



**Town of Goldston, North Carolina  
Unified Development Ordinance**

**Date of Ordinance Adoption: January 4<sup>th</sup>, 2021**

**Effective Date of Ordinance: January 4<sup>th</sup>, 2021**

**Ordinance Amendment Dates: June 3<sup>rd</sup>, 2024,**

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**THE UNIFIED DEVELOPMENT ORDINANCE OF THE TOWN OF GOLDSTON**

An ordinance providing for the zoning of the Town of Goldston, and the enforcement of subdivision and other development regulations.

In pursuance of the authority conferred by Chapter 160D Articles 1 through 14 of the General Statutes of North Carolina and for the purpose of promoting the public health, safety and general welfare; promoting the orderly growth of the jurisdiction; lessening congestion on the roads and streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding undue concentration of population; and facilitating the adequate provision of transportation, water, sewage, schools, parks and other public requirements; all in accordance with the adopted Land Use Plan; NOW THEREFORE,

The Town Board of the Town of Goldston does ordain as follows:

## **CHAPTER 1: GENERAL PROVISIONS**

### **1.1 - Title**

This Ordinance shall be known as “The Town of Goldston Unified Development Ordinance”, and may be referred to as “The Unified Development Ordinance.”

### **1.2 - Definitions**

#### **1.2.1 - General Purpose**

For the purpose of this Ordinance certain words and terms used herein are defined as herein indicated. All words used in the present tense shall include the future tense; all words in the singular number shall include the plural number; all words in the plural number shall include the singular number unless the natural construction of the wording indicates otherwise; words in the male gender include the female gender; all words not defined in this section shall carry the definition prescribed in the common dictionary. Additional definitions that apply only to Section 2.11 are found in Subsection 2.11.3; additional definitions that apply only to Chapter 8 are found in Subsection 8.1.9.

#### **1.2.2 - Definitions**

**401 Certification** – The state certification required pursuant to Section 401 of the Clean Water Act that the proposed activity for which an applicant is seeking a federal permit or approval will not degrade Waters of the State or otherwise violate water quality standards (See 15A North Carolina Administrative Code 2H.0500).

**404 Permit** – A federal permit required pursuant to Section 404 of the Clean Water Act before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g. certain farming and forestry activities).

**Abandoned Sign** – A sign or sign structure which has not been utilized for a period of 180 days or more, or a sign, the contents of which pertain to a place, time, event or purpose which no longer exists, applies or which has occurred.

**Accessory Building** – A detached subordinate building the use of which is incidental to that of the principal building and located on the same lot therewith. These can be built prior to the principal structure.

**Accessory Dwelling Unit** – An accessory dwelling unit that is smaller than the principal residential dwelling. The accessory dwelling unit is situated on the same lot as the principal residence and may be located within the principal residence or in a separate building with separate access. The accessory dwelling unit is restricted to 1,500 square feet of heated living space. The use is to conform to the character of the existing structures and neighborhood. A mobile home is classified as a primary residence, not an accessory dwelling unit.

**Accessory Structure** – A detached subordinate structure, the use of which is incidental to that of the principal structure and located on the same lot therewith.

**Accessory Use** – Any use which is clearly incidental, secondary, and/or supportive of a principal use.

**Accessory Use Sign** – Any sign which is located on the same premises with a principal permitted use and which is clearly incidental, secondary and/or supportive of the principal use.

**Administrative Decision**- Decisions made in the implementation, administration or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this ordinance.

**Adjacent** – Having a common border such as a lot line or street right-of-way, including tracts separated by a road, river, easement or right-of-way.

**Adult Arcade** – Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of Specified Sexual Activities or Specified Anatomical Areas.

**Adult Cabaret** – A business operating in a building or portion of a building regularly featuring dancing or other live entertainment if the dancing or entertainment that constitutes the primary live entertainment is distinguished or characterized by an emphasis on the exhibiting of specified sexual activities or specified anatomical areas for observation by patrons therein.

**Adult Escort** – A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person for the purpose of participating in, engaging in, providing, or facilitating Specified Sexual Activities.

**Adult Escort Agency** – A person or business that furnishes, offers to furnish, or advertises to furnish adult escorts as one of its business purposes for a fee, tip, or other consideration.

**Adult Media Store** – A business: (a) which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas, as defined in this article; or (b) having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

**Adult Merchandise** – Any product dealing in or with explicitly sexual material as characterized by matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

**Adult Mini Motion Picture Theater** – An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas. A booth shall not mean a theater, movie house, playhouse, or a room or enclosure or portion thereof that contains more than 600 square feet.

**Adult Motel** – A hotel, motel or similar commercial establishment that offers accommodation to the public for any form of consideration and: (a) provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of Specified Sexual Activities or Specified Anatomical Areas; and has a sign visible from the public rights-of-way that advertises the availability of this adult type of photographic reproductions; or (b) offers a sleeping room for rent for a period of time that is less than six hours; or (c) allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than twelve hours.

**Adult Motion Picture Theater** – A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides, or similar photographic reproductions are regularly shown as one of its principal business purposes that depict or describe specified sexual activities and/or specified anatomical areas.

**Adult Patron** – Any person who is physically present on the premises of a sexually oriented business and who is not an owner, employee, agent, subcontractor, or independent contractor of said business, or any entertainer or performer at said business.

**Adult Theater** – A theater, concert hall, auditorium, or similar commercial establishment which regularly features, exhibits, or displays as one of its principal business purposes, persons who appear in a state of nudity or semi-nudity, or live performances that expose or depict specified anatomical areas and/or specified sexual activities.

**Affordable Housing** – A commonly-accepted standard for affordability is that a household's monthly housing costs should not exceed 30 percent of its monthly net household income. Housing is usually considered "affordable" if it would meet this 30 percent standard for families considered low-income, meaning they earn below 80 percent of the area median income (AMI). For example, the Raleigh-Durham-Chapel Hill MSA 2001 AMI was \$66,100; under this case  $\$66,100 \times .80 = \$52,880$   $\times .30 = \$15,864 / 12$  (months) = \$1,322 per month for housing cost.

**Agriculture** – For purposes of this Ordinance the terms "agriculture", "agricultural" and "farming" refer to all of the following:

- (1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
- (2) The planting and production of trees and timber.

- (3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption and marketing.
- (4) Aquaculture as defined in NCGS 106-758.
- (5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
- (6) When performed on the farm, “agriculture”, “agricultural” and “farming” also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm.

**Alley** – A strip of land, publicly or privately owned, set aside primarily for vehicular service access to the back or side of properties otherwise abutting a street.

**Animal Husbandry, Specialized** – The use of land for the raising and keeping of animals, fowl, reptiles, etc. which are not general livestock or poultry and not classified as a bona fide farm. Specialized animal husbandry farming includes but is not limited to the following: fur-bearing animal farms, game bird farming and animal farms, wild animal farms, aviaries, snake, alligator and frog farms, laboratory animal farms, worm farms, and fish farms.

**Animated Sign** – Any sign using flashing or intermittent lights, sounds, color changes or other mechanical or electrical means to give motion to the sign or the impression of motion or movement to the sign or any sign with visible moving, revolving or relocating parts.

**Apartment Buildings** – A building containing three (3) or more residential dwelling units that are not on their own individual lot. Such units may be leased separately or developed as condominiums.

**Apartment Complex** – A grouping of two or more apartment buildings.

**Applicant** – The owner of land proposed to be subdivided, developed or used. Consent shall be required from the legal owner of the property prior to any approval by the Planning Board, Town Board, or Board of Adjustment.

**Architect** – A person certified and currently licensed to practice architecture in North Carolina. This includes landscape architects.

**Attached Sign** – Any sign attached to, painted on the wall surface of, or erected and confined within the limits of the outside wall of any building or structure, which is supported by such wall or building.

**Auto Wrecking** – A commercial activity that provides open storage, disassembling, or salvaging for more than two junked motor vehicles.

**Automobile Graveyard** – Any tract of land, establishment or place of business and which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or

dismantled motor vehicles or motor vehicle parts for profit and shall include any tract of land, establishment or place of business upon which more than six motor vehicles which cannot be operated under their own power, and not being restored to operable condition, and which are kept or stored for profit for a period of 90 days or more.

**Avocational Farming** – The use of land for those activities which constitute farming, but does not meet the definition of a bona fide farm.

**Awning** – A structure made of cloth, metal or other material affixed to a building in such a manner that it shades windows or doors below, but is not a constructed canopy.

**Banner Sign** – A sign of lightweight fabric or similar material which is attached to a pole or a building, structure and/or vehicle by any means. National, state or municipal flags shall not be considered banners.

**Bed and Breakfast Home** – Owner-occupied bed and breakfast homes with no more than two (2) rooms (units) for rent for stays no longer than seven (7) consecutive days and may be located on legal, non-conforming and conforming lots of record, on at least one and one half (1.5) acres, which may have standard setbacks as set in the district in which it is located.

**Bed and Breakfast Inn** – Small, owner-operated businesses where the owner may live on premises but is not required to do so. The building's primary usage is for lodging of overnight guests and meals served in conjunction with the stay of guests. Inns advertise, have business licenses, comply with government ordinances, pay all appropriate taxes, and post signs. The inn may host events such as weddings, small business meetings, et cetera, with up to 8 overnight rooms for rent to overnight guests provided all other local and state requirements are met.

**Block** – A tract of land bounded by visible physical boundaries such as streets, public parks, cemeteries, railroad rights-of-way, shorelines or waterways, or boundary lines of municipalities.

**Bona Fide Farm** – The use of land for agriculture as defined in Section 2.2 of this Ordinance.

**Bond** – Any form of security including a cash deposit, surety bond, or other form satisfactory to the Planning Board.

**Building** – Any structure having a roof supported by walls or columns constructed, used or intended for supporting or sheltering any use or occupancy.

**Building Height** – The vertical distance measured from the average elevation of the finished grade to the topmost section of the roof.

**Building Line** – A line perpendicular to the lot depth which establishes the horizontal distance between the structure and the front property line excluding the outermost steps, uncovered porches, gutters, and similar features.



**Canopy** – A permanent structure, not enclosed and not retractable, attached or unattached to a building, for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall.

**Churches** – See Place of Worship.

**Commemorative Sign** – Any sign, marker, tablet or monument erected in remembrance of an historic person, place, event or which denotes, honors, celebrates or acknowledges an historic person, place or event.

**Common Area** – All areas, including private streets, conveyed to an owners' association in a townhouse development, residential development, or owned on a proportional undivided basis in a condominium.

**Common Plan of Development** – A group of two or more buildings constructed, planned and developed with a unified design including coordinated parking and service areas, and may include associated out parcels. Shopping centers are examples of common plans of development.

**Community Water System** – A private water company formed by a developer to serve a development in an outlying area.

**Community Sewage System** – A private sewer system including collection and treatment facilities established by a developer to serve a development in an outlying area.

**Concealed Wireless Facility** – Any tower, ancillary structure, or equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of concealed facilities: (1) antenna attachments, including painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure, and (2) freestanding. Freestanding concealed towers usually have a secondary, obvious function which may include church steeple, bell tower, clock tower, light standard, flagpole, or tree.

**Concept Plan** – The initial map and supporting documentation submitted by a subdivision applicant for use by the Planning Department, other agencies, and the public. This map will show general concepts and layout of streets, lots, open space, environmental constraints, and major easements for utilities or other associated common use such as drainage or pedestrian access. The Concept Plan is less detailed than the First Plat, which follows sequentially in the subdivision process.**Conditional Zoning**- A Legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.**Conditional Zoning District** – A zoning district in which the development and the use of the property included in the district is subject to the predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property.

**Condominium** – A form of property ownership whereby the owner gains ownership of an interior space within a building. The building structure, the land under the building, and all of the surrounding land is commonly owned by all the inhabitants on a proportional basis.

**Congregate Care Facility** – A facility providing shelter and services for ambulatory individuals at least 55 years of age who by reason of their age, functional impairment, or infirmity may require meals, housekeeping and personal care assistance. Congregate Care Facilities do not include nursing homes or similar institutions devoted primarily to the care of the chronically ill or the incurable.

**Conservation Development** – A net density approach where lot sizes are reduced and the land that is saved through such reductions is preserved as open space on separate lots owned and maintained through a homeowners’ association, a nonprofit land conservancy, or a unit of state or local government.

**Construction Plan** – This map is similar to the First Plat, but will be more refined and detailed in certain cases where outside agency permits required minor changes. This plan will be submitted with outside agency permits issued.

**Corner Lot** – A lot abutting two or more streets at their intersection. The front of the lot shall be the portion on the highest-order road, or when road types are equal, the length with the most frontage. Where there are equal frontage portions the owner shall designate the front.

**Cul-de-sac** – A street with only one end open to traffic and the other end being permanently terminated and a vehicular turnaround provided for the safe and convenient reversal of traffic movement. Length is measured from the center point of the turnaround to the center line of the connecting non-cul-de-sac street.

**Db(A)** – Sound level in decibels determined by the “A” weighting scale of a standard sound level meter having characteristics defined by the American National Standards Institute (ANSI) Publication ANSI, S14-1971.

**Dedication** – The object or the act of an owner offering property or property rights to the public. Since a transfer of property rights is involved, dedications must be made by written recordable instruments.

**Development-** The planning for or carrying out of a building activity, the making of a material change in the use or appearance of any structure or property, or the dividing of land into two or more parcels. When appropriate to the context, “development” refers to the planning for or the act of developing or to the result of development. **Developer** – The owner of land proposed to be used, or his representative. Consent shall be required from the legal owner of the premises.

