered to be frontal or primary dunes, except where no frontal or primary dune exists.

DUNE(S), INLAND. Mound(s) of sand other than primary or frontal dunes having an elevation of 15 feet or more above mean sea level.

DWELLING, MULTIPLE FAMILY (MULTI-FAMILY). A structure under one roof or portion thereof used or designed as a residence for three or more families living independently of each other in individual dwelling units including apartments and townhouses.

DWELLING, SINGLE-FAMILY. A detached building other than a mobile home designed for or occupied exclusively by one family.

DWELLING, TWO-FAMILY (DUPLEX). A detached building, divided horizontally or vertically, and designed for or occupied by two single-family housekeeping units contained entirely under one roof and having one dividing partition common to each unit or having the ceiling structure of the lower unit and the floor structure of the unit above.

DWELLING UNIT. One room, or rooms connected together, constituting a separate, independent housekeeping unit for owner occupancy or rental or lease and physically separated from any other units which may be in the same structure and containing independent cooking, sleeping facilities and sanitation for a single family. Hotel, motel or other accommodation for transient public are not included in this definition.

ELIGIBLE HOUSEHOLD. A family who occupies one housing unit on a year-round basis with a total combined adjusted gross annual income at or below 125% of Median Family Income for Dare County. For purposes of this section, the income of all individuals age 18 or older residing in the housing unit shall be counted toward the total adjusted gross annual income for the eligible household, excluding income earned by any member of the household who is enrolled in good standing and pursuing a degree program at an accredited college or university.

ENERGY DISSIPATOR. A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down energy from high velocity flow.

EROSION. The wearing away of land surface by the action of wind, water, gravity or any combination thereof.

EVENT GARDEN(S). An outdoor, landscaped area with facilities designed for events such as weddings, birthday parties, family reunions, and similar functions.

FAMILY. Individuals living together as a single housekeeping unit.

FISHING PIER. A structure extending into the ocean, sound or other waters for the specific purpose of providing a platform for fishing or other related activities.

FLOOD or FLOODING. The general and temporary condition of partial or complete inundation of normally dry land areas from precipitation or the overflow of ocean, sounds, creeks, watercourses or lakes or abnormally high tidal water or rising coastal water resulting from severe storms, hurricanes, tidal waves or flash flooding.

FLOOD, HUNDRED-YEAR. The highest level of flooding that, on the average, is likely to occur once in every 100 years, for example, that has a 1 % chance of occurring each year.

FLOODPLAIN AREAS. See Ch. 151, Flood Damage Prevention.

FLOODPLAIN MANAGEMENT. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, floodproofing, flood control work and land use and control measures.

FLOODPROOFING. See Ch. 151, Flood Damage Prevention.

FLOOD PROTECTION ELEVATION, REGULATORY. The highest water surface elevation likely to be reached during a 100-year flood.

FLOOR AREA RATIO (FAR). On any developed parcel of land the gross floor area of a building or buildings divided by the usable land area.

fill, structure or matter in, along, across or projecting into any channel, water course or floodplain area which may impede, retard or change the direction of the flow of water, either by itself or by catching or collecting material carried by such water; or any such structure that is placed where the flow of water might carry the same downstream to the damage of life or property.

OCEAN DUNE PLATFORM. A platform constructed on the frontal dune.

OPEN SPACE. An unimproved space open to the sky.

OPEN SPACE, COMMON. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary improvements as are necessary and appropriate.

OUTDOOR DINING ACTIVITY AREA. Unenclosed seasonally-utilized area outside the primary structure, including elevated decks, excluding covered entrances not to exceed 200 square feet used as a dining and recreation area for patrons of the restaurant where food and drink service and courts for outdoor games and/or live music are provided. Game components must be temporary and moveable like those for cornhole, horseshoes, croquet, bocce, etc.

OUTDOOR DISPLAY. Merchandise located outdoors, visible from public rights-of-way.

OUTDOOR STORAGE. Merchandise located outdoors, not visible from public rights-of-way by screening or location within an enclosure.

OUTDOOR WAITING ACTIVITY AREA. Unenclosed seasonally-utilized area outside the primary structure, including elevated decks, excluding covered entrances not to exceed 200 square feet, used as a waiting area for patrons of the restaurant where no food or drink service is provided but where courts for outdoor games and/or live music are provided. Game components must be temporary and moveable like those for cornhole, horseshoes, croquet, bocce, etc.

PARENT. An affiliate that directly, or indirectly through one or more intermediaries, controls another person.

PARKING CIRCULATION AREA. That portion of the vehicle accommodation area, other than dead-end access lanes, used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

PARKING LOT. An area or plot of land used for the temporary placement of motor vehicles.

PARKING SPACE. A vehicular storage space plus the necessary access space located outside any dedicated right-of-way.

PERFORMANCE GUARANTEE. Any security that may be accepted by a municipality as a guarantee that improvements required as part of an application for development will be satisfactorily completed.

PERMEABILITY. The quality of the soil that enables water to move downward through the strata which is measured as the number of inches per hour that water moves downward through the saturated soil.

PERMIT. An official document or certificate issued by the authority having jurisdiction to authorize performance of a specified activity.

PERSON. An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization or other entity acting as a unit.

PERSON CONDUCTING LAND-DISTURBING ACTIVITY. Any person who may be held responsible for a violation unless expressly provided otherwise by this chapter, the Act or any order adopted pursuant to this chapter or the Act.

PERSON RESPONSIBLE FOR THE VIOLATION. As used in this chapter and G.S. § 113A-64 means:

- (1) The developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity; and/or
- (2) The landowner or person in possession or control of the land when he has directly or indirectly allowed the land-disturbing activity or has benefitted from it or he has failed to comply with any provision of this chapter, the Act or any order adopted pursuant to this chapter or the Act as imposes a duty upon him.

PHASE OF GRADING. One of the two types of grading, rough or fine.

PLACES OF WORSHIP. Churches, synagogues, temples and the like.

PLAN. An erosion and sedimentation control plan.

PLANNED UNIT DEVELOPMENT (PUD). An area of minimum contiguous size, as specified by ordinance, to be planned, developed, operated and maintained as a single entity and containing one or more residential clusters or planned residential developments and one or more public, quasi-public, or commercial areas in such ranges or ratios of nonresidential uses to residential uses as specified in the zoning regulations.

PLANNING BOARD. The Planning Board of the town.

YARD, REAR. A yard extending across the rear of the lot between side lot lines. Depth of a required rear yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the rear lot line.

YARD, SIDE. A yard extending from the rear line of the required front yard to the rear yard. Width of a required side yard shall be measured in such a manner that the yard established is a strip of the minimum width required by district regulations with its inner edge parallel with the side lot line.

ZONING NONCONFORMITY. Any use, facility, building, lot, sign, structure, outdoor lighting, fence, landscaping, impervious surface, off-street parking lot, or other element of this chapter, which lawfully existed at the time it was created and because of revisions to this chapter currently fails to comply with one or more applicable regulations, restrictions or standards of this chapter.

(Ord. 91-08, passed 11-18-91; Am. Ord. 93-06, passed 6-14-93; Am. Ord. 94-01, passed 1-26-94; Am. Ord. 94-06, passed 4-11-94; Am. Ord. 96-12, passed 6-10-96; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 01-05, passed 6-27-01; Am. Ord. 01-10, passed 8-13-01; Am. Ord. 01-12, passed 11-14-01; Am. Ord. 02-02, passed 1-14-02; Am. Ord. 02-05, passed 2-27-02; Am. Ord. 02-14, passed 7-24-02; Am. Ord. 03-05, passed 4-14-03; Am. Ord. 03-07, passed 6-25-03; Am. Ord. 03-11, passed 6-25-03; Am. Ord. 03-16, passed 10-15-03; Am. Ord. 04-01, passed 2-25-04; Am. Ord. 04-02, passed 4-24-04; Am. Ord. 04-06, passed 4-28-04; Am. Ord. 04-08, passed 5-26-04; Am. Ord. 04-18, passed 10-11-04; Am. Ord. 05-12, passed 8-8-05; Am. Ord. 05-19, passed 10-4-05; Am. Ord. 05-20, passed 11-14-05; Am. Ord. 06-05, passed 4-10-06; Am. Ord. 06-08, passed 5-8-06; Am. Ord. 06-20, passed 8-14-06; Am. Ord. 07-07, passed 5-23-07; Am. Ord. 07-17, passed 10-24-07; Am. Ord. 07-18, passed 10-24-07; Am. Ord. 08-03, passed 1-14-08; Am. Ord. 08-11, passed 3-26-08; Am. Ord. 08-13, passed 4-14-08; Am. Ord. 08-22, passed 8-11-08; Am. Ord. 08-35, passed 12-8-08; Am. Ord. 09-19, passed 10-28-09; Am. Ord. 10-03, passed 4-12-10; Am. Ord. 11-04, passed 4-11-11; Am. Ord. 11-08, passed 5-25-11; Am. Ord. 11-21, passed 10-10-11; Am. Ord. 12-01, passed 1-25-12; Am. Ord. 12-13, passed 5-23-12; Am. Ord. 12-22, passed 11-14-12; Am. Ord. 13-01, passed 1-14-13; Am. Ord. 13-3, passed 3-20-13; Am. Ord. 13-4, passed 4-24-13; Am. Ord. 13-16, passed 10-14-13; Am. Ord. 14-07, passed 6-17-14; Am. Ord. 14-25, passed 2-9-15; Am. Ord. 15-6, passed 9-21-15; Am. Ord. 16-6, passed 11-15-17; Am. Ord. 16-19, passed 6-27-18; Am. Ord. 16-21, passed 7-19-18; Am. Ord. 16-23, passed 1-14-19)

§ 153.003 INTERPRETATION.

The interpretations and application of the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity and general welfare.