**Directional Sign** – A sign which has use incidental to the use of the zone lot on which it is located, such as “no parking”, “entrance”, “loading only”, “telephone”, and other similar directives, and may include certain signs with commercial messages that are not legible from a location off the lot.

**District** – Any section of the zoning jurisdiction in which zoning regulations are uniform.

**Double-front Lot** – A continuous (through) lot which is accessible from both streets upon which it fronts.

**Dwelling**- Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home, mobile home, or recreational vehicle if used solely for a seasonal vacation purpose.

**Dwelling Unit** – A single unit, or a portion of a multi-family dwelling, providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**Duplex** – See two-family dwelling.

**Easement** – The right to use another person’s property, but only for a limited and specifically named purpose. The owner generally continues to make use of such land since he has given up only certain, and not all, ownership rights.

**Electronic Gaming Operations** - Businesses or enterprises where persons utilize electronic machines (including but not limited to computers and gaming terminals) to conduct games of chance or sweepstakes, and where cash, merchandise or anything else of value is redeemed or otherwise distributed or placed on an account or other record, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines/operations, cybercafés, business centers, or by whatever other terminology such establishment might be known. Electronic gaming operation does not include any lottery-related activity approved by the State of North Carolina.

**Environmental Impact Statement** – A document that must be prepared pursuant to the National Environmental Policy Act of 1969, or the North Carolina Policy Act of 1971, regarding proposed federal or certain state actions respectively that significantly affect the quality of the human environment.

**Establishment** – Any place, land, building or structure on which or in which there is operated or maintained a business or going concern.

**Events Center, Limited** – A venue to allow for various gatherings such as weddings, receptions, arts and crafts shows, corporate meetings, outdoor movies (no drive-ins), etc. on a smaller scale and which can be indoor or outdoor or a combination thereof. Please refer to Section 2.15.7 of this Ordinance for further standards. All other standards of this Ordinance shall also apply.

**Exempt Sign** – Any sign which is specifically listed as exempt from all or portions of this Ordinance. Said listed exempt signs are not regulated by the terms of this Ordinance and shall not require a permit.

**Exempt Subdivision** – Certain kinds of land division not covered by the subdivision regulations of this Ordinance; See Section 3.3(C) for details.

**Family** – One or more persons occupying a dwelling unit and living as a single household.

**Family Care Home** – A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment.

**Family Subdivision** – Family subdivision means one or more divisions of a tract of land (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives of direct lineage, or to the surviving spouse, if any, of any deceased lineal descendant, as a gift for nominal consideration, but only if no more than one parcel from such tract is conveyed by the grantor to any one relative or such relative's surviving spouse; or (b) to divide land from common ancestor among tenants in common, all of whom inherited by intestacy or by will. This provision shall apply only where the grantor or decedent already owned the land so divided before January 1, 1994.

**Farming** – See Agriculture.

**Fast Track** – An expedited review procedure for projects that meet certain criteria.

**Fence** – A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material used as a boundary or means of protection or confinement, but not including a hedge or other natural growth.

**Final Plat** – The map or plan of record of a subdivision and any accompanying material, as described in these regulations.

**First Plat** – This is a map and supporting documentation in sufficient detail to satisfy all review requirements and begin the process of applying for outside permits once it is approved. This document follows the Concept Plan and is followed by the Construction Plan in the subdivision process.

**Flashing Sign** – A sign illuminated by direct or indirect artificial light that flashes on and off in regular or irregular sequence, including but not limited to strobe light.

**Flood Hazard Area** – The minimum area of the flood plain that, on the average, is likely to be flooded once every 100 years (i.e. that has a 1% chance of being flooded each year) as identified by the maps of the National Flood Insurance Program.

**Forestry Plan** – A document related to the management of forest resources, generally written by a North Carolina State Forester or a Certified Forestry Consultant. Such plan shall include forest management practices to ensure both maximum forest productivity and environmental protection of the lands to be treated under the management plan (see NCGS Section 113A-178).

**Freestanding Sign** – A non-movable sign which is entirely supported by one or more uprights, poles, braces or base in or upon the ground, and which is not part of a building.

**Frontage** – The side of a lot abutting on a street.

**Front Setback** – Any setback from a street or road, as measured from the edge of the public right-of-way or edge of access easement.

**Garage (Business)** – Any establishment or place of business which is maintained and operated for the primary purpose of making mechanical and/or body repairs to motor vehicles, and which may store as many as six motor vehicles that are not capable of being driven under their own power and are not being restored to operable condition, regardless of the length of time that individual motor vehicles are stored or kept at the property. If the Garage is listed as a business in the Tax Assessor's Office by January 31 of each year and consists of two acres, six additional vehicles as described herein may be allowed.

**Garage (Residential Accessory Use)** – An enclosed space, whether attached to the primary residence or detached, used primarily for the storage of the residents' vehicles and other personal property.

**Governmental Sign** – Any sign erected by or on the order of an authorized public official which includes, but is not limited to, traffic control signs, street name and identification signs, warning and directional signs, public notices or signs of a similar nature.

**Grade** – The slope of a road, street, etc., specified in percentage terms. Alternately used to indicate the profile or height of the ground at a particular point (e.g. at the point where a sign pole attaches to the ground, or around the perimeter of a building).

**Green Space** – Natural undeveloped areas such as pastures, farmland, forests, wetlands, and lakes. Green space may also include landscaped perimeters and green landscape reserves along thoroughfares.

**Ground Sign** – A freestanding sign flush to the ground and not elevated upon poles or stanchions, and not attached to a building.

**Guest House, Pool House, or Garage Apartment** – See Accessory Dwelling Unit.

**Health Department** – The agency and person designated to administer local health regulations. This is the Chatham County Health Department.

**Home Occupation** – Any use conducted on residential premises and carried on by the occupants thereof, and which use is incidental and secondary to the use of the premises for residential purposes and does not change the character thereof.

**Horizontal Plan** – Part of the concept process; it is a map of the site in two dimensions showing where environmental constraints such as flood zones and access exist, and then the conceptual map of the new development is shown for the site. This differs from a full-blown plan in that simple

spatial data (such as those used by the Chatham County Geographic Information Systems Department) are sufficient, and engineering-level data such as surveyed topography in three dimensions and a higher level of precision are not necessary.

**Hotel (also motels and inns)** – Structures/buildings with individual rooms for rent. Rooms may include suites with kitchenettes for extended stays and may provide area for eating and drinking establishments and personal service facilities within the principal structure.

**Individual Sewage Treatment Facility or Individual Septic System** – A sewage disposal system developed to function on an individual lot basis. A septic tank, seepage tile sewage disposal system, or any other approved sewage treatment device.

**Informational Sign** – Any sign which contains no commercial or advertising message that is located on-site providing information as required by regulatory authorities and/or other public entity. These include, but are not limited to, “No Parking”, “Loading/Unloading Zone”, “Keep Off Grass” and “No Smoking.”

**Interior Lot** – A lot other than a corner lot with frontage only on one street.

**Junk** – Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, refrigerators, stoves, household appliances, salvaged building materials, salvaged machinery parts, dismantled or wrecked automobiles, or parts thereof, iron and steel and other scrap ferrous or non-ferrous material.

**Junked Motor Vehicle** – A motor vehicle that does not display a current license plate and is one of the following: (1) partially dismantled or wrecked; (2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or (3) more than five years old and appears to be worth less than \$500.00.

**Junk/Salvage Yard** – Any land or area used, in whole or in part, for the storage, keeping, or accumulation of material, scrap metals, waste paper, rags, or other scrap materials, or used building materials or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. An establishment or place of business which stores or keeps, for a period of 90 days or more, materials within the meaning of “junk” as defined above which had been derived or created as a result of industrial or commercial activity shall be deemed a junk yard within the meaning of this Ordinance. A junk yard shall be presumed to have been created when an area of 600 square feet or more of “junk” materials are kept or stored at any given place, whether for profit or not. Materials enclosed in closed buildings, solid waste containers, or rolling stock (rail cars, trailers, or other containerized bodies not intended or designed to be self-propelled) are excluded.

**Land Clearing and Inert Debris Landfill** – Land areas of greater than one-half acre in size, for the deposit of inert materials and land clearing materials including gravel, rocks, stumps, soil (not contaminated by petroleum products), unpainted and untreated building materials such as bricks, concrete blocks and lumber. Personal home-owners use of inert debris landfill materials (beneficial

fill) not to exceed two (2) acres in size be exempt from requiring a Special Use Permit. Commercial inert debris landfills or any that exceed two (2) acres in size will require a Special Use Permit.

**Land Use Plan** – The Town of Goldston Land Use Plan.

**Live-Work Unit** – See Mixed Use Building.

**Local Road** – A road which primarily provides access to adjacent land and for travel over relatively short distances.

**Lot** – A portion of a subdivision or any other parcel of land intended as a unit for transfer or ownership or for development or both. The word “lot” includes “plot”, “parcel”, or “tract.”

**Lot Area** – The total horizontal area included within lot lines.

**Lot Area (Useable for Septic)** – Lot area suitable for septic fields. The area within the lot lines which is a contiguous area suitable for a septic field, well, house and access. This area does not include areas such as public rights-of-way, land on the opposite side of a public right-of-way, land on the opposite side of a public right-of-way from the house site on the lot, land within the water hazard area or floodway from the house site on the lot.

**Lot Depth** – The distance along the perpendicular bisector of the lot.

**Lot Improvement** – Physical changes made to raw land and structures on or under the land surface in order to make the land more useable for man’s activities. Typical improvements in these regulations would include but not be limited to grading, street pavement, drainage ditches, and street name signs. Certain lot improvements shall be properly bonded as provided in these regulations.

**Lot of Record** – A lot, plot, parcel or tract recorded in the Office of the Register of Deeds in conformance with the ordinance in effect at the time of recording.

**Lot Width** – The width measured at right angles to its depth at the widest point of the lot.

**Major Collector** – A road which serves major inter-county travel corridors and traffic generators and provides access to the arterial system.

**Major Subdivision** – All subdivisions not classified as minor subdivisions, consisting of 6 or more lots, or any size subdivision requiring any new street, or extension, or the creation of any public improvements.

**Major Utility** – All utility facilities other than minor utilities. Includes public utilities serving regional areas and public utility service and storage yards. Examples include, but are not limited to, electrical substations and wastewater treatment plants. This definition excludes public utility transmission lines.

**Manufactured Dwelling or Manufactured Home** – A dwelling that (1) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and

designed to be transported to the home site on its own chassis; (2) exceeds 40 feet in length and eight feet in width; (3) is constructed in accordance with the National Manufactured Home Construction and Safety Standards; and (4) is not constructed in accordance with the standards of the North Carolina Uniform Residential Building Code for one- and two-family dwellings.

**Manufactured Home, Class A** – A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria: (1) The manufactured home has a length not exceeding four times its width; (2) The pitch of the manufactured home’s roof has a minimum vertical rise of two and two tenths feet for each twelve feet of horizontal run (2.2 feet in 12 feet) and the roof is finished with shingles; (3) The exterior siding consists predominantly of vinyl or aluminum horizontal siding, wood or hardboard; and (4) A continuous permanent masonry curtain wall or foundation, unpierced except for ventilation and access, is provided and removable towing apparatus and transporting lights are removed after final placement on the site.

**Manufactured Home, Class B** – A manufactured home constructed after July 1, 1976, that meets or exceeds the standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, but which does not meet the definition of a Class A manufactured home.

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

**Mining** - The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, metals, ores, soils, and other solid matter from their original location; and the preparation, washing, cleaning, or other treatment of minerals, metals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use. This definition includes hard mining where extraction or removal includes explosives and soft mining where the extraction and removal does not include blasting or explosives.

**Minor Arterial** – A link in a network joining cities and larger towns and providing intrastate and inter-county service at relatively high (55 miles per hour) overall travel speeds with minimum interference to through movement. The network would primarily serve through traffic.

**Minor Collector** – A road which provides service to small local communities and links with locally-important traffic generators with their rural hinterland.

**Minor Subdivision** – Any subdivision containing 5 lots or less, fronting on an existing public street, not involving any new streets or roads, or the extension or creation of any public improvements.

**Minor Utility** – Any above-ground structures or facilities owned by a governmental entity, a nonprofit organization or corporation used in connection with the transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Minor utilities are



necessary to support development within the immediate vicinity and involve only minor structures. Examples include, but are not limited to, pump stations, community well houses and above ground utility cabinets. Excepted from this definition are major utilities.

**Mixed Use Building** – Small commercial enterprises with the ground floor (and optionally second floor) occupied by commercial uses and a residential unit or units above. Commercial space may be a home-based business or may be leased independently.

**Mobile Home** – A residential dwelling unit, designed for transportation after fabrication on its own wheels or on flatbeds, or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy except for minor and incidental unpacking and assembly operations; including but not limited to, location on jacks or other temporary or permanent foundation, and connection to utilities. Travel trailers and campers shall not be considered mobile homes unless used for permanent residence.

**Mobile Home Lot** – Any parcel of ground designated for the accommodation of one mobile home.

**Mobile Home Park** – Any plot of ground, or plots of ground, usually under single ownership, which has been planned and/or improved for the placement of more than three mobile homes for dwelling and/or sleeping purposes.

**Modular Dwelling or Modular Home** – A dwelling constructed in accordance with the standards set forth in the NC State Residential Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Without limiting the generality of the foregoing, a modular home may consist of one or more sections transported to the site on each's own chassis or steel frame, or a series of panels or room sections transported to the site on a truck and erected, assembled, or joined there.