<i>Residential and related uses</i>	<i>Required parking</i>	
Retail, office and related uses	<i>Required parking - One parking space per 200 square feet of gross floor area for the following uses:</i>	
	Antique shops	Hammocks
	Appliance stores	Hardware stores
	Art galleries	Home care systems (wheelchairs and the like)
	Arts and crafts	Jewelry stores
	Astrology and tarot card reading office	Laundromats
	Auto supplies	Medical offices less than 4,000 square feet with a minimum of 5 spaces
	Automobile sales, rentals, and repair	Motorcycle sales and service
	Bait and tackle shops	Music stores
	Bank	Paint and wall treatment stores
	Beauty parlors/barber shops/nail salons	Personal spas
	Blueprint business (reproductions and the like)	Pet stores
	Boat sales, rentals, and repair	Pharmacies/drug store
	Body piercing	Photo shops (film processing, sales and the like)
	Books	Pools and spas
	Broadcast studios	Post office
	Business/professional	Produce markets
	Carpet and flooring	Rental shops
	Clothing	Safety equipment
	Clothing (tailor)	Shoe repair
	Convenience stores	Sign business
	Cycle and skate shops	Tanning salons
	Dry cleaners	Taxicab operations
	Electronic equipment, sales and repair	Thrift stores/consignment shop
	Embroidering/screen printing shops	Toy stores
	Financial institutions	Trophy and engraving shop
	Florists	Surfboard manufacture shop
	Food/produce/grocery store	Video, audio, and lighting
	Frames (picture frames, matting and the like)	Water care products and supplies
	Furniture	Window and door stores
	Gift shops	Wood crafts and hobbies
	Government offices	Dental offices
	<i>One parking space per 400 square feet of gross floor area for the following uses:</i>	
	Furniture stores with a minimum of 4,000 square feet	

<i>Residential and related uses</i>	<i>Required parking</i>
Drive-in and drive-through windows	Reserved lane capacity equal to 5 spaces per window and 3 spaces of reserve lane capacity for drive-through automated teller machines, plus required parking for the enclosed structure/use
Car wash, conveyor type	1 space for every 3 employees, plus reservoir capacity equal to 5 times the capacity of the washing operation
Car wash, self-service type	2 spaces for drying and cleaning purposes per stall, plus 2 reservoir spaces in front of each stall
<i>Restaurant uses</i>	<i>Required parking</i>
Brewery with secondary use(s) (bar, restaurant, retail and the like)	1 parking space per 200 square feet of gross floor area for the brewery, plus parking for secondary uses as required in this chapter
Restaurants, bars, nightclubs (no substantial carry-out or delivery service, no drive-in service, no service or consumption outside fully enclosed building)	1 parking space per 100 square feet of gross floor area
Restaurants, bars, nightclubs (carry-out and delivery service, drive-in service, service outside fully enclosed structure)	1 parking space per 100 square feet of gross floor area, including outside dining areas and a reservoir lane capacity equal to 5 spaces per drive-in window
Restaurants with secondary use(s) (brewery, retail, amusement arcade and the like)	1 parking space per 100 square feet of gross floor area for the restaurant use, plus 1 parking space per 200 square feet of gross floor area for the secondary use(s)
Carry-out facilities, snack bars, refreshment stands, bakeries, limited food establishments with no indoor or outdoor seating or any establishment where food is prepared for consumption off premises	1 parking space per 200 square feet of gross floor area
<i>Wholesale, warehouse or industrial uses</i>	<i>Required parking</i>
Warehouse as defined in § 153.002	1 parking space per 1,000 square feet of gross floor area, 1 parking space per 200 square feet of gross floor area for office areas, but not less than 6 parking spaces
Light Industrial Warehouse as defined in § 153.002	1 parking space per 400 square feet of gross floor area, 1 parking space per 200 square feet of gross floor area for office areas, but not less than 5 parking spaces
Retail Warehouse as defined in § 153.002	1 parking space per 200 square feet of gross floor area for retail and office areas and 1 parking space per 400 square feet of gross floor area for storage area with no public access

<i>Use Classification</i>	<i>Space Requirements</i>
Industrial and wholesale operations with a gross floor area of:	
10,000 to 40,000 square feet	One loading berth
40,001 to 100,000 square feet	Two loading berths
100,001 to 160,000 square feet	Three loading berths
160,001 to 240,000 square feet	Four loading berths
240,001 to 320,000 square feet	Five loading berths
320,001 to 400,000 square feet	Six loading berths
Each 90,000 square feet above 400,000 square feet	One additional berth

(Ord. 91-08, passed 11-18-91; Am. Ord. 97-02, passed 2-26-97; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 02-06, passed 3-13-02; Am. Ord. 02-09, passed 6-10-02; Am. Ord. 03-01, passed 2-10-03; Am. Ord. 03-09, passed 6-25-03; Am. Ord. 03-16, passed 10-15-03; Am. Ord. 04-08, passed 5-26-04; Am. Ord. 04-11, passed 5-26-04; Am. Ord. 04-12, passed 7-12-04; Am. Ord. 04-18, passed 10-11-04; Am. Ord. 05-01, passed 1-10-05; Am. Ord. 05-12, passed 8-8-05; Am. Ord. 05-13, passed 8-8-05; Am. Ord. 05-19, passed 10-4-05; Am. Ord. 06-23, passed 10-9-06; Am. Ord. 06-24, passed 11-15-06; Am. Ord. 07-17, passed 10-24-07; Am. Ord. 08-17, passed 7-14-08; Am. Ord. 09-03, passed 1-28-09; Am. Ord. 10-03, passed 4-12-10; Am. Ord. 10-06, passed 5-26-10; Am. Ord. 10-15, passed 9-13-10; Am. Ord. 11-05, passed 4-11-11; Am. Ord. 11-09, passed 5-25-11; Am. Ord. 12-02, passed 2-13-12; Am. Ord. 12-04, passed 3-28-12; Am. Ord. 13-01, passed 1-14-13; Am. Ord. 13-3, passed 3-20-13; Am. Ord. 13-4, passed 4-24-13; Am. Ord. 13-15, passed 10-14-13; Am. Ord. 13-16, passed 10-14-13; Am. Ord. 14-05, passed 3-10-14; Am. Ord. 14-25, passed 2-9-15; Am. Ord. 15-15, passed 5-16-16; Am. Ord. 16-21, passed 7-19-18; Am. Ord. 16-25, passed 4-24-19)

(C) *Exceptions for outdoor display.* The following types of merchandise/business shall be exempt from divisions (B)(1) - (3) of the above regulations:

(1) Lumber yards;

(2) Garden centers (for plant materials and associated materials);

(3) Automobile sales, automobile rentals and automobile repairs businesses.

(Ord. 15-6, passed 9-21-15)

OCEAN IMPACT RESIDENTIAL ZONE (OIR)

§ 153.095 INTENT.

(A) The Ocean Impact Residential (OIR) Zone is established in an effort to promote health, safety and welfare and to limit the level of peril to the public welfare associated with dwellings and other structures located in that part of the town that borders on the Atlantic Ocean and which is subject to tropical storms, storm surges, hurricanes and shoreline migration.

(B) In the OIR Zone, buildings or lands shall be used for one or more of the following specified permitted uses or conditional uses and none other.

(Ord. 91-08, passed 11-18-91; Am. Ord. 99-08, passed 5-10-99; Am. Ord. 01-02, passed 2-28-01)

§ 153.096 PERMITTED USES.

In the OIR Zone, building and/or land shall be used for the following purposes:

(A) Single-family dwellings;

(B) Duplex dwellings;

(C) Multi-family dwellings of three or more units per dwelling;

(D) Hotels and motels;

(E) On-site accessory uses or buildings to divisions (A), (B), (C), (D) or (F) of this section;

(F) Fishing piers;

(G) Swimming pools, tennis courts;

(H) Bed and breakfasts (See § 153.312 for requirements);

(I) Town-owned and leased facilities, including but not limited to recreational parks, beach access areas and bathhouses and governmentally contracted services;

(J) Rooming houses, boarding houses;

(K) Home occupations;

(L) Cottage court. (see § 153.310 for additional regulations); and

(M) Cluster homes (see § 153.311 for additional regulations).

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 05-12, passed 8-8-05; Am. Ord. 14-29, passed 5-13-15; Am. Ord. 16-19, passed 6-27-18; Am. Ord. 16-23, passed 1-14-19)

§ 153.097 CONDITIONAL USES.

(A) *Playgrounds.* All playgrounds and parks in the OIR Zone shall be operated by a governmental entity or nonprofit organization (except day care centers and private schools). The sponsoring agency shall provide in writing a maintenance schedule and shall designate those parties who shall be responsible for the periodic policing and maintenance of the grounds and the resolution of any use conflict.

(B) *Places of worship.*

(C) *Private lifeguard services.*

(1) Applications for operation of private lifeguard services as a conditional use within the OIR Zone shall be submitted in accordance with requirements of § 153.353 and additionally shall be reviewed by the Zoning Administrator for purposes of compliance with this chapter and Title XIII of this code, including rentals and advertising; by the Town Fire Chief for purposes of compliance with the established policies and procedures of the town's lifeguard service, including training, emergency incidents, communications and identification; and by the Town Police Chief for purposes of compliance with Title VII of this code, including beach driving. Applications for operation of private lifeguard services as a conditional use shall be approved by the Board of Commissioners.

(2) The following standards shall apply to private lifeguard services in the OIR Zone:

(a) *Training.* Private lifeguard services shall comply with the same qualifications and training standards that the town requires of its public lifeguard service.

(b) *Communication.* Private lifeguard services shall equip their personnel with radios interoperable with the system utilized by the town lifeguard service.

(c) *Emergency incidents.* Dispatch and response procedures, missing persons search procedures and other issues shall conform to policies established by the town in order to minimize confusion and increase efficiency.

(d) *Identification.* Equipment and stands must be clearly marked with a sign stating "Private Lifeguard" and include the name, address and telephone number of the responsible party. Delineated private response areas shall be clearly written out on the sign and the area of coverage shall be marked along the ocean front by an approved two-flag system.

(e) *Beach driving.* Except for initial equipment placement and removal, and in case of severe/threatening weather (hurricane, tropical storm and the like), no beach driving will be allowed except in accordance with the provisions of Title VII of this code.

(f) *Rentals.* Rentals shall be limited to umbrellas and beach chairs. No sale of drinks, food or other refreshments or any other retail sales or rentals shall be permitted. Rental activities conducted by private lifeguard services shall be in compliance with the provisions of Title XIII of this code.

(g) *Advertising.* Private lifeguard stands and uniforms shall not be used for commercial advertising for any other business or product.

(Ord. 91-08, passed 11-18-91; Am. Ord. 97-05, passed 6-25-97; Am. Ord. 00-05, passed 2-14-00; Am. Ord. 01-02, passed 2-28-01)

§ 153.098 NONCONFORMITIES.

For nonconformities, see §§ 153.050 *et seq.*

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01)

§ 153.099 BUILDING HEIGHT LIMITS.

(A) No structure shall exceed a living space height of 35 feet as measured from average ground elevation to top plate.

(G) Town-owned and leased facilities; and

(H) Places of worship and accessory uses.

(Am. Ord. 01-02, passed 2-28-01; Am. Ord. 06-02, passed 2-22-06)

§ 153.117 CONDITIONAL USES.

(A) *Playgrounds.* All playgrounds and parks in the RL Zone shall be operated by a governmental entity or nonprofit organization (except daycare centers and private schools) and the sponsoring agency shall provide in writing a maintenance schedule and shall designate those parties who shall be responsible for the periodic maintenance and policing of the grounds and resolution of any conflicts.

(B) Overhead transmission systems in accordance with §§ 153.280 - 153.288.

(Ord. 91-08, passed 11-18-91; Am. Ord. 97-05, passed 6-25-97; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 06-20, passed 8-14-06; Am. Ord. 16-18, passed 6-27-18)

§ 153.118 NONCONFORMITIES.

See §§ 153.050 *et seq.*

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01)

§ 153.119 BUILDING HEIGHT LIMITS.

(A) No structure shall exceed a living space height of 35 feet, as measured from average ground elevation to top plate.

(B) No structure shall exceed a total height of 42 feet.

(C) No structure shall have more than three levels of living space.

(D) Antennas for personal use and chimneys are exempt from height restrictions.

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 02-16, passed 9-25-02)

§ 153.120 SITE REQUIREMENTS.

(A) *Lot dimensions.* All parcels shall have a minimum width of 50 feet.

(B) *Lot area.*

(1) The minimum building site shall be 15,000 square feet.

(2) The minimum building site for a duplex or two single-family dwellings shall be 20,000 square feet.

(3) Exempt recombination plats for lots platted prior to June 14, 1983 shall have a minimum lot size of 7,500 square feet.

(C) *Density.* Multi-family: Six units per acre.

(D) *Exceptions.*

(1) Where a lot or parcel of land has an area of less than the above required minimum area and was of record on June 14, 1983, such lot may be occupied by one family, provided the minimum side, front and rear requirements are complied with as set forth in § 153.121.

(2) Residential subdivisions are provided for in § 152.37(H)(3), the minimum lot size shall be 7,500 square feet.

(E) *Lot coverage.*

(1) A building erected or structurally altered shall be located on a lot and in no case shall there be more than two principal structures with associated accessory structures on a lot.

(2) Maximum allowable lot coverage by principal use, all accessory structures, vehicular circulation areas and parking - 40%. (For exceptions, see § 153.082.)

(3) Soils classified as wetlands shall be factored into lot coverage calculation based on the following schedule:

(a) If the lot is composed of less than 25% of its total area in wetland soils, then 75% of that area classified as wetlands may be used in calculating lot coverage;

(b) If the lot has between 25% to 50% of its total area in wetland soils, then 50% of that area classified as wetlands may be used in calculating lot coverage;

(c) If the lot has between 50% to 75% of its total area in soils classified as wetlands, then 25% of that area classified as wetlands may be used in calculating lot coverage;

(d) If the lot has 75% or more of its total area classified as wetlands, none of that area classified as wetlands may be used in calculating lot coverage.

(4) *Permeable pavement lot coverage calculations.*

(a) For lots 7,500 square feet in area or greater, the use of permeable paving systems, including porous concrete, porous asphalt, concrete grid pavers and permeable interlocking concrete pavers for parking spaces, drive aisles, and vehicular circulation areas, shall allow for a reduction in the calculated lot coverage. Material to fill the open cells of the pavement system types shall consist of open graded fine aggregate, open graded washed aggregate, sod turf grasses native to the southeast coastal environment and exhibit medium to high permeability rates. All permeable paving systems shall comply with the criteria of the North Carolina Division of Water Quality Stormwater Best Management Practices Manual (current edition). The following calculated reductions are allowed:

1. Porous concrete without washed stone base: 40% reduction.
2. Porous concrete with at least six inches of washed stone base: 60% reduction.
3. Porous asphalt, concrete grid pavers, permeable interlocking concrete pavers, and plastic reinforcing grids with at least four inches of washed stone base: 40% reduction.
4. Porous asphalt concrete grid pavers, permeable interlocking concrete pavers, and plastic reinforcing grids with at least seven inches of washed stone base: 60% reduction.
5. The pavement section shall consist of the surface course or layer for infiltration, a bedding course (as required), an aggregate storage layer, and a woven geotextile fabric layer to prevent clogging.
6. Edge restraints shall be provided on all concrete grid pavers, permeable interlocking concrete pavers, and plastic reinforcing grids to confine the pavement installation. The pavement surface course structural properties shall be designed to withstand the applied vehicular loading pursuant to the specified application.

(b) In no case shall the total area that is occupied and obstructed by any structure above the ground, including but not limited to parking and drive aisles exceed 45% of the area of the lot.

(c) For additional coverage under the previous pavement reduction, 50% of the required parking shall be outside of the footprint of any structure or covering.

(F) *Drainage/stormwater runoff.* All development is required to follow the provisions in § 153.070.

(G) *Land disturbance.* See § 153.071.

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 04-10, passed 5-26-04; Am. Ord. 11-07, passed 4-11-11; Am. Ord. 16-5, passed 9-11-17; Am. Ord. 16-20, passed 7-19-18)

§ 153.121 SETBACKS.

(A) *Side yard.*

(1) The minimum side yard setback requirements on a lot with an area of 5,000 square feet or less shall be 6 feet from each side.

(2) The minimum side yard setback requirements on a lot with an area of more than 5,000 square feet but not more than 7,500 square feet shall be 8 feet from each side.

(3) The minimum side yard setback requirements on a lot with an area exceeding 7,500 square feet shall be 10 feet from each side.

(B) *Front yard.*

(1) The minimum front yard setback requirements on a lot with an area of 5,000 square feet or less shall be 15 feet from the front property line.

(2) The minimum front yard setback requirements on a lot with an area of more than 5,000 square feet but not more than 7,500 square feet shall be 30 feet from the front property line.

(3) The minimum front yard setback requirements on a lot with an area exceeding 7,500 square feet shall be 30 feet from the front property line.

(C) *Rear yard.* The minimum rear yard setback requirements on any lot shall be 20% of the total depth of the lot but shall not exceed 30 feet from the rear property line.

(B) *Front yard.* The minimum front yard setback requirements shall be 30 feet from the front property line. For flag lots the front yard setback shall be measured from the point where the lot width meets the minimum width requirements.

(C) *Rear yard.* The minimum rear yard setback requirements shall be 20% of the total depth of the lot but shall not exceed 30 feet from the rear property line.

(D) *Double frontage.* The minimum rear yard setback requirements on any double-frontage lot shall be 20% of the lot depth not to exceed 30 feet.

(E) *Corner lot.* The minimum setback requirements on a corner lot shall be 30 feet.
(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 03-10, passed 6-25-03; Am. Ord. 03-13, passed 7-14-03)

§ 153.142 SIGNS.

(A) No illuminated sign shall be permitted in the MFED Zone. House numbers may be illuminated.

(B) See § 153.077.
(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01)

§ 153.143 OFF-STREET PARKING, DRIVEWAYS, CURBS.

See § 153.076.
(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01)

§ 153.144 BUFFERS AND SCREENING.

See § 153.073.
(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01)

HIGH DENSITY RESIDENTIAL ZONE (RH)**§ 153.155 INTENT.**

(A) The High Density Residential (RH) Zone is established as an area to preserve, enhance and encourage high density neighborhoods.

(B) In the RH Zone, buildings or lands shall be used for one or more of the following specified permitted uses or conditional uses and none other.

(Ord. 91-08, passed 11-18-91; Am. Ord. 99-08, passed 5-10-99; Am. Ord. 01-02, passed 2-28-01)

§ 153.156 PERMITTED USES.

In the RH Zone, buildings and/or land shall be used for the following purposes:

(A) Single-family dwellings;

(B) Duplex dwellings;

(C) Multi-family dwellings of three or more units per dwelling;

(D) Hotels and motels;

(E) On-site accessory uses or structures to divisions (A), (B) or (C) of this section;

(F) Playgrounds;

(G) Auditoriums, convention centers, assembly halls;

(H) Places of worship, daycare centers, schools (public or private); and

(I) Swimming pools, tennis courts.

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 05-12, passed 8-8-05)

§ 153.157 CONDITIONAL USES.

None.

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01)

§ 153.158 NONCONFORMITIES.

See §§ 153.050 *et seq.*

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01)

§ 153.159 BUILDING HEIGHT LIMITS.

(A) No structure shall exceed a total height of 50 feet.

(B) No structure shall have more than four levels of living space.

(C) Antennas for personal use, chimneys and elevator towers are exempt from height restrictions.