**Monuments** – Markers placed on or in the land. Metal pins not less than  $\frac{3}{4}$  inches in diameter and 18 inches long or concrete monuments 4 inches in diameter or square and 3 feet long.

**Motor Vehicle** – Any vehicle or machine designed or intended to travel over land by self propulsion.

**Multi-family Dwelling** – A residential use consisting of a building designed or constructed to contain more than one dwelling unit, including apartments and condominiums. This definition does not include two-family (duplex) dwellings.

**National Pollutant Discharge Elimination System Permit (NPDES)** – Authorized by the Clean Water Act, this permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

**Non-conforming Building or Structure** – A non-conforming situation that occurs when the height of a structure or the relationship between and existing building or buildings and other buildings or lot lines do not conform to the dimensional regulations applicable to the district in which the property is located.

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

**Non-conforming Sign** – Signs that are erected and in place prior to the adoption of this Ordinance and which do not conform to the provisions of this Ordinance are declared non-conforming signs. A sign that is erected and that is in place and which conforms to the provisions of this Ordinance at the time it is erected, but which does not conform to an amendment to this Ordinance enacted subsequent to the erection of said sign is declared a non-conforming sign.

**Non-conforming Situation** – A situation that occurs when, on the effective date of this Ordinance or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. A non-conforming situation may also occur due to governmental acquisition of property whether voluntary or involuntary. Among other possibilities, a non-conforming situation may arise because a lot does not meet minimum acreage requirements, because structures do not satisfy minimum yard requirements, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this Ordinance, or because land or buildings are used for purposes which are not in conformance with the list of permitted uses for the district in which the property is located.

**Non-conforming Use** – A non-conforming situation that occurs when property is used for a purpose or in a manner not permitted by the use regulations applicable to the district in which the property is located.

**Noncommercial Sign** – Any sign which is not by definition an off-premise sign, off-premise advertising sign, off-premise directional sign, on-premise sign, on-premise advertising sign, or on-premise directional or information sign, and which displays a substantive message, statement or expression that is protected by the First Amendment to the United States Constitution. Noncommercial signs shall not contain any reference to a business or product.

**Non-cul-de-sac Street** – A street with more than one end open to traffic, or which may be opened in the future, such as a stub street.

**Non-discharge Permit** – Permit from the North Carolina Division of Water Quality to allow discharge of processed wastewater onto the land (such as spray irrigation).

**Non-residential Subdivision** – A subdivision whose intended use is other than residential, such as commercial, institutional, or industrial. Any subdivision lot whose intended use is for bona fide farm activities, with no residential component, is included in this definition.

**Nude or A State of Nudity** – The appearance of a human anus, male genitals, or female genitals; or a state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.

**Nude Model Studio** – Any place where a person who appears nude or semi-nude, or who displays specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, filmed, or similarly depicted by other persons who pay money or any other form of consideration. Nude Model Studio shall not include a preparatory school licensed by the State of North Carolina or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation.

**Nursing Home** – An establishment which provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

**Off-premise Sign** – Any sign that advertises or otherwise identifies any property, structure or use not located on the same parcel as the sign.

**Off-premise Advertising Sign** – Any sign advertising a product, service, business, or activity which is sold, located or conducted elsewhere than on the premises on which the sign is located, or which said product, service, business or activity is sold, located or conducted on such premises only incidentally if at all.

**Off-premise Directional Sign** – Any off-premise sign indicating the location of or directions to a business, church, park, historic property, school, or other place of public assembly and shall contain no advertising content.

**Off-site** – Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant requesting subdivision plat approval.

**Official Maps or Plans** – Any maps or plans officially adopted by the Town Board as a guide to the development of the Town. The zoning map and land use plan are examples of an official map and plan, respectively.

**Official Submission Date** – This shall be considered the date of the initial Board Meeting at which a development request or plat is considered for approval. This is not the date upon which the plan is submitted to the Planning Department for review.

**On-premise Sign** – Any sign used for the purpose of displaying, advertising, identifying or directing attention to a business, product, operation, service or activity sold or offered for sale or to other information offered on the premises where the sign is located.

**On-premise Directional Sign** – A sign incidental to the use of the lot on which it is located that provides necessary information to guide traffic, whether vehicular or otherwise, within the site. Any one directional sign shall be no larger than five (5) square feet.

**Opaque** – A substance that cannot be seen through when viewed perpendicularly at the same elevation.

**Open Space** – An area of land and/or water generally lacking in man-made structures and reserved for enjoyment in its unaltered state, or for recreation. Amenities may be active or passive. Examples include but are not limited to: green space both natural and landscaped, detention areas, trails, lakes, pavilions, benches, outdoor cooking facilities, and active recreational activities such as ball and soccer fields, playgrounds and the like.

**Open Structures** – A building or structure, open on all sides and supported by a roof and posts or columns.

**Owner** – A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

**Pennant Sign** – A sign made of lightweight plastic, fabric or other material, whether or not containing a message, suspended from a rope, wire or string, usually in series, designed to move in the wind.

**Person** – Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board or public or private institution, utility, cooperative, interstate body or other legal entity.

**Photovoltaic System** – An active solar energy system that converts solar energy directly into electricity.

**Place of Worship** – A building and/or land primarily used by a non-profit organization for organized religious services and supporting uses.

**Planning Director or Official** – The person or persons designated by the Goldston Town Board to administer and enforce this Ordinance, or other staff designated for particular tasks by the designated Planning Director as necessary.

**Political Signs** – Signs of any political party or announcing the candidacy of any individual for any nomination or office or the position on any election issue.

**Portable or Movable Sign** – A sign with a permanent frame and a display area for changeable copy, designed or intended to be relocated and not permanently affixed to the ground or structure. This shall include signs on wheels, trailers, or any other device which is intended to be moved from one location to another.

**Premises** – A tract of real property in single ownership which is not divided by a public street or right-of-way.

**Primary Live Entertainment** – On-site entertainment by live entertainers that characterizes the establishment, as determined from a pattern of advertising and/or actual performances.

**Principal Arterial** – A link in a network of continuous routes serving corridor movements having trip length and travel density characteristics indicative of substantial statewide or interstate travel

and existing solely to serve traffic. This network would consist of interstate routes and other routes designed as principal arterials.

**Principal Building** – A building in which is conducted the principal use of the lot on which it is located.

**Principal Permitted Use** – Any use listed as a permitted use in any zoning district, except those which by definition or their nature are accessory uses.

**Principal Structure** – A structure in which is conducted the principal use of the lot on which it is located.

**Principal Use Sign** – A sign which constitutes the sole and/or principal use of land.

**Private Street** – An undedicated private right-of-way which affords access to abutting properties or lots according to the standards of this Ordinance, and which may or may not require a street disclosure statement in accordance with the North Carolina General Statutes.

**Public Facilities**- Any improvement created and/or maintained by a public entity, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

**Public Improvement** – Any drainage ditch, roadway, sidewalk, lot improvement or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established.

**Public Sewer** – A system to provide the public with the collection and treatment of wastewater which shall be owned and operated by a county, municipal government, or service district.

**Public Street** – A dedicated public right-of-way in which the roadway has been accepted or constructed to public standards for vehicular traffic based on the most recent North Carolina Department of Transportation minimum construction standards for subdivision roads, but not an alley.

**Public Water** – A system to provide or furnish water to the public which shall be owned and operated by a county, municipal government, or service district.

**Quarrying**- Excavations involving open pits for the extraction of stone, slate, marble, aggregate, lithium, metals, or other minerals or ores from the earth,

**Quasi-Judicial Decision**- A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations.

**Roof Line** – The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

**Rear Setback** – Any interior property line other than a front setback which provides a usable outdoor space.

**Recreation Area or Park** – An area of land and/or water resources that is developed for active and/or passive recreation pursuits with various man-made features that accommodate such activities.

**Recreation Exaction Fee** – A payment in lieu of land dedication paid to the Town to defray the cost of providing recreation services to the new development.

**Recreational Vehicles (RV)** - A Vehicle, or vehicle type portable structure which can be hauled, towed or driven, designed for recreational use (as in camping). Recreational Vehicles are not designed for permanent occupancy. This would include, but is not limited to travel trailers, motor homes, camping trailers, campers, truck and recreational vans. Recreational vehicles are considered domestic vehicles.

**Recreational Vehicle (RV), Park Model** - A vehicle that is built on a single chassis, is 400 sq. feet or less when measured at the largest horizontal projection, is self-propelled or permanently towable by a light duty truck and is generally used as temporary living quarters for recreational, camping, travel, and seasonal use.**Recycling Center** – A temporary or permanent site at which glass, aluminum cans, paper, plastic, clothes or similar materials commonly collected for recycling are collected and moved off-site or kept on-site in buildings, storage bins, solid waste containers, truck trailers and other rolling stock.

**Register of Deeds** – Chatham County Register of Deeds

**Rental Mobile Home** – Mobile homes that are available on a rental or lease basis.

**Reservation** – An obligation to keep property free from development for a stated period of time for the purpose of making the land available for a specified use at a later time.

**Residence** – A house, an apartment, a group of homes, or a single room occupied or intended for occupancy as separate living quarters for one or more humans.

**Residential Subdivision** – A subdivision whose intended use is single- or multi-family residential or duplex development.

**Right-of-way** – A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or for another special use. The usage of the term “right-of-way” for land platting purposes shall mean that every public right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the owner of the property on which such right-of-way is established.

**Road Right-of-way Width** – The distance between property lines measured at right angles to the centerline of a street.

**School** – Any public or private institution for the teaching of children under 18 years of age which is recognized and approved by the State Board of Education or other appropriate licensing boards.

**Semi-Nude** – A state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

**Service Station** – Any establishment which is maintained and operated for the purpose of making retail sales of fuels, lubricants, air, water and other items for the operation and routine maintenance of motor vehicles, and/or for making mechanical repairs, servicing and/or washing of motor vehicles and which is used to store not more than six motor vehicles that are not capable of being driven under their own power and are not being restored to operable conditions regardless of the length of time that individual motor vehicles are stored, or kept at the property. If the Service Station is listed as a business in the Tax Assessor's Office by January 31 of each year and consists of two acres, six additional motor vehicles as described herein may be allowed.

**Setback** – The minimum required horizontal distance between a structure and the property line, street right-of-way line, street centerline or access easement.

**Sexual Encounter Center** – A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration physical contact in the form of wrestling or tumbling between two or more persons when one or more of the persons is in a state of nudity or semi-nude, or activities between two or more persons when one or more of the persons is in a state of nudity or semi-nude.

**Sexually Oriented Business** – An adult arcade, adult media store, adult cabaret, adult motel, adult mini motion picture theater, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center, or any combination of the foregoing (Refer to Section 2.15.8 for general standards).

**Side Setback** – Any interior property line setback other than a rear setback.

**Sign** – Any object, device, display or structure, or part thereof, which is used to advertise, identify, display, direct or attract attention to any object, person, institution, organization, business, product, service, event or location by any means, including but not limited to words, letters, pennants, banners, emblems, trademarks, trade names, insignias, numerals, figures, designs, symbols, fixtures, colors, illumination or projected images or any other attention directing device.

**Sign Area** – Sign area shall be measured by the smallest square, rectangle, triangle, circle or combination thereof, which will encompass the entire advertising copy area, excluding architectural trim and structural members. In computing area, only one side of a double-faced sign shall be considered.

**Single-family Dwelling** – A separate, detached building designed for and occupied exclusively by one family.

**Sleeping Unit-** A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

**Soil and Site Evaluation** – An examination of a site and the soil used in determining the acceptability of the site and the design of the subsurface disposal field. The procedure is set forth in Title 15A of the North Carolina Administrative Code, Chapter 18: Environmental Health.

**Solar Collector** – A device, structure or part of a device or structure (i.e. array, panel, etc.) installed for the sole purpose of the collection, inversion, storage and distribution of solar energy. This device may be roof-mounted or ground-mounted as an accessory use (refer to Section 2.15.6 for general standards).

**Solar Energy** – Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

**Solar Farm** – A use where a series of solar collectors are placed in an area for the purpose of generating photovoltaic power for an area greater than the principal use on the site or as the principal use on the site for off-site energy consumption. The use of solar collectors for personal or business consumption that occurs on-site is not considered a solar farm.

**Specialized Horticulture** – The use of land for the propagation of ornamental plants and other nursery products, such as bulbs, florist greens, flowers, shrubbery, flower and vegetable seeds and plants and sod and fruits and vegetables grown primarily under cover, but does not meet the definition of a bona fide farm.

**Specified Anatomical Areas** – (1) Less than completely and opaquely covered: human genitals, pubic region, buttocks, or female breast below a point immediately above the top of the areola; or (2) human male genitals in a discernably turgid state, even if completely and opaquely covered.

**Specified Sexual Activities** – Includes any of the following: (a) human genitals in a state of sexual stimulation, arousal, or tumescence; or (b) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or (c) sex acts, actual or simulated, including intercourse, oral copulation or sodomy; or (d) masturbation, actual or simulated, or (e) sadomasochistic practices, including but not limited to: flagellation or torture by or upon a person, clothed or naked, or the condition of being fettered, bound, or otherwise physically restrained on the part of one clothed or naked; or (f) erotic or lewd touching, fondling, or other contact with an animal by a human being; or (g) human excretion, urination, menstruation, vaginal or anal irrigation.

**Special Use Permit-** A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgement and discretion be exercised as well as compliance with specific standards. This definition includes permits previously referred to as “conditional use permits” or “special exceptions.”