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01)

[Text continues on page 177]

(E) On-site accessory structures;

(F) Clinics, hospitals (with a maximum of 30 beds) and nursing homes;

(G) Home occupations as defined herein;

(H) Town-owned and leased facilities;

(I) Playgrounds;

(J) Auditoriums or convention centers, assembly halls, museums;

(K) Places of worship, daycare centers, schools (public or private);

(L) Banks, financial institutions, business or professional offices, post office;

(M) Theaters;

(N) Retail business, including drug or grocery stores, hardware stores, gift shops, clothing shops, book stores, music stores, bait and tackle shops, furniture stores, arts and crafts, florists, pet stores, produce markets, cycle and skate shops, photo shops, rental shops, electronic equipment, automobile sales, automobile rentals and repairs, hammocks, boat sales, boat rentals and repairs, automobile supplies, thrift/consignment stores, appliance store, toy stores, convenience store, taxicabs, car washes and home care systems;

(O) Restaurants, bars, night clubs, drive-ins, bakeries, and outdoor waiting activity area(s);

(P) Places of business where service is rendered, including barber shops, beauty parlors, nail salons, personal spa salons, electronic repair shops, shoe repair shops, dry cleaner, clothes tailor, laundromat, blue print shop, tanning salons, and realty and construction office without property management;

(Q) Public or private parking lots;

(R) Stores or shops for custom work or for producing products to be sold at retail on the premises, including art galleries, antique stores, jewelry shops, trophy and engraving shops, wood crafts and hobbies, sign business, frame shop;

(S) Swimming pools, tennis courts;

(T) Bed and breakfasts (see § 153.312 for requirements);

(U) Communication broadcast studios and sales offices;

(V) Motorcycle sales and service subject to the following conditions:

- (1) All partially dismantled vehicles, cycles or parts shall be stored indoors;
- (2) Applicants' operations comply with § 130.02;

(W) Rooming houses, boarding houses;

(X) Billiard parlors, video and amusement arcades;

(Y) Paint/wall treatment stores, carpet and flooring stores, windows and doors stores, video, audio and lighting stores, and pool and hot tub spa stores, such that the activity would not constitute warehousing as defined by this chapter;

(Z) Haunted houses; and

(AA) Indoor athletic and exercise facilities.

(BB) Shopping center/office complex.

(CC) Automated ice vending structure.

(DD) Astrology and tarot card office.

(EE) Internet and/or electronic gaming operations as defined in § 153.002 Definitions and regulated in § 153.314 Internet and/or Electronic Gaming Accessory Business Use.

(FF) Cottage court. See § 153.310 for additional regulations.

(GG) Cluster homes. See § 153.311 for additional regulations.

(HH) Brewery.

(Ord. 91-08, passed 11-18-91; Am. Ord. 94-01, passed 1-26-94; Am. Ord. 96-1, passed 2-22-96; Am. Ord. 97-01, passed 1-13-97; Am. Ord. 99-01, passed 1-11-99; Am. Ord. 99-08, passed 5-10-99; Am. Ord. 00-02, passed 1-10-00; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 02-06, passed 3-13-02; Am. Ord. 02-09, passed 6-10-02; Am. Ord. 04-08, passed 5-26-04; Am. Ord. 04-21, passed 11-17-04; Am. Ord. 05-12, passed 8-8-05; Am. Ord. 07-17, passed 10-24-07; Am. Ord. 08-04, passed 1-14-08; Am. Ord. 10-03, passed 4-12-10; Am. Ord. 11-17, passed 8-8-11; Am. Ord. 12-02, passed 2-13-12; Am. Ord. 12-22, passed 11-14-12; Am. Ord. 12-24, passed 12-10-12; Am. Ord. 13-16, passed 10-14-13; Am. Ord. 15-7, passed 9-21-15; Am. Ord. 16-19, passed 6-27-18; Am. Ord. 16-23, passed 1-14-19; Am. Ord. 16-25, passed 4-24-19)

§ 153.177 CONDITIONAL USES.

(A) *Outdoor recreational activities.* Outdoor recreational activities limited to batting cages, miniature golf, ballfields, bumper boats, driving ranges, skateboard ramps, go-kart tracks, bumper car facilities, small amusement rides with maximum capacity of 24 persons, or trampoline with harness and tether shall be conditional uses in the commercial zone.

(1) The site for such activity must be at least two acres in size.

(2) No portion of the principal use, except parking and grassed areas, including natural grass putting courses, shall be located within 50 feet of the boundary line. No portion of the principal use, except parking, shall be located within 100 feet of the boundary line if adjoining a residential area or abutting a street that adjoins a residential area.

(3) The height of the structure or device shall not exceed 40 feet above the general ground elevation of the site.

- (G) Home occupations as defined herein;
- (H) Town-owned and leased facilities;
- (I) Playgrounds;
- (J) Auditoriums or convention centers, assembly halls;
- (K) Places of worship, daycare centers, schools (public or private), libraries and buildings for nonprofit service organizations;
- (L) Banks, financial institutions, business or professional offices;
- (M) Theaters;
- (N) Retail business, including drug or grocery stores, hardware stores, electronic equipment, gift shops and clothing shops, automobile sales, service and repair, convenience store, taxicabs;
- (O) Restaurants, drive-ins and bakeries;
- (P) Places of business where service is rendered, including barber shops, beauty parlors, electronic repair shops, shoe repair shops, clothes tailor;
- (Q) Public or private parking lots;
- (R) Stores or shops for custom work or for producing products to be sold at retail on the premises;
- (S) Storage or bonded warehouses;
- (T) Storage yards for building materials, wood and stone;
- (U) Light manufacturing such as boat construction, cabinet work, stone and concrete works;
- (V) Machine or blacksmith shops;
- (W) Motor or freight terminals;
- (X) Storage of construction equipment;
- (Y) Swimming pools, tennis courts;
- (Z) Mobile home parks and trailer parks, mobile homes, trailers and other portable-type housing.
- (AA) Billiard parlors, video and amusement arcades;

(BB) Bed and breakfasts (See § 153.312 for requirements); and

(CC) Telecommunications towers.

(DD) Shopping center/office complex.

(EE) Internet and/or electronic gaming operations as defined in § 153.002 Definitions and regulated in § 153.314 Internet and/or Electronic Gaming Accessory Business Use.

(Ord. 99-08, passed 5-10-99; Am. Ord. 99-09, passed 5-10-99; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 02-09, passed 6-10-02; Am. Ord. 05-12, passed 8-8-05; Am. Ord. 07-17, passed 10-24-07; Am. Ord. 08-04, passed 1-14-08; Am. Ord. 12-22, passed 11-14-12)

§ 153.207 CONDITIONAL USES.

(A) *Work force housing.*

(1) To qualify, a workforce multi-family housing unit shall:

(a) Have a sales price of three times 80 % or less of median family income or annual rental of 30 % of 80 % or less of median family income; and

(b) Be used exclusively for year-round occupancy by eligible households, and the rentals or sales prices restricted according to the definitions contained in § 153.002.

(2) *Location of workforce housing units.* Workforce housing units shall not be set apart and should be interspersed among the market rate units throughout the workforce housing development and the locations shall be approved by the Board of Commissioners.

(3) *Ratio.* No less than 25% of the units shall be market-rate housing.

(4) *Exterior appearance.* The exterior appearance of the workforce housing units in any covered development shall be visually compatible with the market rate units in the development. External building materials and finishes shall be substantially the same in type and quality for workforce housing units as for market rate units.

(5) *Interior appearance and finishes.* Workforce housing units may differ from market rate units with regard to interior finishes and gross floor area provided that:

(a) There shall be no differences between the workforce housing units and the market rate units related to energy efficiency, including mechanical equipment and plumbing, insulation, windows, and heating and cooling systems.

(b) The gross floor area for the workforce housing units shall be no less than 75% of the gross floor area of similar market rate units.

(6) *Waiver of fees.* Projects meeting the eligibility requirements may request a waiver of town fees, including site plan review fees, building permit fees, water service fees, and subdivision fees for the workforce housing units. Approval of a request to waive town fees shall be subject to approval by the Board of Commissioners. Workforce units must meet the standards of this section and are subject to the following requirements.

(a) The developer shall submit the development plan to the Blessings Ministries Community Development Corporation's designee or its successor for review and certification prior to submission for development concessions.

1. *Rental development.* The owner must submit to the Blessings Ministries Community Development Corporation's designee or its successor for certification annually. If certification is not issued, any concessions will be rescinded and appropriate fees will be due and payable immediately.

(7) *Restrictive covenants.*

(a) Restrictive covenants shall be recorded, prior to the issuance of any occupancy permit, naming the town as a grantee and party and granting the town the power to enforce, which contain provisions that:

1. Insure that the site shall at all times remain in compliance with this section and the Housing Placement Eligibility System, as it may be amended from time to time, of the Blessings Ministries Community Development Corporation's designee or its successor;

2. Give all subsequent purchasers notice that the site and the living units on the site are subject to the provisions of this section;

3. Prevent the modification of the site or its use or withdrawal or modification of the covenants without the consent of the town;

4. Prohibit the sale or lease of a housing unit without the receipt by the town of a certification from the Blessings Ministries Community Development Corporation's designee or its successor that the purchaser or tenant qualifies under the Housing Placement Eligibility System, as it may be amended from time to time, of the Blessings Ministries Community Development Corporation's designee or its successor.

(b) Such covenants shall be in a form satisfactory to the town.

(c) Such covenants shall be superior to any liens or encumbrances upon the property and prior to the issuance of an occupancy permit; applicant shall provide the town with a title opinion from a licensed North Carolina attorney indicating that the covenants required herein are superior to all other liens or encumbrances upon the property.