**Staff** – The professional assistants to the Planning Director and Planning Board.

**Story** – That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it.

**Street Frontage** – That portion of a lot abutting a publicly maintained street or alley.

**Street Line** – The legal line between street right-of-way and abutting property.

**Street Sign** – The sign designating the official name and/or number of the street.

**Structure** – Anything constructed, erected, or placed, including but not limited to buildings, flagpoles, carports, or storage buildings, and which requires location on the land or attachment to something having permanent location on the land. (Note: All buildings are structures, but not all structures are buildings.)

**Stub Street (Stub Out)** – A street with one end open to traffic and one end temporarily closed, with a temporary turn around for the safe and convenient reversal of traffic movement. The end that is temporarily closed shall have access reserved on site for future extension.

**Subdivider** – Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided or who, (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease, or develop, or advertises for sale, lease, or development, any interest, lot, parcel, site, unit, or plat in a subdivision, or who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease or development a subdivision, of any interest, lot, parcel, site, unit, or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

**Subdivision** – A subdivision means all division of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and includes all division of land involving the dedication of a new street or a change in existing street; however, those instances listed under Section 3.3(C) are not subject to the subdivision regulations pursuant to this Ordinance.

**Subdivision Agent** – Any person who represents or acts for or on behalf of a subdivider or developer, in selling, leasing, or developing, or offering to sell, lease, or develop any interest, lot, parcel, unit, site or plat in a subdivision, except an attorney-at-law whose representation of another person consists solely of rendering legal services.

**Subdivision Plat** – The final map or drawing, described in these regulations, on which the subdivision may be submitted to the Register of Deeds for recording.

**Surveyor** – A qualified land surveyor or engineer registered and currently licensed to practice surveying in the State of North Carolina.

**Taxed Value** – The official value assigned to real property by the Chatham County Tax Assessor for ad valorem tax purposes.

**Technical Review Committee** – A committee composed of staff from various departments in town, county, state, and federal government with roles in reviewing subdivision plans.

**Temporary Building** – Any building of an impermanent nature or which is designed for use for a limited time, including any tent or canopy. This includes the use of temporary construction trailers where a building permit has been issued and remains valid during the construction process.

**Temporary Improvement** – Improvements built and maintained by a subdivider during construction of the subdivision and prior to release of any performance bond.

**Temporary Sign** – Any non-permanent sign designed to advertise a business or event (non-profit or for-profit) for a limited period of time. These can include portable signs, signs placed in or on the ground, or signs placed on a vehicle. These do not include political signs as specified in Section 2.13.4(J) of this Ordinance.

**Temporary Structure** – Any structure of an impermanent nature or which is designed for use for a limited time, including any tent or canopy. This includes the use of temporary construction trailers where a building permit has been issued and remains valid during the construction process.

**Town Board** – The governing board of the Town of Goldston.

**Townhouse or Townhome** – Attached dwelling units with ground level access and their own individual lots.

**Travel Trailer** – A structure that is (1) intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle), and (2) is designed for temporary use as sleeping quarters, but that does not meet the definition of a manufactured home.

**Two-family Dwelling (Duplex)** – A building arranged and designed to be occupied by two families living independently of each other.

**Unit** – A building or structure or portion thereof designed, arranged or used for living quarters for one family.

**Unobstructed** – Free of obstacles that delay, impede, or hinder passage and/or access. An unobstructed roadway allows the two-way movement of vehicles, free of on-street vehicular parking and other obstacles.

**Use** – The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased.

**Variance** – Official permission from the Board of Adjustment to depart from the requirements of this Ordinance.

**Vectors** – An organism that carries disease-causing microorganisms from one host to another (e.g. rats, mosquitos and the like).

**Vested Right** – The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan or an approved phased development plan. Refer to the North Carolina General Statutes Section 160D- 108 for more information.

**Visible** – Capable of being seen without visual aid by a person of normal visual acuity.

**Warning Sign or Danger Sign** – A sign erected by a public utility or construction company to warn of hazardous conditions.

**Water Hazard Area** – The area adjacent to continuously flowing waterways and intermittent streams as designated on the most recent USGS quadrangle sheets which due to its proximity to the waterway, soils and/or other topographic information is deemed not suitable for structures or septic fields due to potential water pollution.

**Wireless Facility or Wireless Facilities** – The set of equipment and network components, exclusive of the underlying Wireless Support Structure, including but not limited to antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling and associated equipment necessary to provide wireless telecommunications services.

**Wireless Support Structure** – A freestanding structure, such as a monopole or tower, designed to support Wireless Facilities. This definition does not include utility poles.

### **1.3 – Severability**

It is the legislative intent of the Town Board in adopting this Ordinance that all provisions and sections thereof shall be liberally construed to protect and preserve the health, safety, and general welfare of the inhabitants of the Town of Goldston and, further, that should any provision, portion, section, or subsection of this Ordinance be held to be invalid by a court of competent jurisdiction, such ruling shall not be construed as affecting the validity of any of the remaining provisions, portions, sections, or subsections, it being the intent of the Town Board that this Ordinance shall stand, notwithstanding the invalidity of any provisions, section or part thereof.

### **1.4 – Conflict with Other Laws**

Whenever the regulations of this Ordinance conflict with the requirements of another statute, the more restrictive standard shall apply.

### **1.5 – Effective Date**

This Ordinance shall be in full force and effect from and after the 4<sup>th</sup> day of January 2021.

## **CHAPTER 2: ZONING**

### **2.1 – Jurisdiction**

The zoning regulations set forth in this Ordinance shall apply within the Town of Goldston, as well as any extraterritorial jurisdiction that is established by the Town of Goldston in accordance with North Carolina General Statutes Chapter 160D Articles 1 through 14.

### **2.2 – Bona Fide Farm Exemption**

The zoning regulations in this Ordinance shall in no way regulate, restrict, prohibit or otherwise deter or affect property used for bona fide farm purposes that is located outside the limits of the Town of Goldston but within a defined extraterritorial jurisdiction of the Town, per North Carolina General Statute 160A-360(k). For purposes of determining whether a property is being used for bona fide farm purposes, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

- a. A farm sales tax exemption certificate issued by the Department of Revenue.
- b. A copy of the property tax listing showing that the property is eligible for participation in the present use value program pursuant to NCGS Section 105-277.3.
- c. A copy of the farm owner’s or operator’s Schedule F from the owner’s or operator’s most recent federal income tax return.
- d. A forest management plan.

### **2.3 – Districts Established**

In order to achieve the purposes of this Ordinance as set forth above, the jurisdictional area subject to this Ordinance is hereby divided into general use districts of which there shall be 8 with the designation and purposes as listed below:

#### **R-2 Residential District**

Primarily for low-density residential development to protect water supply watersheds

#### **R-1 Residential District**

This district is primarily for low to moderate density residential development within the residential/agricultural areas of the jurisdiction

#### **R-15 Residential District**

This district is primarily for moderate-density residential development within the more densely-developed areas of the jurisdiction

#### **R-MF Multi-family Residential District**

This district is intended for multi-family residential developments with three or more attached dwelling units

#### **O&I Office and Institutional District**

Primarily intended for office and institutional uses, along with residences

### **C-1 General Commercial District**

Intended for retail trade and consumer services dealing with the general public.

### **CB-1 Central Business District**

Intended to support the small-town urban form found in downtown Goldston, as well as promoting redevelopment that will make the downtown business core a more diverse and vibrant mixed-use place. This district supports the historic scale and character of development having no minimum requirements for setbacks or parking.

### **IL Light Industrial District**

Primarily for wholesale activities, warehouses, and light manufacturing operations which do not involve heavy processing activities and which are not likely to create noise, smoke, dust, vibration, heat, odor or other obnoxious effects, controlled or uncontrolled.

### **IH Heavy Industrial District**

Primarily for manufacturing operations involving heavy manufacturing processes such as dyeing, chemical mixing, melting and stamping, but which control such processes so as not to exceed the environmental performance standards of this Ordinance. IH also permits all uses as permitted in the IL district.

## **2.4 – Conditional Zoning Districts**

Conditional zoning districts (bearing the designation CD) correspond to the general purpose zoning districts and to the mixed use district authorized in this ordinance.

### **2.4.1 – Purpose**

Conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property.

Some land uses are of such a nature or scale that they have significant impacts on both the immediate surrounding area and on the entire community, which cannot be predetermined and controlled by general district standards. The review process established in this Ordinance provides for accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with neighboring properties. A conditional zoning district is not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved land use plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.

### **2.4.2 – Conditional Zoning Districts**

#### **Residential Districts**

The following districts are identical to the corresponding residential districts, except that approval of a conditional zoning district is required as a prerequisite to any use or development, as provided for in this Ordinance:

CD-R-2  
CD-R-1  
CD-R-15  
CD-R-MF

**Office, Institutional and Commercial Districts**

The following districts are identical to the corresponding commercial districts, except that approval of a conditional zoning district is required as a prerequisite to any use or development, as provided for in this Ordinance:

CD-O&I  
CD-CB-1  
CD-C-1

**Industrial Districts**

The following districts are identical to the corresponding commercial districts, except that approval of a conditional zoning district is required as a prerequisite to any use or development, as provided for in this Ordinance:

CD-IL  
CD-IH

**Mixed Use District**

Approval of a conditional zoning district shall be required as a prerequisite to any use or development, as provided for in this Ordinance, for the following district:

CD-MU Mixed Use – a mixed use development that provides for an integration of diverse but compatible uses into a single development

**2.4.3 – General Requirements**

Property may be rezoned to a conditional zoning district only in response to and consistent with an application submitted in compliance with Section 2.4.

A. Application

Rezoning to a conditional zoning district shall only be considered upon request of the property owner or the authorized agent of the owner. In addition to the documents specified in Subsection B below, all applications shall also contain the following information:

1. The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment, with a detailed explanation of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same.
2. The changed or changing conditions, if any, of the area or in the Town generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.
3. The manner in which the proposed amendment will carry out the intent and purpose of any adopted plans or part thereof.

4. The requested amendment is either essential or desirable for the public convenience or welfare.
  5. All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
  6. Information required on the application form received from the Planning Department.
- B. Plans and other information to accompany application
- (1) The application shall include a site plan, drawn to scale, with supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to the predetermined ordinance requirements, will govern the development and use of the property. The following information must be provided, if applicable:
    - a. Information showing the boundaries of the proposed property as follows:
      - i. If the entire parcel will be zoned, a GIS or survey map and parcel number of the subject property.
      - ii. If only a portion of the parcel will be zoned, a boundary survey and vicinity map showing the property's total acreage, parcel number, current zoning classification(s) and the general location in relation to major streets, railroads, and/or waterways.
    - b. Legal description of proposed conditional zoning district
    - c. All existing and proposed easements, reservations, and rights-of-way
    - d. Proposed number and general location of all building sites, their approximate location, and their approximate dimensions
    - e. Proposed use of all land and structures, including the number of residential units and the total square footage of any nonresidential development
    - f. All yards, buffers, screening, and landscaping required by these regulations or proposed by the applicant
    - g. All existing and proposed points of access to public and/or private streets
    - h. Stream buffers required through this or other ordinances or regulations of local, state, or federal regulatory agencies. Delineation of areas within the regulatory floodplain as shown on the Official Flood Insurance Rate Maps for Chatham County
    - i. Proposed phasing, if any
    - j. Generalized traffic, parking, and circulation plans
    - k. Proposed provision of utilities
    - l. The location of known sites of historic or cultural significance within or adjacent to the project area, including any structure over 50 years old
    - m. The approximate location of any cemetery
    - n. Proposed number, location, and size of signs
    - o. Location and description of any proposed lighting on the project site with a note that any lighting will comply with Section 2.11
    - p. The location of existing and/or proposed storm drainage patterns and facilities intended to serve the proposed development, and impervious surface calculations.

- (2) The Planning Department has the authority to waive any application requirement where the type of use or scale of the proposal makes providing that information unnecessary or impractical.
- (3) In the course of evaluating the proposed use, the Planning Department, Planning Board, or Town Board may request additional information from the applicant. This information may include, but not be limited to, the following:
  - a. Proposed screening, buffers, and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features
  - b. Existing and general proposed topography
  - c. Scale of buildings relative to abutting property
  - d. Height of structures
  - e. Exterior features of the proposed development
  - f. A traffic impact analysis of the proposed development prepared by a qualified professional. The traffic impact analysis shall follow the NCDOT TIA Analysis Guidelines, and shall also include consideration for non-motorized and public transportation
  - g. Any other information needed to demonstrate compliance with these regulations.
- (4) The site plan and any supporting text shall constitute part of the application for all purposes under this section.

#### **2.4.4 - Uses Within District**

Within a conditional zoning district, only those uses listed (or determined to be equivalent uses) as permitted uses or Special Uses in the corresponding zoning district shall be permitted, and no use shall be permitted except as a Special Use subject to approval of a conditional zoning district rezoning authorized by the Town Board as provided herein.

#### **2.4.5 - Conditions**

Specific conditions may be proposed by the petitioner or the town or its agencies, but only those conditions mutually approved by the town and the petitioner may be incorporated into the zoning regulations. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to the town's ordinances, plans adopted pursuant to G.S. 160D-5-1, or the impacts reasonably expected to be generated by the development or use of the site.

In approving a reclassification of property to a conditional zoning district, the Planning Department and Planning Board may recommend, and Town Board request, that reasonable and appropriate conditions be attached to approval of the rezoning. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Town Board may find appropriate or the applicant may propose. Such conditions to approval of the rezoning may include dedication to the Town, County, or State, as appropriate, of any rights-of-way or easements for



roads, water, or other public utilities necessary to serve the proposed development. Property may be placed in a conditional zoning district only in response to a petition by the owners of all the property to be included. Specific conditions applicable to the district may be proposed by the petitioner or the town, but only those conditions approved by the town and consented to by the petitioner in writing may be incorporated into the zoning regulations or permit requirements. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Town Board.

#### **2.4.6 – Non-compliance with District Conditions**

Any violation of a use or condition included in the approval of a conditional zoning district shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation. Any violation of such a condition shall be deemed to be the same type of violation as the use of a property for a use not permitted under the district regulations, for the reason that any use permitted in a conditional zoning district is permitted only subject to the specified conditions.

#### **2.4.7 – Procedure**

Applications for new conditional zoning districts or expansion of existing conditional zoning districts shall be processed, considered, and voted upon using the following procedure. Before filing an application for a conditional zoning district, the applicant(s) is encouraged to meet with the Planning Director or his/her designated staff to discuss the nature of the proposed reclassification, the standards for development under the existing and proposed classifications, and concerns that persons residing in the vicinity of the property may have regarding the proposed reclassification, if known.

##### **A. Community Meeting**

- (1) The applicant is required to hold a community meeting prior to the application deadline for a conditional zoning district rezoning. The applicant shall provide mailed notice of the meeting. Properties are abutting even if separated by a street, railroad, public or private right of way, or other transportation corridor.
  - a. Notice of the meeting shall be provided to owners of abutting property, as listed with the Chatham County Tax Department, and include properties directly across a street, easement or public or private right-of-way.
  - b. Notice may be sent to additional properties by the applicant.
  - c. At a minimum, the notice shall be sent by standard mail and be postmarked at least fourteen (14) days prior to the date of the community meeting. Additional types of notice may be provided by the applicant.
- (2) A written report of the community meeting shall be included as part of the application packet.
  - a. The written report of the meeting shall include a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the time, date, and location of the meeting, a roster of the persons in attendance at the

meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning application made by the applicant as a result of the meeting.

- b. In the event the applicant has not held at least one meeting pursuant to this subsection, the applicant must file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of the meeting held or a report filed pursuant to this subsection shall be considered by the Town Board, but shall not be subject to judicial review.
- (3) Revisions to existing conditional zoning districts and existing Special Use Permits shall not require a community meeting if the physical boundaries of the district or permit are not proposed to be expanded.

#### B. Submittal to Planning Department

- (1) A completed application and supporting information shall be submitted to the Planning Director or his/her designated staff at least forty-five (45) days prior to the Public Hearing. A digital copy of the application and all accompanying materials shall be submitted pursuant to any guidelines developed by the Planning Department for digital documents.
- (2) The Planning Director or his/her designated staff shall, before scheduling the public hearing, ensure that the application contains all the required information as specified in Section 2.4.
- (3) The Planning Department shall have fifteen (15) days from the date of submittal to notify the applicant that the application is complete for scheduling the public hearing.
  - a. If the Planning Department determines the information is not sufficient for review, the Planning Department shall notify the applicant of the specific information that is required for review.
  - b. The Planning Department shall take no further action on the application until the applicant submits the required information.
  - c. Once the applicant corrects the identified deficiencies, the applicant shall resubmit to the Planning Department at least 45 days prior to the next public hearing meeting, and the Planning Department shall have 15 days to review the information and notify the applicant that the information is sufficient for review.
  - d. A determination that an application contains sufficient information for review as provided in this subsection (b) does not limit the ability of other Town agencies, the Planning Board or the Town Board to request additional information during the review process.
- (4) The application is reviewed by the Technical Review Committee prior to the public hearing for comments and recommendations from other agencies.

#### C. Joint Public Hearing by Town Board and Planning Board

- (1) The Goldston Town Board and Planning Board shall receive public comment on conditional zoning district applications in a public hearing at a regularly-scheduled Town Board meeting.
- (2) The lack of quorum of the Planning Board at such meetings shall not affect the proceedings nor require further hearings.

- (3) Notice of the public hearing shall be given according to state law. At a minimum, the following notice shall be provided:
  - a. A notice of the public hearing shall be prominently posted on the site proposed for the conditional zoning district or on an adjacent public street or highway right-of-way. When multiple parcels are included in the proposed conditional zoning district, a posting on each individual parcel is not required, but sufficient notices shall be posted to provide reasonable notice to interested parties.
  - b. Mailed notice shall be sent to adjoining properties pursuant to state law.
  - c. Published notice of the hearing shall be given pursuant to state law.
- (4) The Town Board may continue the public hearing in order to receive more public input or requested information from the applicant.

D. Planning Board and Town Board Action

Once the public hearing is closed by the Town Board, the Planning Board and Town Board shall review the application pursuant to the procedure outlined in Sections 2.17.6 through 2.17.11.

**2.4.8 – Effect of Approval**

- A. If an application for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and the zoning maps.
- B. If an application is approved, only those uses and structures indicated in the approved application and site plan shall be allowed on the subject property. A change of location of any structures may be authorized pursuant to Section 2.4.9.
- C. Following the approval of a rezoning application for a conditional zoning district, the subject property shall be identified on the zoning map by the appropriate district designation.
- D. Any conditional zoning district shall have vested rights pursuant to Section 2.17.11.

**2.4.9 – Alterations to Approval**

- A. Except as provided in Section 2.4.9(B), changes to the approved conditional zoning district application or to the conditions attached to the approval shall be treated the same as a new application for a conditional zoning district and shall be processed in accordance with the procedures in Section 2.4.7.
- B. The Planning Department shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. Any changes that increase the intensity of the development are limited for nonresidential development to 10% of the approved building square footage or 5,000 square feet,

whichever is less. For residential development, increases in density are not allowed as an administrative change.

- C. The Planning Department shall always have the discretion to decline to exercise the delegated authority because a rezoning application for a public hearing and Town Board action is deemed appropriate under the circumstances. If the Planning Department declines to exercise this authority, then the applicant can only file a rezoning application for a public hearing and Town Board decision.

## **2.5 - Official Maps Adopted, District Boundaries Established**

### **2.5.1 - Zoning Map**

The location and boundaries of zoning districts shall be as kept in spatial databases entitled “Zoning” and “Zoning Overlays” that are maintained by the Planning Director or his/her designee as part of a Geographic Information System (GIS). This depiction of zoning boundaries along with additional reference data in the GIS shall constitute the Official Zoning Map for the Town’s zoning jurisdiction, and is adopted into this Ordinance by reference. The Town Clerk, as applicable, may upon validation by the Planning Department or designee, certify a paper copy of the Official Zoning Map, or a portion thereof, under the authority of NCGS 160D-105.

The Planning Director, or designee, shall revise the Official Zoning Map when amendments are passed by the governing body in accordance with Section 2.17, Amendment to Zoning Ordinance. The Planning Director, or designee, shall correct errors in the map as they are discovered.

No unauthorized person may alter or modify the Official Zoning Map. Errors in the Official Zoning Map shall be corrected as they are discovered, and the corrected information shown on the GIS system.

The Planning Director, or designee, may authorize printed copies of the Official Zoning Map to be produced, and shall maintain digital or printed copies of superseded versions of the Official Zoning Map for historical reference.

### **2.5.2 - Interpretation of Boundaries**

The Planning Director, or designee, may authorize periodic changes to the boundaries of the Official Zoning Map in conformance with this section. Interpretations of zone boundaries may be appealed to the Board of Adjustment.

#### **A. Boundaries that Follow Lot Lines**

- (1) A boundary shown on the Official Zoning Map as following a lot line or parcel boundary shall be construed as following the lot line or parcel boundary as it actually existed at the time the zoning boundary was established, as shown on maps submitted or used when the boundary was established.
- (2) If, subsequent to the establishment of the zoning boundary, a minor property line adjustment is made, such as from the settlement of a boundary dispute, the zoning

boundary shall be construed to move with the lot line or parcel boundary if the adjustment is less than ten feet.

**B. Boundaries that Do Not Follow Lot Lines**

- (1) Where the ordinance establishing a zoning boundary identifies the boundary as following a particular natural feature such as a ridgeline, contour line, a river, stream, lake or other water course, or reflects a clear intent that the boundary follow the feature, the boundary shall be construed as following that feature as it actually exists. If, subsequent to the establishment of the boundary, such natural feature should move as a result of natural processes (slippage, subsidence, erosion, flooding, sedimentation, etc.), the boundary shall be construed as moving with the natural feature.
- (2) A boundary shown on the Official Zoning Map as approximately following a street or railroad line shall be construed as following the centerline of the street or railroad right-of-way. If, subsequent to the establishment of the boundary, the centerline of the street or railroad right-of-way should be moved as a result of its widening or a minor realignment (such as at an intersection), the boundary shall be construed to move with the centerline only if the centerline is moved no more than 25 feet.
- (3) A boundary shown on the Official Zoning Map as approximately parallel to, or as an apparent extension of, a feature described above shall be construed as being actually parallel to, or an extension of, the feature.
- (4) If a zoning boundary splits an existing lot or parcel, the metes and bounds description, if one was submitted at the time the zoning boundary was established, shall be used to establish the boundary.
- (5) If the specific location of the boundary cannot be determined from application of the above rules to the Official Zoning Map, it shall be determined by scaling the mapped boundary's distance from other features shown on the map.

### **2.5.3 - Incorporation by Reference**

Development Regulations adopted pursuant to G.S. 160D-105(b) may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by state and federal agencies. For these maps, a regulation text or zoning map may reference a specific officially adopted map or may incorporate by reference the most recent officially adopted version of such maps.

## **2.6 – General Zoning Provisions**

The following general provisions shall apply in all situations unless otherwise indicated.

### **2.6.1 – Relationship of Buildings to Lot**

Every building hereafter erected, moved or placed shall be located on a lot and in no case shall there be more than one principal residential building on a lot except as follows:

- A. There may be more than one single-family detached residential unit on a lot if the average area of the property per residence is greater than 10 acres and the residential units are situated in such a manner that the distance between units shall not be less than the

applicable setback distances required under this Ordinance for residential units situated upon adjoining lots.

- B. More than one building of single-family attached or detached units, where permitted, may be constructed on one lot provided:
  - a. The applicable zoning requirements of lot size and building setbacks are met,
  - b. A building permit is issued prior to construction,
  - c. A preliminary subdivision plat is submitted and approved prior to construction,
  - d. The final plat is prepared and final approval certified by the appropriate agencies,
  - e. The property is subdivided according to the Town's regulations prior to the sale of the individual buildings or units, and
  - f. A certificate of occupancy is issued prior to occupancy.
- C. Regulation of Recreational Vehicles (RV's).
  - a. Recreational Vehicles are permitted to be stored unoccupied on residential lots. Such storage of the Vehicle shall not be within any required setback. The unoccupied vehicle may not be used to store any materials, items, pets, farm animals, and the like. Recreational vehicles are not designed nor intended for permanent habitation; therefore, an RV cannot be considered as a primary residence. A Recreational Vehicle stored in accordance with this ordinance shall:
    - i. Not be connected to any permanent utility service. The use of extension cords for cleaning and/or repair is allowed on a temporary basis.
    - ii. Have its wheels and axels remain at all times
    - iii. Maintain proper insurance and registration being fully licensed and ready for highway use.
    - iv. Have no accessory structures supported by the Vehicle, this includes decks, porches, and awnings.
  - b. Permanent habitation is not permitted. In order to provide for the health, safety, and welfare, the use of a recreational vehicle for permanent habitation shall be deemed unlawful.
  - c. A Recreational Vehicle can be utilized for temporary occupation for no more than 180 days if the following requirements are met:
    - i. It is used during the construction of a single-family dwelling or placement of modular/mobile home.
    - ii. Temporary RV's are used after an emergency or natural disaster.
    - iii. It is used while a damaged/destroyed home is being replaced due to damage by fire, flood, hurricane, tornado, or other emergency event.

No commercial building may use fill to artificially raise the grade of a building site in such a way that the buildings cannot be screened from view of the public right-of-way per Section 2.10 of this Ordinance.

### **2.6.2 - Open Space Requirements**

No part of a yard, court or other open space provided around any building or structure for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or other open space required under this Ordinance for another building or structure. Every part of a required yard shall be open and unobstructed from its lowest level to the sky, except for the

ordinary projection of sills, chimneys, flues and eaves; provided, however, that none of the aforesaid projections shall project into a minimum side yard more than 1/3 of the width of such yard nor more than 24 inches, whichever is the least. Open or lattice enclosed fire escapes, fire proof outside stairways, and balconies opening upon fire towers projecting into a yard not more than five feet shall be permitted where placed so as not to obstruct light and ventilation. Open, uncovered decks may project into required yards for up to 1/3 of the width of such yards. In addition, certain structures are permitted to be placed in the required yard area as provided for in the schedule of district regulations.

### **2.6.3 – Reduction of Lot and Yard Areas Prohibited**

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

### **2.6.4 – Access to Property**

No building, structure or use of land shall be established on a lot nor shall any lot be created that does not abut upon a public right-of-way to which it has legal access. The public access requirement shall not apply to land exempt from Chapter 3 of this Ordinance (Subdivision Regulations), nor to situations otherwise exempt from public street access by this Ordinance.

### **2.6.5 – Interpreting Permitted Uses**

The listings of permitted and Special Uses in the various districts in this Ordinance are considered to be specific. Any use that is not specifically listed in a district shall be deemed to be prohibited.

### **2.6.6 – Water and Sewer Requirements**

The lot sizes required for the various districts in this Ordinance were drawn based upon the assumption that adequate water supply and sewage disposal systems are available to each and every lot. The lack of adequate systems for one or both facilities, however, may require larger lot areas or, in some instances, not permit development as proposed by the developer.