(8) *Deed of trust.* The restrictive covenants and the applicant's or its successor's obligation to comply with the terms of this section shall be secured by a deed of trust in favor of the town, in a form satisfactory to the town. Such deed of trust shall be recorded prior to the issuance of an occupancy permit. The town shall subordinate the deed of trust to the lien of any lender financing the purchase of any of the housing units, upon proof of compliance with the terms of this section and upon certification from the Blessings Ministries Community Development Corporation's designee, or its successor, of compliance with the Housing Placement Eligibility System, as it may be amended from time to time. Violation of the terms of this section or the terms of the restrictive covenants required above, shall be an event of default under the terms of such deed of trust and shall authorize the town, in addition to any other remedy available, to foreclose upon the property as provided in the deed of trust.

(9) *Violations.* Each sale or rental of a housing unit in violation of this section shall constitute a separate offense. Each day's continuing violation of this section shall be a separate offense. In addition to the remedies provided in this section or in § 10.99 of this Code of Ordinances, the town shall be authorized to recover from the seller or landlord violating this section, any fees that were waived under the provisions of this section, together with attorney fees and other costs and expenses incurred in the collection of such fees. The remedies available to the town shall be cumulative and may be exercised together or separately in the discretion of the town. The exercise of one remedy shall not be construed to be a waiver of any other remedy.

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 07-07, passed 5-23-07; Am. Ord. 08-12, passed 3-26-08; Am. Ord. 16-6, passed 11-15-17; Am. Ord. 16-13, passed 5-14-18)

§ 153.208 NONCONFORMITIES.

See §§ 153.050 *et seq.*

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01)

§ 153.209 BUILDING HEIGHT LIMITS.

(A) No structure shall exceed a total height of 50 feet.

(B) No structure shall have more than four levels of living space.

(C) Antennas for personal use, chimneys and elevator towers are exempt from height restrictions.
(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01)

§ 153.210 SITE REQUIREMENTS.

(A) *Lot dimensions.* All parcels shall have a minimum width of 50 feet.

(B) *Lot area.*

(1) The minimum building site shall be 15,000 square feet.

(2) The minimum building site for a duplex shall be 20,000 square feet.

(3) Exempt recombination plats for lots platted prior to June 14, 1983 shall have a minimum lot size of 7,500 square feet.

(C) *Density.*

(1) Multi-family dwelling: The maximum floor area ratio (FAR) shall be up to 0.40.

(2) Hotel and motel: 36 units per acre.

(D) *Exceptions.* Where a lot or parcel of land has an area of less than the above required minimum area and was of record on June 14, 1983, such lot may be occupied by one family, provided the minimum side, front and rear requirements are complied with as set forth in § 153.211.

(E) *Lot coverage.*

(1) Maximum allowable lot coverage by principal use, all accessory structures, vehicular circulation areas and parking - 65%. (For exceptions, see § 153.082.)

(2) Soils classified as wetlands shall be factored into lot coverage calculation based on the following schedule:

(a) If the lot is composed of less than 25% of its total area in wetland soils, then 75% of that area classified as wetlands may be used in calculating lot coverage;

(b) If the lot has between 25% to 50% of its total area in wetland soils, then 50% of that area classified as wetlands may be used in calculating lot coverage;

(c) If the lot has between 50% to 75% of its total area in soils classified as wetlands, then 25% of that area classified as wetlands may be used in calculating lot coverage;

(d) If the lot has 75% or more of its total area classified as wetlands, none of that area classified as wetlands may be used in calculating lot coverage.

(F) *Drainage/stormwater runoff.* All development is required to follow the provisions of § 153.070.

(G) *Land disturbance.* See § 153.071.

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 04-10, passed 5-26-04; Am. Ord. 05-12, passed 8-8-05; Am. Ord. 16-13, passed 5-14-18)

§ 153.211 SETBACKS.

(A) Buildings erected in the Light Industrial Two Zone for residential purposes, including single-family dwellings, multi-family dwellings, hotels, motels, mobile home parks and trailer parks, mobile homes, trailers, other portable-type housing and such other like buildings, shall abide by the setback requirements of the High Density Residential (RH) Zone governing such buildings.

(B) Buildings erected for mixed use, namely for both dwellings and business purposes, shall abide by the setback requirements of the RH Zone governing such buildings.

(C) Buildings erected in the Light Industrial Two Zone for business or industrial purposes exclusively shall comply with the following setback requirements:

(1) *Side yard.* The minimum side yard shall be ten feet. For any structure over 35 feet in total building height, there shall be two feet of side yard setback for each foot of building height over 35 feet in addition to the minimum side yard setback.

(2) *Front yard.* The minimum size for a front yard shall be 30 feet.

(3) *Rear yard.* The minimum size for a rear yard shall be five feet.

(4) *Double frontage.* Where lots have double frontage, the required front yard setbacks shall be required on both streets.

(5) *Corner lot.* The minimum side street setback shall be 15 feet.

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 06-01, passed 2-22-06; Am. Ord. 07-06, passed 4-25-07)

(R) Stores or shops for custom work or for producing products to be sold at retail on the premises, art galleries, antique stores, jewelry shops, trophy and engraving shops, wood crafts and hobbies, sign business, frame shop, surfboard manufacture shop, embroidering and screen printing;

(S) Storage or bonded warehouses;

(T) Storage yards for building materials, wood and stone;

(U) Light manufacturing, such as boat construction, cabinet work, stone and concrete works;

(V) Machine or blacksmith shops;

(W) Motor or freight terminals;

(X) Swimming pools, tennis courts, indoor athletics and exercise facilities;

(Y) Bed and breakfasts (See § 153.312 for requirements);

(Z) Telecommunications towers;

(AA) Billiard parlors, video and amusement arcades;

(BB) Gas appliances and propane sales and service; and

(CC) Motorcycle repair, maintenance, fabrications and sales.

(DD) Shopping center/office complex.

(EE) Internet and/or electronic gaming operations as defined in § 153.002 Definitions and regulated in § 153.314 Internet and/or Electronic Gaming Accessory Business Use.

(FF) Warehouse, industrial complex.

(Ord. 91-08, passed 11-18-91; Am. Ord. 99-08, passed 5-10-99; Am. Ord. 99-09, passed 5-10-99; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 02-09, passed 6-10-02; Am. Ord. 03-03, passed 2-26-03; Am. Ord. 05-12, passed 8-8-05; Am. Ord. 06-04, passed 2-22-06; Am. Ord. 07-17, passed 10-24-07; Am. Ord. 08-04, passed 1-14-08; Am. Ord. 12-22, passed 11-14-12; Am. Ord. 13-01, passed 1-14-13)

§ 153.227 CONDITIONAL USES.

(A) *Outdoor recreational activities.* Outdoor recreational activities limited to batting cages, miniature golf, ballfields, water rides or driving ranges shall be a conditional use in the Light Industrial One Zone.

(1) The site for such activity must be two acres in size.

(2) No portion of the principal use, except parking, shall be located within 50 feet of the boundary line if adjoining a residential use or zone or abutting a street that services a residential zone.

(3) The height of the structure or device shall not exceed 40 feet above the general ground elevation of the site.

(4) No loudspeaker devices for music or other broadcasting or amplification shall be used in connection with such activity so as to create a noise hazard or nuisance.

(5) The principal use must be screened by a fence no less than six feet in height and buffered with dense vegetation which is no less than ten feet in height to screen the area from adjoining districts. Where natural vegetation does not provide sufficient screening, the boundaries of the site must be planted with dense vegetation which will reach a mature growth of eight to ten feet within three years. Suitable plant types shall be those recommended by the U.S. Department of Agriculture for coastal areas. (Appendix A)

(6) The principal use shall be located in such a manner so as not to act as a traffic hazard for passing motorists and shall not have any spotlight or other lighting devices which shall interfere with either the adjoining uses or property or automotive traffic on adjoining streets or highways.

(7) The Planning Board may recommend to the Board of Commissioners and the Board of Commissioners may impose any additional conditions that they determine are appropriate to insure that the off-site effects and any adverse effects to adjoining districts are kept to a minimum.

(B) *Sexually oriented businesses.* Only those businesses defined and provided for in Ch. 112 and provided the following conditions are met:

(1) Sexually oriented businesses shall not be located in a building that sells or serves alcohol or alcoholic beverages or allows alcohol or alcoholic beverages to be consumed on the premises;

(2) No sexually oriented businesses shall be permitted in any building which is:

(a) Located within 400 feet in any direction from a building used as a dwelling in the Light Industrial One Zoning District;

(b) Located within 400 feet in any direction from a residential zoning district (Residential Low, Residential High and Ocean Impact Residential), government and institutional zoning district or commercial zoning district;

(c) Located within 200 feet in any direction from a building in which a sexually oriented business is located;

§ 153.288 BOARD OF COMMISSIONERS ACTION ON TS CONDITIONAL USE PERMITS.

After observing the applicable procedures for consideration of application for a TS conditional use permit, the Board of Commissioners may, by a simple majority, act on a motion in accordance with § 153.362(E) and (F).

(Ord. 06-20, passed 8-14-06)

SPECIAL REGULATIONS**§ 153.310 COTTAGE COURT(S).**

Cottage court(s). In addition to the below specific standards, cottage court(s) shall also abide by regulations associated with the zoning district where the development is located.

(A) *Lot dimensions.* All parcels shall have a minimum width of 100 feet abutting NC 12.

(B) *Lot area.* The minimum building site shall be 20,000 square feet.

(C) *Size and arrangement.* Each detached single-family dwelling unit shall be designed and arranged for occupancy by one family operating as a housekeeping unit and shall contain at least 500 square feet, but no more than 2,500 square feet of gross floor area. One structure may be up to 5,000 square feet if it includes two or more separate but complementary accessory or principal uses, e.g. a dwelling unit and an on-site management office. Each detached single-family dwelling unit shall be an independent dwelling unit.

(D) *Building separation.* Within a cottage court, detached single-family dwelling units shall be separated from one another by a minimum of ten feet.