New development should also connect to the municipal water system where available. If irrigation systems are to be included, they should use non-public water, treated wastewater or have the ability to be converted to recycled wastewater when it becomes available. In addition, no homeowner's association rules, restrictive covenants, or other deed restrictions may prohibit the use and placement of rain barrels.

### **2.6.7 – Height Limitation Exceptions**

Except as may otherwise be prohibited by the Federal Aviation Administration Regulations, the height limitations of this Ordinance shall not apply to public buildings, church spires, belfries, cupolas and domes not intended for residential purposes, or to monuments, water towers, observation towers, power transmission towers, silos, grain elevators, chimneys, smokestacks,

derricks, conveyors, flag poles, radio, television and communication towers, masts, aerials and similar structures, provided such structures meet the required NC Building Code.

### **2.6.8 – Fees**

Reasonable fees sufficient to cover the costs of administration, inspection, technical review, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, Special Use Permits, zoning amendments, variances, and other administrative relief. The amount of fees charged shall be as set forth in the Town’s budget or as established by resolution of the Town Board. Fees established in accordance herewith shall be paid upon submission of an application or notice of appeal.

## **2.7 – Non-conforming Situations**

The purpose of this section is to avoid undue hardship by permitting the continued use of any building, structure, or property that was lawful at the time of the enactment of this Ordinance or any applicable amendment thereof, even though such use, structure or property does not conform with the provisions of this Ordinance. However, this section is also established to require that non-conforming situations be terminated under certain circumstances.

### **2.7.1 – Continuation of Non-conforming Situations**

Non-conforming situations that were otherwise lawful on the effective date of this Ordinance may be continued, subject to the restrictions and qualifications set forth in Subsections 2.7.3 through 2.7.6 of this Section.

### **2.7.2 – Non-conforming Lots of Record**

Where the owner of a non-conforming lot of record does not own sufficient land to enable him to conform to the area or lot width requirements, such lot may be used as a building site provided all other dimensional requirements are met and provided that the use to be made of the property is not one to which larger than minimum lot area requirements are called for in the list of permitted uses.

### **2.7.3 – Extension or Enlargement of Non-conforming Situations**

Non-conforming situations may be extended or enlarged as provided below:

- A. Subject to Subsection 2.7.3I, a non-conforming use may be extended through any portion of a completed building. A non-conforming use may be extended to additional buildings or to land outside the original building. New buildings are allowed provided they meet the zoning district requirements of the zoning district requirements of their type of actual use, whichever is more stringent.
- B. A non-conforming use may be extended to cover more land than was occupied, or manifestly designed and arranged to be occupied, by that use when it became non-conforming; provided it is not extended to additional parcels and applicable standards are met (e.g. setbacks, buffers).



- C. A non-conforming situation may be changed if the changes amount only to changes in the degree of activity rather than changes in kind, and no violations of other paragraphs of this subsection occur.
- D. Physical alteration of non-conforming structure or structures containing a non-conforming use is unlawful if it results in greater non-conformity with respect to dimension restrictions such as yard requirements, height limitations, or density requirements.
- E. Minor repairs to and routine maintenance of property where non-conforming situations exist are permitted and encouraged. Major renovation (work estimated to cost more than 10% of the taxed value of the structure to be renovated) may be done provided that the work will not result in a violation of any other paragraphs of this subsection, particularly 2.7.3(D).
- F. Non-conforming signs: Any permanent, on-premise sign may be replaced, repaired or relocated on the property, provided that the replaced, repaired or relocated sign does not exceed the size (square footage) or height of the original sign.

#### **2.7.4 – Reconstruction Limitations**

Any non-conforming building or structure or any building or structure containing a non-conforming use which is destroyed or damaged to an extent equal to 60% or more of the taxed value of the building or structure by fire, flood, explosion, earthquake, winds, war, riot, act of nature or by any act not under control of the owner, may be reconstructed and used as before, provided that no non-conforming situation is increased or extended and provided further that a zoning permit and building permit are received within two years of the event. This section shall not apply to non-conforming signs. See also Section 2.7.3.

#### **2.7.5 – Change in Kind of Non-conforming Use**

- A. A non-conforming use may be changed to a conforming use; thereafter, the property may not revert to a non-conforming use.
- B. A non-conforming use shall not be changed to another non-conforming use.
- C. If a non-conforming use and a conforming use or any combination of non-conforming uses exist on one lot, the use made of the property may be changed only to a conforming use.
- D. Change in use of non-conforming buildings – Conforming uses may be established or re-established in non-conforming buildings or structures, provided no other provisions of this Ordinance for the establishment of new uses is violated.

#### **2.7.6 – Discontinuance of Non-conforming Uses**

When active operation or occupancy of a non-conforming use is discontinued, regardless of the purpose or reason, for a consecutive period of 365 days, the property involved may thereafter be used only for conforming uses. The requirements of this subsection shall not apply to uses in buildings undergoing reconstruction in accordance with the provisions of Subsection 2.7.4.

For purposes of determining whether a right to continue a non-conforming situation is lots pursuant to this subsection, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a non-

conforming apartment building or one space in a non-conforming mobile home park for 365 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or mobile home park as a whole is continuously maintained. But if a non-conforming use is maintained in conjunction with a conforming use, cessation of operation or occupancy of the non-conforming use for the required period shall terminate the right to maintain it thereafter.

### **2.7.7 – Building on Subdivision Lots of Record**

Where there exist platted subdivision lots of record, whether conforming or non-conforming according to this Ordinance, buildings may be situated on said lots according to the requirements in effect in this Ordinance at the time of recordation. If this Ordinance was not applicable to the subdivision at the time of recordation the setbacks of the most applicable zoning district within the pre-existing Ordinance shall apply, if any.

## **2.8 – Schedule of District Regulations**

Within the districts as established by this Ordinance, the requirements as set forth in this section shall be complied with in addition to any other general or specific requirements of this Ordinance. Permitted uses for all districts, both by-right and conditional, are listed in Table 1: Zoning Table of Permitted Uses. Uses permitted by –right are subject to obtaining a zoning permit from the Zoning Official; Uses permitted by Special Use are only permitted subject to the issuance of a Special Use Permit by the Town Board as provided for in Section 2.15. Certain uses as listed in the subsection may be subject to certain specific conditions as set forth in Section 2.15 and if permitted by the Town Board shall be subject to any such conditions as may be listed for that use. In addition, in granting a Special Use Permit the Town Board may impose such additional conditions and safeguards that the Board may deem as reasonable and appropriate.

### **2.8.1 – R-2 Residential District**

#### **A. Permitted Uses**

The following uses are permitted subject to obtaining a zoning and/or Special Use Permit from the Zoning Official: See [Table 1: Zoning Table of Permitted Uses](#) on Page 51

#### **B. Dimensional Requirements**

- (1) Minimum Required Lot Area, with the exception of the cases outlined in 2.8.1(B)(2) and 2.8.1(B)(3) – 90,000 square feet
- (2) Minimum Required Lot Area for a Two-family Dwelling – 180,000 square feet, except for an accessory dwelling unit. Each unit of a two-family dwelling may instead be placed on a separate lot, provided that each lot consists of not less than 90,000 square feet, and provided that the common wall between the units is a fire wall as required by the building code.
- (3) Lots to be created for the express purpose of minor utilities are exempted from the required minimum lot area, but must comply with the required setback of the district. Any noise producing equipment or generators must be stored within a structure, or

must be setback a minimum of fifty (50) feet from any public right-of-way or property line.

- (4) Minimum Required Lot Width, with the exception of the cases outlined in 2.8.1(B)(3) and 2.8.1(B)(5) – 100 feet
- (5) Minimum Required Lot Width for a Two-family Dwelling – 110 feet
- (6) Minimum Required Front Setback – 40 feet
- (7) Minimum Required Side Setback, with the exception of the case outlined in 2.8.1(B)(8) – 25 feet
- (8) Where a two-family dwelling is placed such that the units are on separate lots with a common fire wall, no side yard shall be required at the common wall.
- (9) Minimum Required Rear Setback – 25 feet
- (10) Maximum Building/Structure Height – 60 feet
- (11) Location of Accessory Buildings and Structures – Accessory buildings and structures must conform to the minimum required setbacks for the district. Provided, however, well houses, satellite dishes, and open structures may be located in the required yards provided that they are at least 10 feet from any street or property line. Fences are permitted within the front, side, and rear yards with no minimum setback requirement.
- (12) Parcels located in the WS-IV-PA watershed are subject to additional density restrictions as defined in Section 8.3.2(A).

C. Visibility at Intersections

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ feet and 10 feet in a sight triangle as established by NCDOT.

D. Off-street Parking and Loading

Off-street parking and loading shall be provided in accordance with the provisions set forth in Section 2.12.

E. Signs shall be governed by the provisions of Section 2.13.

## 2.8.2 – R-1 Residential District

A. Permitted Uses

The following uses are permitted subject to obtaining a zoning and/or Special Use Permit from the Zoning Official: See Table 1: Zoning Table of Permitted Uses on Page 51

B. Dimensional Requirements

- (1) Minimum Required Lot Area, with the exception of the cases outlined in 2.8.2(B)(2) through 2.8.2(B)(4) – 40,000 square feet
- (2) Minimum Required Lot Area for Lots with Individual Wells and Individual Wastewater Disposal Systems – 65,340 square feet
- (3) Minimum Required Lot Area for a Two-family Dwelling – 80,000 square feet, except for an accessory dwelling unit. Each unit of a two-family dwelling may instead be placed on a separate lot, provided that each lot consists of not less than 40,000 square feet, and provided that the common wall between the units is a fire wall as required by the building code.

- (4) Lots to be created for the express purpose of minor utilities are exempted from the required minimum lot area, but must comply with the required setback of the district. Any noise producing equipment or generators must be stored within a structure, or must be setback a minimum of fifty (50) feet from any public right-of-way or property line.
  - (5) Minimum Required Lot Width, with the exception of the cases outlined in 2.8.2(B)(4) and 2.8.2(B)(6) – 100 feet
  - (6) Minimum Required Lot Width for a Two-family Dwelling – 110 feet
  - (7) Minimum Required Front Setback – 40 feet
  - (8) Minimum Required Side Setback, with the exception of the case outlined in 2.8.2(B)(9) – 25 feet
  - (9) Where a two-family dwelling is placed such that the units are on separate lots with a common fire wall, no side yard shall be required at the common wall.
  - (10) Minimum Required Rear Setback – 25 feet
  - (11) Maximum Building/Structure Height– 60 feet
  - (12) Location of Accessory Buildings and Structures – Accessory buildings and structures must conform to the minimum required setbacks for the district. Provided, however, well houses, satellite dishes, and open structures may be located in the required yards provided that they are at least 10 feet from any street or property line. Fences are permitted within the front, side, and rear yards with no minimum setback requirement.
  - (13) Parcels located in the WS-IV-PA watershed are subject to additional density restrictions as defined in Section 8.3.2(A).
- C. Visibility at Intersections  
On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ feet and 10 feet in a sight triangle as established by NCDOT.
- D. Off-street Parking and Loading  
Off-street parking and loading shall be provided in accordance with the provisions set forth in Section 2.12.
- E. Signs shall be governed by the provisions of Section 2.13.

### **2.8.3 – R-15 Residential District**

- A. Permitted Uses  
The following uses are permitted subject to obtaining a zoning and/or Special Use Permit from the Zoning Official: See Table 1: Zoning Table of Permitted Uses on Page 51
- B. Dimensional Requirements
  - (1) Minimum Required Lot Area, with the exception of the cases outlined in 2.8.3(B)(2) through 2.8.3(B)(5) – 15,000 square feet
  - (2) Minimum Required Lot Area for Lots with Individual Wells and Individual Wastewater Disposal Systems – 65,340 square feet
  - (3) Minimum Required Lot Area for a Two-family Dwelling – 30,000 square feet, except for an accessory dwelling unit. Each unit of a two-family dwelling may instead be placed on a separate lot, provided that each lot consists of not less than 15,000 square feet, and

provided that the common wall between the units is a fire wall as required by the building code.

- (4) Minimum Required Lot Area for a Manufactured Home – 40,000 square feet
  - (5) Lots to be created for the express purpose of minor utilities are exempted from the required minimum lot area, but must comply with the required setback of the district. Any noise producing equipment or generators must be stored within a structure, or must be setback a minimum of fifty (50) feet from any public right-of-way or property line.
  - (6) Minimum Required Lot Width, with the exception of the cases outlined in 2.8.3(B)(5) and 2.8.3(B)(7) – 100 feet
  - (7) Minimum Required Lot Width for a Two-family Dwelling – 110 feet
  - (8) Minimum Required Front Setback – 35 feet
  - (9) Minimum Required Side Setback, with the exception of the case outlined in 2.8.3(B)(10) – 10 feet
  - (10) Where a two-family dwelling is placed such that the units are on separate lots with a common fire wall, no side yard shall be required at the common wall.
  - (11) Minimum Required Rear Setback – 25 feet
  - (12) Maximum Building/Structure Height – 60 feet
  - (13) Location of Accessory Buildings and Structures – Accessory buildings and structures must conform to the minimum required setbacks for the district. Provided, however, well houses, satellite dishes, and open structures may be located in the required yards provided that they are at least 10 feet from any street or property line. Fences are permitted within the front, side, and rear yards with no minimum setback requirement.
  - (14) Parcels located in the WS-IV-PA watershed are subject to additional density restrictions as defined in Section 8.3.2(A).
- C. Visibility at Intersections  
On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ feet and 10 feet in a sight triangle as established by NCDOT.
- D. Off-street Parking and Loading  
Off-street parking and loading shall be provided in accordance with the provisions set forth in Section 2.12.
- E. Signs shall be governed by the provisions of Section 2.13.