(E) *Driveway access.* Each detached single-family dwelling unit shall have access to a shared driveway. The shared driveway must be designed to a minimum width of 20 feet to allow fire-fighting apparatus to locate within 150 feet of all sides of all structures on the property. The shared driveway may be reduced to a minimum width of 12 feet where it is closer than 150 feet to all sides of all structures on the property. A shared driveway width less than 20 feet may be reviewed and approved by the Fire Marshal in conjunction with an approved alternative life safety plan or an approved fire suppression system. The shared driveway material shall support the weight of fire apparatus as determined by the Fire Marshal.

(Ord. 16-19, passed 6-27-18)

§ 153.311 CLUSTER HOMES.

Cluster homes. In addition to the below specific standards, shall also abide by the regulations associated with the zoning district where the development is located.

(A) *Lot dimensions.* All parcels shall have a minimum width of 100 feet abutting NC 12.

(B) *Lot area.* The minimum building site shall be 20,000 square feet.

(C) *Size and arrangement.* Each detached single-family dwelling unit shall be designed and arranged for occupancy by one family operating as a housekeeping unit and shall contain at least 500 square feet, but no more than 2,500 square feet of gross floor area. One structure may be up to 5,000 square feet if it is combined with on-site management or another complementary accessory or principal use. Each detached single-family dwelling unit shall be an independent dwelling unit.

(D) *Building separation.* Within a cluster home development, detached single-family dwelling units shall be separated from one another by a minimum of ten feet.

(E) *Driveway access.* Each detached single-family dwelling unit shall have access to a shared driveway. The shared driveway must be designed to a minimum width of 20 feet to allow fire-fighting apparatus to locate within 150 feet of all sides of all structures on the property. The shared driveway may be reduced to a minimum width of 12 feet where it is closer than 150 feet to all sides of all structures on the property. A shared driveway of less than 20 feet may be reviewed and approved by the Fire Marshal in conjunction with an approved alternative life safety plan or an approved fire suppression system. The shared driveway material shall support the weight of fire apparatus as determined by the Fire Marshal.

(Ord. 16-23, passed 1-14-19)

§ 153.312 BED AND BREAKFASTS.

(A) All bed and breakfasts shall be subject to the following requirements:

(1) The rental of a dwelling room in the bed and breakfast shall be on a daily or weekly basis to tourists, vacationers or similar transients;

(2) The rental period for such tourists, transients or vacationers shall not exceed seven consecutive days;

(3) If meals are provided, such meals shall be limited to breakfast only and such meals shall not be provided except to registered guests of the bed and breakfast;

(4) There shall be no in-room kitchen facilities or other kitchen-type appliances in the rented dwelling room;

(5) The total rented dwelling rooms in the bed and breakfast shall not exceed three rooms and the total occupancy, including the owner and/or employee, shall not exceed eight persons;

(6) The bed and breakfast operation shall be conducted by persons who own and reside within the dwelling unit with the assistance of not more than the equivalent of one full-time employee. The employee or resident who operates the bed and breakfast shall be on-site at all times when there are guests upon the premises;

(7) Prior to the issuance of such permit, all adjoining property owners shall be notified of the property owner's intent to use the dwelling as a bed and breakfast and such adjoining property owners shall be given the opportunity to be heard at the Planning Board meeting where the property owner's request to use the dwelling as a bed and breakfast is reviewed;

(8) No dwelling may be used as a bed and breakfast without the issuance of a permit from the Dare County Health Department and in no event shall a bed and breakfast be operated on a lot which is smaller than 7,500 square feet;

(9) Parking shall be provided at the rate of one parking place for each dwelling room rented, plus one additional space;

(10) No signs shall be allowed upon the premises;

(11) The principal use of such dwelling is residential and any substantial modifications to the exterior appearance of the dwelling shall be subject to architectural review by the Planning Board in order to determine and to ensure that the exterior architecture of the dwelling shall remain in harmony with the architecture of the surrounding property. No expansion of existing dwellings to accommodate bed and breakfasts is permitted;

(12) The use of the dwelling as a bed and breakfast shall comply with all applicable health, sanitation and fire regulations;

(13) Prior to the use of a dwelling as a bed and breakfast, the owner shall obtain a permit from the town to operate the dwelling as a bed and breakfast. The Planning Board shall review the application and site plan and make a recommendation to the Board of Commissioners concerning its approval;

(14) The town shall issue a permit if all of the requirements of this chapter and other applicable provisions of the town code have been met. The permit shall remain in effect for a period of one year and may be revoked if a violation of this chapter is found or if the bed and breakfast is operated in such a manner as to constitute a public nuisance. The town's Building Inspector shall renew the permit each year upon request, unless it is determined that the use of the dwelling is not in compliance with this chapter;

(B) Home occupations, as defined herein;

(C) Town-owned and leased facilities; and

(D) Rooming houses, boarding houses.

(Ord. 91-08, passed 11-18-91; Am. Ord. 01-02, passed 2-28-01; Am. Ord. 05-12, passed 8-8-05)

§ 153.313 PLANNED UNIT DEVELOPMENT.

(A) *Intent.* A planned unit development (herein after “PUD”) is defined in § 153.002 of this chapter. It is the intent of the town to encourage the development of larger parcels of land with greater density and greater degree of consideration of physical features and natural constraints, by enhancing community benefits while fostering the most economically productive land use in the process. It is further the intent of the PUD to promote greater flexibility of design so as to provide a higher level of amenities and more creative design than would be possible by development of the land with traditional district regulations and design standards.

(B) *Uses.*

(1) *Multi-family developments.*

(a) Multi-family development may be authorized as allowed in this chapter following review by the Planning Board and approval as a conditional use by the Board of Commissioners.

(b) Multi-family development dwellings of five or more units per building may include the following accessory uses designed for residents and guests of the PUD:

1. Retail shops, restaurants, clinics, nursing care and daycare facilities. These accessory uses will offer goods and services designed exclusively to meet requirements of occupants and guests for which such establishment is located. There shall be no signs or evidence of such establishment outside the limits of the development. The aggregate maximum square footage of the accessory commercial use structures listed above shall be limited to 5% of the total site area. Occupancy of the commercial use structures shall be in conjunction with completion of the first 50 units or as otherwise approved by the Board of Commissioners.

2. On-site accessory uses or buildings to multi-family development dwellings;

3. Playgrounds;

4. Club houses with assembly areas;

5. Swimming pools and tennis courts;

6. Town-owned and leased facilities.

(C) *Conditional uses.* None.

(D) *Nonconformities.* See §§ 153.050 *et seq.*

(E) *Building height limits - PUD developments.*

(1) One-third of the structures may have four levels of living space with an aggregate living space height not to exceed 43 feet measured to the top plate, and a total building height not to exceed 55 feet, to accommodate various architectural roof designs, with no additional living space. In addition, no more than 50% of the number of units may be located in these four-story buildings.

(2) The remaining structures shall have no more than three levels of living space, with an aggregate living space not to exceed 35 feet, and a total building height not to exceed 50 feet, to accommodate various architectural roof designs, with no additional living space.

(F) *Site requirements.*

(1) *Lot dimensions.* All parcels shall have a minimum width of 75 feet.

(2) *Lot area.* The minimum building site for a PUD shall be five acres.

(3) *Density.*

(a) *Generally.* Ten units per acre.

(b) *Density bonus.*

1. Twelve units per acre may be permitted provided 30% of the total site is maintained as open space. The following conditions shall apply to the required 30% open space:

a. Ten percent upland natural vegetation shall be maintained (natural vegetation is encouraged between uses);

b. Minimum of 15% common public spaces including walking and jogging trails and other passive recreational activities;

c. The remaining 5% can include wetlands calculated into total site area.

2. Fourteen units per acre may be permitted provided 40% of the total site is maintained as open space. The following conditions shall apply to the required 40% open space:

a. Fifteen percent upland natural vegetation shall be maintained (encouraged between uses);

b. Minimum of 20 % common public spaces including walking and jogging trails and other passive recreational activities;

c. The remaining 5 % can include wetlands calculated into total site area.

(c) *Calculation.* Formula for density calculation when wetland soils are a portion of any lot. Soils classified as wetlands shall be factored into density calculation based on the following schedule:

1. If the lot is composed of less than 25 % of its total area in wetland soils, then 75 % of that area classified as wetlands may be used in calculating density.

2. If the lot has between 25 % to 50 % of its total area in soils classified as wetlands, then 50 % of that area classified as wetlands may be used in calculating density.

3. If the lot has between 50 % and 75 % of its total area in soils classified as wetlands, then 25 % of that area classified as wetlands may be used in calculating density.

4. If the lot has 75 % or more of its total area classified as wetlands, none of that area classified as wetlands can be used in calculating density.

(4) *Building separation.* Single-family detached structures in a PUD shall have a minimum separation of ten feet, provided the structures are protected by an approved fire suppression sprinkler system. All other structures in a PUD shall have a minimum separation of 24 feet. Patios constructed of noncombustible material and privacy fences shall be exempt from the building separation requirements. Every part of a required 24-foot separation shall be open and unobstructed from its lowest level to the sky.

(5) *Lot coverage.*

(a) Maximum allowable lot coverage by principal use, all accessory structures, vehicular area and parking-50 %.

(b) Formula for lot coverage calculation when wetland soils are a portion of any lot. Soils classified as wetlands shall be factored into lot coverage calculations based on the following schedule:

1. If the lot is composed of less than 25 % of its total area in wetland soils, then 75 % of that area classified as wetlands may be used in calculating lot coverage.

2. If the lot has between 25 % to 50 % of its total area in soils classified as wetlands, then 50 % of that area classified as wetlands may be used in calculating lot coverage.

3. If the lot has between 50 % and 75 % of its total area in soils classified as wetlands, then 25 % of that area classified as wetlands may be used in calculating lot coverage.

4. If the lot has 75% or more of its total area classified as wetlands, none of that area classified as wetlands can be used in calculating lot coverage.