#### **2.8.4 – R-MF Residential District**

- A. Permitted Uses  
The following uses are permitted subject to obtaining a zoning and/or Special Use Permit from the Zoning Official: See Table 1: Zoning Table of Permitted Uses on Page 51
- B. Dimensional Requirements
- (1) Minimum Required Lot Area, with the exception of the cases outlined in 2.8.4(B)(2) through 2.8.4(B)(4) – 15,000 square feet
  - (2) When attached Townhomes or Condominiums will be located on individual lots, these individual lots are exempted from the required minimum lot area and minimum lot

- width as long as the combined total area of the individual dwelling unit lots and any commonly-owned lots within the development meet the minimum lot area established in 2.8.4(B)(1), the minimum lot width established in 2.8.4(B)(5), and the maximum permitted density established in 2.8.4(B)(12). The individual lots must still comply with the setback requirements of 2.8.4(B)(6) through 2.8.4(B)(9).
- (3) Minimum Required Lot Area for a mobile home – 40,000 square feet
  - (4) Lots to be created for the express purpose of minor utilities are exempted from the required minimum lot area, but must comply with the required setback of the district. Any noise producing equipment or generators must be stored within a structure, or must be setback a minimum of fifty (50) feet from any public right-of-way or property line.
  - (5) Minimum Required Lot Width, with the exception of the cases outlined in 2.8.4(B)(2) and 2.8.4(B)(4) – 115 feet
  - (6) Minimum Required Front Setback – 35 feet
  - (7) Minimum Required Side Setback, with the exception of the case outlined in 2.8.4(B)(8) – 10 feet
  - (8) Where a two-family dwelling or multi-family building is placed such that the units are on separate lots with a common fire wall, no side yard shall be required at the common wall.
  - (9) Minimum Required Rear Setback – 25 feet
  - (10) Maximum Building/Structure Height – 60 feet
  - (11) Maximum Permitted Density of Dwelling Units, with the exception of the case outlined in 2.8.4(B)(12) – one dwelling unit per 8,000 square feet of lot area
  - (12) When attached Townhomes or Condominiums will be located on individual lots, the maximum permitted density of dwelling units shall be calculated based on the combined area of the individual dwelling unit lots and any commonly-owned lots within the development, such that the overall density of the development does not exceed one dwelling unit per 8,000 square feet of land area.
  - (13) Location of Accessory Buildings and Structures – Accessory buildings and structures must conform to the minimum required setbacks for the district. Provided, however, well houses, satellite dishes, and open structures may be located in the required yards provided that they are at least 10 feet from any street or property line. Fences are permitted within the front, side, and rear yards with no minimum setback requirement.
  - (14) No multi-family buildings or series of attached dwelling units shall exceed a length of 150 feet when measured along the longest axis of the building or series of attached units when placed in a theoretical straight alignment.
  - (15) In no case shall any multi-family residential building be closer than twenty (20) feet to any other building.
  - (16) All portions of every multi-family residential building shall be located within 300 feet of a public street that furnishes direct access to the property.
  - (17) Parcels located in the WS-IV-PA watershed are subject to additional density restrictions as defined in Section 8.3.2(A).

C. Visibility at Intersections

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ feet and 10 feet in a sight triangle as established by NCDOT.

D. Off-street Parking and Loading

Off-street parking and loading shall be provided in accordance with the provisions set forth in Section 2.12.

E. Signs shall be governed by the provisions of Section 2.13.

## 2.8.5 – O&I Office and Institutional District

A. Permitted Uses

The following uses are permitted subject to obtaining a zoning and/or Special Use Permit from the Zoning Official: See Table 1: Zoning Table of Permitted Uses on Page 51

B. Dimensional Requirements

- (1) Minimum Required Lot Area, with the exception of the cases outlined in 2.8.5(B)(2) through 2.8.5(B)(4) – 40,000 square feet
- (2) Minimum Required Lot Area for Lots with Individual Wells and Individual Wastewater Disposal Systems – 65,340 square feet
- (3) Minimum Required Lot Area for a Two-family Dwelling – 80,000 square feet, except for an accessory dwelling unit. Each unit of a two-family dwelling may instead be placed on a separate lot, provided that each lot consists of not less than 40,000 square feet, and provided that the common wall between the units is a fire wall as required by the building code.
- (4) Lots to be created for the express purpose of minor utilities are exempted from the required minimum lot area, but must comply with the required setback of the district. Any noise producing equipment or generators must be stored within a structure, or must be setback a minimum of fifty (50) feet from any public right-of-way or property line.
- (5) Minimum Required Lot Width, with the exception of the cases outlined in 2.8.5(B)(4) and 2.8.5(B)(6) – 100 feet
- (6) Minimum Required Lot Width for a Two-family Dwelling – 110 feet
- (7) Minimum Required Front Setback – 40 feet
- (8) Minimum Required Side Setback, with the exception of the case outlined in 2.8.5(B)(9) – 25 feet
- (9) Where a two-family dwelling is placed such that the units are on separate lots with a common fire wall, no side yard shall be required at the common wall.
- (10) Minimum Required Rear Setback – 25 feet
- (11) Maximum Building/Structure Height – 60 feet
- (12) Location of Accessory Buildings and Structures – Accessory buildings and structures must conform to the minimum required setbacks for the district. Provided, however, well houses, satellite dishes, and open structures may be located in the required yards provided that they are at least 10 feet from any street or property line. Fences are permitted within the front, side, and rear yards with no minimum setback requirement.

(13) Parcels located in the WS-IV-PA watershed are subject to additional density restrictions as defined in Section 8.3.2(A).

C. Visibility at Intersections

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ feet and 10 feet in a sight triangle as established by NCDOT.

D. Off-street Parking and Loading

Off-street parking and loading shall be provided in accordance with the provisions set forth in Section 2.12.

E. Signs shall be governed by the provisions of Section 2.13.

## 2.8.6 – C-1 Commercial District

A. Permitted Uses

The following uses are permitted subject to obtaining a zoning and/or Special Use Permit from the Zoning Official: See Table 1: Zoning Table of Permitted Uses on Page 51

B. Dimensional Requirements

(1) The minimum yard setbacks listed may be reduced to the minimum established in the most recent North Carolina building code for buildings that are part of a common plan of development, except along the exterior project boundary where the minimum yard setbacks shall be met.

(2) Minimum Required Lot Area, with the exception of the cases outlined in 2.8.6(B)(3) and 2.8.6(B)(4) – 40,000 square feet

(3) Minimum Required Lot Area for Lots with Individual Wells and Individual Wastewater Disposal Systems – 65,340 square feet

(4) Lots to be created for the express purpose of minor utilities are exempted from the required minimum lot area, but must comply with the required setback of the district. Any noise producing equipment or generators must be stored within a structure, or must be setback a minimum of fifty (50) feet from any public right-of-way or property line.

(5) Minimum Required Lot Width, with the exception of the case outlined in 2.8.6(B)(4) – 75 feet

(6) Minimum Required Front Setback – 50 feet

(7) Minimum Required Side Setback – 20 feet

(8) Minimum Required Rear Setback – 20 feet

(9) Maximum Building/Structure Height – 60 feet

(10) Location of Accessory Buildings and Structures – Accessory buildings and structures must conform to the minimum required setbacks for the district. Provided, however, well houses, satellite dishes, open structures and telephone booths may be located in the required yards provided that they are at least 10 feet from any street or property line. Fences are permitted within the front, side, and rear yards with no minimum setback requirement.

(11) Parcels located in the WS-IV-PA watershed are subject to additional density restrictions as defined in Section 8.3.2(A).



- C. Visibility at Intersections  
On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ feet and 10 feet in a sight triangle as established by NCDOT.
- D. Off-street Parking and Loading  
Off-street parking and loading shall be provided in accordance with the provisions set forth in Section 2.12.
- E. Signs shall be governed by the provisions of Section 2.13.

**2.8.7 - CB-1 Central Business District**

- A. Permitted Uses  
The following uses are permitted subject to obtaining a zoning and/or Special Use Permit from the Zoning Official: See Table 1: Zoning Table of Permitted Uses on Page 51
- B. Dimensional Requirements
  - (1) The minimum yard setbacks listed may be reduced to the minimum established in the most recent North Carolina building code for buildings that are part of a common plan of development, except along the exterior project boundary where the minimum yard setbacks shall be met.
  - (2) Minimum Required Lot Area, with the exception of the cases outlined in 2.8.7(B)(3) and 2.8.7(B)(4) there shall not be a minimum lot area requirement in this district.
  - (3) Minimum Required Lot Area for Lots with Individual Wells and Individual Wastewater Disposal Systems – 65,340 square feet
  - (4) Lots to be created for the express purpose of minor utilities are exempted from the required minimum lot area, but must comply with the required setback of the district. Any noise producing equipment or generators must be stored within a structure, or must be setback a minimum of fifty (50) feet from any public right-of-way or property line.
  - (5) Minimum Required Lot Width, with the exception of the case outlined in 2.8.7(B)(4) – 75 feet.
  - (6) Minimum Required Front Setback – NA
  - (7) Minimum Required Side Setback – NA
  - (8) Minimum Required Rear Setback – NA
  - (9) Maximum Building/Structure Height – 60 feet
  - (10) Parcels located in the WS-IV-PA watershed are subject to additional density restrictions as defined in Section 8.3.2(A).
- C. Visibility at Intersections  
On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ feet and 10 feet in a sight triangle as established by NCDOT.
- D. Off-street Parking and Loading  
Off-street parking and loading shall be provided in accordance with the provisions set forth in Section 2.12.
- E. Signs shall be governed by the provisions of Section 2.13.

## 2.8.8 – IL Light Industrial District

### C. Permitted Uses

The following uses are permitted subject to obtaining a zoning and/or Special Use Permit from the Zoning Official: See Table 1: Zoning Table of Permitted Uses on Page 51

### D. Dimensional Requirements

- (11) The minimum yard setbacks listed, except along state-maintained or town-maintained roads, may be reduced to the minimum established in the most recent North Carolina building code when the adjacent property has the same zoning district and an adjacent property owner provides a written affidavit allowing said reduction along the property line between the property in question and the property owned by the consenting property owner.
- (12) Minimum Required Lot Area, with the exception of the cases outlined in 2.8.7(B)(3) and 2.8.7(B)(4) – 40,000 square feet
- (13) Minimum Required Lot Area for Lots with Individual Wells and Individual Wastewater Disposal Systems – 65,340 square feet
- (14) Lots to be created for the express purpose of minor utilities are exempted from the required minimum lot area, but must comply with the required setback of the district. Any noise producing equipment or generators must be stored within a structure, or must be setback a minimum of fifty (50) feet from any public right-of-way or property line.
- (15) Minimum Required Lot Width, with the exception of the case outlined in 2.8.7(B)(4) – 150 feet
- (16) Minimum Required Front Setback – 50 feet
- (17) Minimum Required Side Setback – 50 feet
- (18) Minimum Required Rear Setback – 50 feet
- (19) Location of Accessory Buildings and Structures – Accessory buildings and structures must conform to the minimum required setbacks for the district. Provided, however, well houses, satellite dishes, open structures and telephone booths may be located in the required yards provided that they are at least 10 feet from any street or property line. Fences are permitted within the front, side, and rear yards with no minimum setback requirement.
- (20) Parcels located in the WS-IV-PA watershed are subject to additional density restrictions as defined in Section 8.3.2(A).

### E. Visibility at Intersections

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ feet and 10 feet in a sight triangle as established by NCDOT.

### F. Off-street Parking and Loading

Off-street parking and loading shall be provided in accordance with the provisions set forth in Section 2.12.

### F. Signs shall be governed by the provisions of Section 2.13.

## 2.8.9 – IH Heavy Industrial District

### A. Permitted Uses

The following uses are permitted subject to obtaining a zoning and/or Special Use Permit from the Zoning Official: See [Table 1: Zoning Table of Permitted Uses](#) on Page 51. Uses noted in the Light Industrial District are also allowed in the Heavy Industrial District provided they shall meet the requirements of that district.

### B. Dimensional Requirements

- (1) The minimum yard setbacks listed, except along state-maintained or town-maintained roads, may be reduced to the minimum established in the most recent North Carolina building code when the adjacent property has the same zoning district and an adjacent property owner provides a written affidavit allowing said reduction along the property line between the property in question and the property owned by the consenting property owner.
- (2) Minimum Required Lot Area, with the exception of the case outlined in 2.8.8(B)(3) – 80,000 square feet
- (3) Lots to be created for the express purpose of minor utilities are exempted from the required minimum lot area, but must comply with the required setback of the district. Any noise producing equipment or generators must be stored within a structure, or must be setback a minimum of fifty (50) feet from any public right-of-way or property line.
- (4) Minimum Required Lot Width, with the exception of the case outlined in 2.8.8(B)(3) – 300 feet
- (5) Minimum Required Front Setback – 100 feet
- (6) Minimum Required Side Setback – 100 feet
- (7) Minimum Required Rear Setback – 100 feet
- (8) Location of Accessory Buildings and Structures – Accessory buildings and structures must conform to the minimum required setbacks for the district. Provided, however, well houses, satellite dishes, open structures and telephone booths may be located in the required yards provided that they are at least 10 feet from any street or property line. Fences are permitted within the front, side, and rear yards with no minimum setback requirement.
- (9) Parcels located in the WS-IV-PA watershed are subject to additional density restrictions as defined in Section 8.3.2(A).

### C. Visibility at Intersections

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of 2 ½ feet and 10 feet in a sight triangle as established by NCDOT.