(c) Lot coverage within an estuarine area of environmental concern (AEC), as defined by the Coastal Area Management Act (CAMA), shall be limited to 20% and a minimum setback from the estuarine waters shall be 50 feet. (Exceptions: boardwalks, gazebos, and other pedestrian access structures shall be permitted within the 50-foot setback but must be in accordance with CAMA regulations.)

(6) *Drainage/stormwater runoff.* All sites are required to follow the provisions of § 153.070, Stormwater Management.

(7) *Land disturbance.* See § 153.071, Soil Erosion and Sedimentation Control.

(G) *Setbacks.*

(1) *Side yard.*

(a) The minimum side yard shall be ten feet. For any structure over 35 feet in total building height, there shall be two feet of side yard setback for each foot of building height over 35 feet in addition to the minimum side yard setback.

(2) *Front yard.* The minimum front yard setback shall be 30 feet from the property line.

(3) *Rear yard.*

(a) The minimum rear yard setback requirements on any lot shall be 20% of the total depth of the lot, but shall not exceed 30 feet from the rear property line.

(b) Detached garages and accessory buildings may be built in rear yards; however, any such building shall be erected so as to provide a distance of not less than eight feet from the main building to the garage or accessory building and be not less than five feet from any lot line.

(4) *Double frontage.* The required front yard setback for all lots shall be provided on both front and rear of a double frontage lot.

(5) *Corner lot.* The minimum side yard setback requirements on a corner lot shall be 15 feet.

(6) *Setback for PUD development abutting residential uses, zones or rights-of-way.*

(a) The minimum required setback for a PUD which abuts any residential use, zone or right-of-way shall be 30 feet or required side yard setback whichever is greater.

(b) The following exception will be allowed: Accessory uses for single-family detached dwellings shall maintain a minimum setback of 15 feet from a residential use, zone or right-of-way. Accessory uses shall provide a privacy fence no less than six feet in height in addition to buffering requirements.

(H) *Signs.*

(1) *Generally allowed.* The following signs shall be allowed in a PUD:

(a) *Project master sign.* One master project sign shall be allowed in a PUD in accordance with the following provisions:

1. Sign overall dimensions including architectural features shall not exceed 99 square feet with overall dimensional rectangle not to exceed 9 feet in height by 11 feet in width.

2. Sign shall include architectural features consistent with the general "theme" architecture of the project. Architectural features shall be included in overall dimensions.

3. Sign shall be located at or near the PUD entrance at a location which will not interfere with site distance triangles.

4. Actual lettering surface of the sign shall not exceed 40 square feet per side and shall be contained within a geometric rectangle not to exceed eight feet in width by five feet in height.

(b) *Project village signage.* Each named village or section within a PUD shall have one sign with the following provisions:

1. Sign overall dimensions including architectural features shall not exceed 45 square feet with overall dimensional rectangle not to exceed 9 feet in height by 5 feet in width.

2. Sign shall include architectural feature consistent with the project master sign and consistent with the general theme architecture of the individual villages or sections. Architectural features shall be included in overall dimensions.

3. Signs shall be located at or near the PUD village or section entrances at a location which will not interfere with the site distance triangles.

4. Actual lettering surface of the sign shall not exceed 24 square feet per side and shall be contained within a geometric rectangle not to exceed six feet in width by four feet in height.

(2) *Special provisions for signs located within the public right-of-way.* One project master sign may be located within the right-of-way of Ocean Bay Boulevard in accordance with the following provisions:

(a) Signs located within a town right-of-way shall be placed within the divided roadway, curbed landscape island or grass median.

(b) Signs must be owned and maintained by the PUD homeowners association.

(c) The town reserves the right to remove the signage at the owner's expense if the sign or surroundings landscaped area become a public nuisance or creates an unsafe condition.

(d) Signs within a town right-of-way must be located within 100 feet of the property line of the PUD with prior approval by town staff.

(3) *Lighting provisions for project master and project village signage within a PUD.* Signage within a PUD may be illuminated in accordance with the following provisions:

(a) A project master sign shall be illuminated with no more than three low-wattage (75 watt or less) external spotlights, directed towards the sign face, on each side of the sign.

(b) A project village sign shall be illuminated with no more than two low-wattage (75 or less) external spotlights, directed towards the sign face, on each side of the sign.

(c) Lighting shall be shielded so as to prevent a direct view of the light from a residence or street.

(4) *Unsafe signs.* Should any sign become insecure or in danger of falling or otherwise be unsafe in the opinion of the Building Inspector, then the owner thereof, or the person maintaining the same, shall, upon written notice from the Building Inspector, forthwith in the case of immediate danger or in any case within ten days, secure the same in a manner to be approved by the Building Inspector in conformity with the provisions of this section or remove the sign. If such order is not complied with within ten days, the Building Inspector shall remove such sign at the expense of the owner.

(I) *Off-street parking, driveway and curbs.* See § 153.076, Off-Street Parking and Loading.

(J) *Buffers and screening.* All PUDs developed under this subchapter shall provide and maintain along the side and rear lot lines a continuous visual buffer. The buffer shall be compact evergreen hedge or other type of evergreen foliage screen, or shall be a combination fence and shrubbery screen. The preservation of existing vegetation is encouraged and may be utilized to meet this provision. The visual buffer shall be subject to periodic inspection by the Building Inspector. The minimum height shall be no less than 6 feet with a minimum width of 15 feet. Buffers shall not be aligned so as to block vision at or along the right-of-way. All other screening and buffer requirements shall be in accordance with § 153.073, Landscaping Requirements.

(K) *Studies of impacts.* Site plans submitted for this subchapter shall include, for information to the town, comprehensive studies based on project completion of projected impacts to the environment, traffic and governmental services.

(L) *Architectural design.*

(1) Chimneys and elevator towers are exempt from height restrictions.

(2) Architectural appearance shall be consistent with § 153.186, Commercial Building Exteriors.

(Ord. 01-11, passed 11-14-01; Am. Ord. 04-10, passed 5-26-04; Am. Ord. 04-14, passed 9-13-04; Am. Ord. 04-23, passed 12-13-04; Am. Ord. 06-03, passed 2-22-06; Am. Ord. 06-10, passed 5-24-06; Am. Ord. 06-11, passed 5-24-06; Am. Ord. 07-06, passed 4-25-07; Am. Ord. 07-13, passed 8-13-07)

§ 153.314 INTERNET AND/OR ELECTRONIC GAMING ACCESSORY BUSINESS USE.

Internet and/or electronic gaming machines or devices may be permitted as an accessory business use in the specified zoning districts of the town according to the following conditions:

(A) Internet and/or electronic gaming machines shall be located within the same building as the principal business use. The area in which internet and/or electronic gaming machines are located shall be accessed through the same means of ingress-egress as the principal use business.

(B) The maximum number of internet and/or electronic gaming machines shall not exceed two (2) machines.

(C) For multi-unit/multi-tenant commercial sites where more than one unit is located within one large commercial structure, the cumulative total of machines shall not exceed two internet and/or electronic gaming machines for the entire structure. For commercial group developments, the cumulative total of machines located within all of the buildings within the commercial group development site shall not exceed two internet and/or electronic gaming machines.

(D) The hours of operation for the accessory internet and/or electronic gaming operation shall be the same as hours of operation for the principal business use in which it is located.

(E) Public restrooms for patrons of the internet and/or electronic gaming operation shall be provided within the principal business use in which it is located.

(F) The placement of internet and/or electronic gaming machines as an accessory use within a principal business use shall be subject to review and approval by the town. A copy of the floor plan and site plan of the principal business use depicting the area where the internet and/or electronic gaming machines/device will be located shall be submitted to the Planning Department for approval. Applications for internet and/or electronic gaming machines shall be submitted at the time the floor plan for the accessory use is submitted to the Planning Department.

(G) Off-street parking shall be provided at a ratio of one 10' x 20' space for each internet and/or electronic gaming machine/device in addition to the other required parking spaces for the principal use. An up-to-date copy of a site plan prepared by a North Carolina licensed surveyor or engineer shall be submitted to the Planning Department for approval.

(H) Any internet and/or electronic gaming operation shall be not located within a minimum of 500 feet measured in a straight line in any direction from all property lines of the principal business use site, from any residential dwelling including mobile homes; any church, place of worship or other religious building; any child care home or facility; public or private school; public playground or park; or another principal business use that includes internet and/or electronic gaming machines as an accessory. The applicant shall submit an up-to-date, straight-line drawing prepared by a North Carolina registered surveyor or engineer that depicts each use that is within 500 feet of the principal business use site to demonstrate compliance with this separation standard.

(I) On-premise alcohol consumption is prohibited within the area dedicated as the internet and/or electronic gaming operation. Signage to this effect shall be posted in a conspicuous manner to alert all users of this restriction.

(J) Users of the internet and/or electronic gaming machines shall be at least 18 years of age. Signage to that effect shall be posted in a conspicuous manner to alert all users of this age restriction.

(K) Any internet and/or electronic gaming operations that existed in the town before November 14, 2012 shall be submitted for review according to the conditions of this section and will be granted 24 months from November 14, 2012 in which to bring their internet and/or electronic gaming operations into compliance with these regulations.

(Ord. 12-22, passed 11-14-12)

Historic Landmarks

4A

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
10-22	11-10-10	Boyette Cottage located at 1303 South Virginia Dare Trail is designated as a local historic landmark.
10-23	11-10-10	Austin Cottage located at 1307 South Virginia Dare Trail is designated as a local historic landmark.
11-23	11-14-11	Birdsong/Phelan Cottage located at 1825 North Virginia Dare Trail is designated as a local historic landmark.
11-24	11-14-11	Perry/Jennette Cottage located at 1614 North Virginia Dare Trail is designated as a local historic landmark.
13-19	11-13-13	White Cottage located at 2400 North Virginia Dare Trail as a local historic landmark.
14-20	12-8-14	Beveridge/Weyl Cottage located at 1311/1313 North Virginia Dare Trail is designated as a local historic landmark.
14-21	12-8-14	Christensen/Small Cottage located at 2021 South Virginia Dare Trail designated as a local historic landmark.
15-9	12-14-15	Perry/Owens Cottage located at 2019 South Virginia Dare Trail is designated as a local historic landmark.
15-10	12-14-15	Young/Croarkin Cottage located at 201 Random Street is designated as a local historic landmark.
15-21	12-12-16	Smith Cottage located at 2306 Virginia Dare Trail is designated as a local historic landmark.
15-22	12-12-16	Hayman House located at 418 West Hayman Boulevard is designated as a local historic landmark.
15-29	4-10-17	Powell-Stokes Cottage located at 1207 South Virginia Dare Trail is designated as a local historic landmark (revised).

Kill Devil Hills - Table of Special Ordinances

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Description</i>
16-9	12-11-17	Reisse Cottage located at 2807 North Virginia Dare Trail is designated as a local historic landmark.
16-10	12-11-17	Coggins/Lassiter Cottages located at 501 South Virginia Dare Trail is designated as a local historic landmark.

REFERENCES TO NORTH CAROLINA GENERAL STATUTES

<i>G.S. Cite</i>	<i>Code Section</i>
1A-1, Rule 4	153.071
Ch. 7A	151.44
Ch. 14	130.01
14-4	10.99, 93.08, 94.04, 96.25, 115.99, 130.02, 150.06
Ch. 14, Art. 26	112.15, 112.16, 112.19
Ch. 14, Art. 26A	112.15, 112.16, 112.19
Ch. 14, Art. 27	112.15, 112.16, 112.19
Ch. 14, Art. 54B	130.60
14-415.11(c)	130.60
14-415.23	130.60
15A-401	32.27
18B-1001	118.01
Ch. 20	96.22, 96.25
20-4.01	70.01
20-4.01(13)	90.02
20-4.01(32)	72.07
20-87(4)	115.01
20-97	115.26
20-135.2(a)	115.08
20-137.1	115.08
20-140.4	73.03
20-141.1	71.18
20-145 <i>et seq.</i>	71.17
20-146.1	73.03
20-155 – 20-158	71.14
20-156	71.14
20-158	71.25
20-161	72.03
20-162	72.01
20-168	70.05

Kill Devil Hills - Parallel References

<i>G.S. Cite</i>	<i>Code Section</i>
20-171	70.06
20-219.09 – 20-219.14	72.42
20-219.10	90.08
20-219.11	90.08
20-280	115.04
47-30	152.28
Ch. 47C	153.002
Ch. 62	115.01
67-4.1	94.20
74-24.1 <i>et seq.</i>	150.22
74-46 <i>et seq.</i>	150.22
74-49(6)	150.22
Ch. 75, Art. 7	153.071
77-20	96.02
87-100 <i>et seq.</i>	150.21, 150.22, 150.28
90-95.2	32.01
Ch. 93B	110.10, 110.11
99E-25	130.78
105-109	110.32
105-302	130.02

<i>G.S. Cite</i>	<i>Code Section</i>
160A-300	71.25
160A-301(a)	Charter § 6.1
160A-311	52.25
160A-376	152.59
160A-385(b)(5)	153.360
160A-385.1	153.002
160A-387	31.04
160A-388	31.60
160A-389	150.06
160A-393	153.325
160A-393(d)	153.322, 153.324
160A-393(k)	153.322
160A-400.9(c)	153.322
160A-417	150.02
160A-417 <i>et seq.</i>	150.06
160A-420	150.05
160A-424	150.05
160A-441 <i>et seq.</i>	150.06
Ch. 163	30.04
163-292	Charter § 3.1, 30.04
163-302	30.04

REFERENCES TO ORDINANCES

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
—	--	30.01-30.06, 30.20-30.23
—	--	32.01-32.05, 32.20-32.27
—	--	51.01-51.07, 51.21 - 51.25, 51.35-51.41
—	--	52.01, 52.02, 52.15-52.25, 52.99
—	12-9-75	31.02-31.04
—	7-12-77	71.08
—	6-26-79	72.01
—	1-8-80	31.02, 31.03
—	2-23-82	31.02, 31.03
—	6-8-82	130.01
—	8-11-82	91.17
—	12-14-82	31.02, 31.03
—	12-14-82	91.16, 91.18
—	4-18-83	150.40, 150.41, 150.45-150.50
—	11-9-83	93.01-93.06, 93.08
—	6-11-84	150.47
—	8-31-84	31.02, 31.03
—	5-13-85	91.32
—	12-9-85	91.17
—	1-12-87	91.34, 91.35
—	8-11-87	71.21
—	12-14-87	150.01-150.06, 150.20-150.29
90-02	3-12-90	31.02
91-01	5-13-91	150.06

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<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
91-08	11-18-91	153.001-153.004, 153.020-153.023, 153.035-153.038, 153.050-153.053, 153.055, 153.056, 153.058, 153.059, 153.070-153.074, 153.076, 153.077, 153.081, 153.082, 153.095-153.099, 153.101-153.104, 153.117-153.120, 153.122-153.124, 153.135, 153.137, 153.138-153.144, 153.155-153.164, 153.175-153.180, 153.182, 153.183, 153.186, 153.205, 153.207-153.214, 153.225-153.234, 153.312, 153.350-153.358, 153.361, 153.362
92-01	1-13-92	130.40-130.47, 130.99
92-03	1-22-92	153.359, 153.361
92-05	5-1-92	153.038
92-06	5-11-92	153.357
92-12	7-22-92	153.077
92-13	8-26-92	70.01, 70.02, 72.01, 72.05, 72.06
93-01	2-8-93	153.351, 153.357
93-02	3-8-93	153.227
93-06	6-14-93	153.002, 153.177
93-09	7-12-93	70.99, 72.01, 72.07, 72.25, 72.40-72.42
93-10	9-13-93	31.02, 31.03
93-11	9-13-93	153.050-153.053, 153.055, 153.056, 153.058, 153.059
93-13	12-13-93	93.01-93.06, 93.08
93-14	12-13-93	115.01-115.09, 115.20-115.28, 115.40-115.47, 115.99
94-01	1-26-94	153.002, 153.176
94-02	2-14-94	153.077
94-04	3-14-94	33.01-33.13
94-05	4-11-94	153.077
94-06	4-11-94	153.022, 153.077
94-07	6-27-94	115.01
94-12	9-12-94	93.01
95-01	2-13-95	71.06
95-03	5-8-95	115.45
95-08	7-10-95	115.41
95-09	9-11-95	130.07

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
95-10	11-15-95	130.60–130.62
95-11	11-15-95	153.071
96-1	2-22-96	153.176
96-05	4-24-96	153.177
96-06	6-2-96	Charter
96-08	5-13-96	91.30
96-09	6-10-96	91.30
96-10	6-10-96	153.004
96-12	6-10-96	153.002
96-14	7-24-96	130.07
97-01	1-13-97	153.176
97-02	2-26-97	153.076
97-04	6-25-97	153.077
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97-16	1-28-98	153.357
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98-05	7-13-98	130.07
98-06	7-13-98	130.09
98-07	8-10-98	111.01, 111.02
99-01	1-11-99	153.176
99-02	2-8-99	112.01, 112.02, 112.15–112.19, 112.30–112.38, 112.99
99-03	2-8-99	130.10
99-04	2-8-99	153.074
99-05	2-8-99	153.227
99-07	4-12-99	153.080
99-08	5-10-99	153.095, 153.115, 153.155, 153.175, 153.176, 153.205, 153.206, 153.225, 153.226, 153.245, 153.265
99-09	5-10-99	153.075, 153.206, 153.226
99-13	7-12-99	153.077
00-01	1-10-00	153.071
00-02	1-10-00	153.176
00-05	2-14-00	153.097
00-07	5-24-00	153.077
00-08	5-24-00	50.01–50.03, 50.15–50.19, 50.30–50.32

Kill Devil Hills - Parallel References

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
01-01	--	113.001–113.015, 113.025–113.038, 113.050–113.055, 113.065–113.078, 113.090–113.100, 113.115–113.117, 113.999, Ch. 113, Appendix
01-02	2-28-01	153.001–153.004, 153.020–153.023, 153.035–153.039, 153.050–153.053, 153.055, 153.056, 153.058, 153.059, 153.070–153.082, 153.095–153.104, 153.115–153.124, 153.135–153.144, 153.155–153.164, 153.175–153.186, 153.205–153.215, 153.225–153.228, 153.230–153.235, 153.245–153.254, 153.265–153.274, 153.312, 153.350–153.362, Ch. 153, Appendix A, Ch. 153, Appendix C, Ch. 153, Appendix D, Ch. 153, Appendix E
01-03	4-25-01	153.077
01-04	6-27-01	153.360
01-05	6-27-01	153.002
01-06	6-27-01	50.03
01-07	7-25-01	114.01–114.05, 114.20–114.25
01-08	7-25-01	153.177
01-09	7-25-01	153.077
01-10	8-13-01	153.002
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01-12	11-14-01	153.002
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02-01	1-14-02	153.186
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02-04	2-11-02	153.077
02-05	2-27-02	153.002, 153.186
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02-08	6-10-02	153.070
02-09	6-10-02	153.076, 153.175–153.177, 153.205, 153.206, 153.225–153.227

<i>Ord. No.</i>	<i>Date Passed</i>	<i>Code Section</i>
02-10	6-26-02	153.074
02-12	7-8-02	51.50-51.55
02-14	7-24-02	153.002, 153.360
02-15	7-24-02	51.08
02-16	9-25-02	153.099, 153.119, 153.139
03-01	2-10-03	153.076
03-02	2-10-03	153.101
03-03	2-26-03	153.226
03-04	4-14-03	Adopting Ordinance
03-05	4-14-03	153.002
03-07	6-25-03	153.002, 153.077
03-08	6-25-03	91.33, 91.35
03-09	6-25-03	153.076
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