### D. Off-street Parking and Loading

Off-street parking and loading shall be provided in accordance with the provisions set forth in Section 2.12.

### E. Signs shall be governed by the provisions of Section 2.13.

## 2.8.10 – CD-MU Mixed Use Conditional District

### A. Purpose

The purpose of the Mixed Use Conditional District is to permit flexibility in the Ordinance by providing for a mix of residential, commercial, and light industrial uses to be developed on large tracts in accordance with a unified development plan. These developments should be unified by distinguishable design features and provide pedestrian connections between all uses. Mixed use developments should provide a more efficient use of land while providing more on-site amenities and preserving open space. The mix of uses shall be designed to be mutually supporting so that traffic congestion is minimized and pedestrian circulation is enhanced.

### B. Minimum Size

In order to qualify for a Mixed Use District the gross acreage for the development shall be a minimum of 50 acres.

### C. Maximum Net Density and Built Upon Area Allowed

Within a Mixed Use District, the net density and built upon area for any portion of the development shall not exceed the requirements of the underlying watershed district as identified in Chapter 8 of this Ordinance.

(1) For areas within the Local Watershed Area, which do not have density and built-upon area requirements defined in Chapter 8, the maximum allowable density shall be based on the most restrictive requirement of the zoning districts listed in 2.8.9 (E)(1) below that will be used to select permitted uses for the development. If a proposed use is permitted in more than one of the listed districts, then the district with more restrictive density standards shall apply.

### D. Net Land Area Computation

Net land area is obtained by taking the gross land area of the development and subtracting the following areas:

(1) Land to be dedicated or set aside for public or private street right-of-way. As an option to measuring projected street right-of-way, the developer may subtract 20% gross area as a street right-of-way allowance regardless of the amount of land actually required for streets.

(2) Any area classified as wetlands or woody swamp by the U.S. Army Corps of Engineers.

(3) Other areas determined by the Planning Department, Planning Board or Town Board to be unbuildable due to either physical features or regulatory authority. However, typical zoning setback areas and riparian buffer areas shall be considered to be buildable areas for purposes of this net land area determination.

### E. Permitted Uses

(1) The uses allowed within the Mixed Use District may be selected from the permitted uses or Special Uses from the following districts:

- R-15 Residential District
- R-MF Residential District
- O&I Office and Institutional District
- C-1 General Commercial District
- CB-1 Central Business District

IL Light Industrial District

- (2) The site plan must show, and the final development must include, uses from at least two (2) of the zoning districts listed above. Uses may be mixed within a building or within the development and the site plan must identify the location of the proposed uses.
- (3) At a minimum, twenty percent (20%) of the total land area of the development must be occupied by or used for non-residential uses, provided that at no time shall the cumulative amount of land developed for non-residential purposes exceed the cumulative amount of land developed for residential purposes.

F. Dimensional and Off-street Parking Requirements

- (1) Standard dimensional and off-street parking requirements shall not apply. Proposed lot sizes, setbacks, building heights, and off-street parking must be specified on the site plan or accompanying text for a conditional rezoning application and must be approved by the Town Board. In no circumstances shall a building have a height greater than 60 feet.
- (2) A setback of 100 feet shall apply to all residential and non-residential buildings and structures along the exterior boundary of the mixed use development, including any existing street right-of-way.

G. Signage

Any proposed signage shall not exceed the standards set forth in this Ordinance for the respective zoning district from which a use is taken. All signs shall use a coordinated color, style, and lettering scheme.

**2.8.11 – Table 1: Zoning Table of Permitted Uses**

Note: Many commercial activities that are otherwise prohibited in this table may be allowed as Home Occupations (see Section 2.14) if they meet the requirements of that section.

Key: P = Permitted By Right; SU = Special Use Use Permit; CZ = Conditional Zoning District

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
ABC stores						P	P		
Accessory dwelling unit (guest house, pool house, garage apartment or in-house apartment) <sup>1</sup>	P	P	P	P					
Accessory uses and structures clearly incidental to a permitted residential use <sup>2</sup>	P	P	P	P					

<sup>1</sup> Accessory buildings must meet same setback requirements as principal buildings

<sup>2</sup> Accessory buildings must meet same setback requirements as principal buildings

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Airports and landing fields for fixed and rotary wing aircraft								SU	SU
Alcohol and alcoholic beverages manufacture									P
Amusement enterprises such as pool, bowling, roller rink when housed entirely within a permanent structure						P			
Animal Husbandry, Specialized – with a minimum lot area and setback twice the minimum required of the zoning district	CU	SU							
Antique shops						P			
Apartment complex or residential condominium complex				P					
Appliance distributors for wholesale								P	P
Appliance sales and service						P			
Art supply retail sales						P			
Arts and crafts fabrication and related sales	SU					P			
Asphalt manufacture or refining									CZ
Assembly halls, coliseums, gymnasiums and similar structures						SU	SU	P	P
Assembly of ammunition, for small arms only, from previously prepared parts								SU	SU
Assembly of machines, appliances and goods from previously prepared parts								P	P

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Automobile and truck assembly								SU	P
Automobile and automobile accessory sales and service						P	P		
Automobile service stations including tune-ups, minor repairs, tire service, washing facilities (both manual and automatic) and similar services <sup>3</sup>						P	P	P	P
Avocational farming	P	P	P						
Bait and tackle shops						P	P	P	P
Bake shops and similar food preparation intended primarily for retail sales on the premises for consumption either on or off premises						P	P		
Bakeries or baking plants								P	P
Banks, savings and loans, finance companies, credit agencies and similar financial institutions					P	P	P		
Beauty shops and salons						P	P		
Owner-occupied bed and breakfast homes with no more than 2 rooms (units) for rent for stays no longer than 7 consecutive days <sup>4</sup>	P	P	P						
Bed and breakfast inns with no more	SU	SU	SU			P			

<sup>3</sup> Fuel, oil, and similar pumps and appliances may be located in the minimum required front and side yards provided that none shall be located nearer than 15 feet to any street line and may be covered by an attached or free-standing unenclosed canopy, provided such canopy does not extend nearer than five feet to any property line and does not cover greater than 30% of the required yard area.

<sup>4</sup> May be located on legal non-conforming and conforming lots of record, provided the lot is at least 1.5 acres, and must meet the setback requirements of the district in which it is located.

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
than 6 rooms for rent <sup>5</sup>									
Bedding, carpet and pillow manufacturing, cleaning and renovating								P	P
Bicycle sales and repair						P	P		
Blacksmith or horseshoeing shops								P	P
Blueprinting and photostatting establishments						P		P	P
Boarding kennels <sup>6</sup>	SU	SU				P			
Boat, trailer and other utility vehicle sales and service						P			
Boat storage facility						SU		P	P
Book, stationery and office supply stores						P	P		
Bookbinding								P	P
Bottling works for soft drinks								P	P
Breeding kennels <sup>7</sup>	SU					P			
Brick, tile, clay pipe and other clay products manufacture (excluding craft pottery)									P
Bus passenger stations						P	P		
Cabinet shops						P	P		
Candy products manufacture								P	P
Canvas and burlap products manufacture, sales and storage								P	P

<sup>5</sup> Minimum lot area of 3 acres, and setback requirements are two times the requirements of the district in which it is located.

<sup>6</sup> When located in residential zones requiring a Special Use Permit, the minimum lot size is 3 acres and the setback requirements are two times the requirements of the district in which it is located.

<sup>7</sup> Minimum lot area of 3 acres, and setback requirements are two times the requirements of the district in which it is located.



Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Carpeting, flooring, tile and stone products sales						P	P		
Catering establishments						P	P		
Cement, lime, plaster manufacture									P
Cemeteries	SU	SU	SU		P				
Churches and other places of worship <sup>8</sup>	SU	SU	SU	SU	SU	SU	SU		
Circuses, carnivals, exhibition shows, sideshows, races, trade shows, banquets, conventions, religious events, arts and crafts shows, stage shows, athletic events, and other similar events, including temporary living quarters such as mobile homes and recreational vehicles, provided that the stay of such temporary living quarters shall be limited to a period of not more than five days longer than the duration of the event and no more than 30 total days in any 12 month period for any one separate event						SU		SU	SU
Clothing manufacture								P	P
Clothing shops						P	P		
Clubs and other places of entertainment operated as commercial enterprises						SU	SU	P	P
Coal or coke yards									SU

<sup>8</sup> When located in residential zones (R-2, R-1, R-15 or R-MF), the minimum lot size is 3 acres, the minimum side and rear setbacks at 50 feet, and the minimum front setback is 25 feet greater than the front setback requirement of that district.

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Coffee roasting							P	P	P
Cold storage plants								P	P
Congregate care facilities					P	P			
Contractor's plants or storage yards and staging areas	SU	SU	SU	SU	SU	SU	SU	P	P
Cooperage works									P
Cosmetics and perfume manufacture									SU
Dairy bars and ice cream shops intended primarily for retail sale on the premises for consumption either on or off premises						P	P		
Dairy products, processing, bottling and distribution, ice cream manufacture, all on a wholesale basis								P	P
Data Processing, hosting, and related services									
Day care centers for 15 or fewer children	SU	SU	SU	SU	P	P	P		
Day care centers for more than 15 children					P	P	P		
Day care centers within the principal residence, to accommodate no more than 15 children at any one time <sup>9</sup>	SU	SU	SU						
Drive-in or outdoor motion picture show								P	P
Drug stores						P	P		
Dry cleaning, pressing, and related retail service counter						P	P	P	P

<sup>9</sup> Minimum lot size is 1 acre, and setback requirements are two times the requirements of the district in which the site is located.

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Dwellings, single family, manufactured <sup>10</sup>	P	P	P	P					
Dwellings, single family, site built or modular	P	P	P	P					
Dwellings, two-family (duplex)	P	P	P	P			P		
Dwellings – attached townhomes, condominiums, or apartments				P			P		
Dwellings, manufacture of									P
Dye stuff manufacture and dyeing plants								SU	SU
Eating and drinking establishments						P	P		
Electric light or power generating station								P	P
Electronic Gaming Establishment <sup>11</sup>						SU	SU		
Emory cloth or sandpaper manufacturing								P	P
Enameling, japanning, lacquering or plating or galvanizing of metals									P
Event center, limited (see Section 2.15.7)						P	P		
Excelsior and fiber manufacture									P
Fabric shops						P	P		
Family care home with 6 persons or less	P	P	P	P	P				
Family care home with more than 6 persons					P				
Feed and seed processing								P	P

<sup>10</sup> Minimum lot size is 1 acre per unit. See Chapter 4 for additional requirements.

<sup>11</sup> Must be located at a distance greater than 500 feet from any residence and/or residentially zoned property, religious assembly, licensed day care facility, public or private school, or another electronic gaming operation.

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Feed and seed wholesale								P	P
Feed, seed, fertilizer retail sales						SU	SU	P	P
Felt manufacture									P
Fertilizer wholesale sales								P	P
Fire stations and emergency medical service facilities with a minimum lot area of at least 3 acres and setbacks for all structures and high-intensity activity areas that are at least two times the required setbacks within that district	P	P	P	P					
Fire stations, emergency medical service facilities, police stations, and law enforcement offices <sup>12</sup>	SU	SU	SU	SU	P	P	P	P	P
Flammable liquids, bulk plants and storage									P
Flea markets and rummage sales conducted either within a building or outdoors, provided that no principal building or sales area shall be located in the required yard						SU	SU	SU	SU
Florist greenhouses, cultivation facilities and warehousing for wholesale and related retail sales								P	P
Florist shops						P	P		
Food processing in wholesale quantities								P	P

<sup>12</sup> Within the residential districts, fire stations and emergency medical facilities that meet the requirements of the use category described in the box above are not required to get Special Use Permits.

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Food stores, retail						P	P		
Foundries casting nonferrous metals, where conducted wholly within an enclosed structure, except for open air storage, and having a total furnace capacity of not more than 1,000 aluminum pounds								P	P
Foundries producing iron and steel products									P
Frozen food lockers								P	P
Funeral homes, undertaking establishments, embalming including crematoria					P	P	P	P	P
Fur storage (no sales)						P		P	P
Furniture Manufacturing								P	P
Furniture stores						P	P		
Furrier, retail sales (can include storage)						P	P		
Garbage and waste incinerators (except hazardous waste)									SU
Gas storage in bulk									P
Gases or liquefied petroleum gases in approved portable metal cylinders								P	P
Gas and Petroleum Processing									SU
General, professional, medical and governmental offices					P	P	P	P	P
Gift shops						P	P		
Golf courses and tennis clubs, public or private <sup>13</sup>	SU	SU	SU	SU	P	P			

<sup>13</sup> Within the residential districts that require a Special Use Permit, the minimum lot size shall be 5 acres, and all buildings, structures and high-intensity activity areas shall be set back a minimum of two times the minimum setback requirements for the district in which it is located.

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Government offices and facilities	P	P	P	P	P	P	P	P	P
Grain elevators								P	P
Grounds and facilities for hunting and fishing clubs <sup>14</sup>	SU	SU							
Grounds and facilities for non-profit clubs <sup>15</sup>	SU	SU	SU	SU	SU				
Grounds and facilities for open air games or sports						SU	SU	P	P
Hardware, appliances, electrical and similar items for retail sale						P	P		
Heating, plumbing, electrical, cabinet and similar shops						P	P		
Heavy manufacturing, processing or assembly not otherwise named herein, provided no operations are carried on, or are likely to be carried on, which will create smoke, fumes, noise, odor or dust which will be detrimental to the health, safety or general welfare of the community									SU
Home occupations, when conducted in accordance with the provisions of Section 2.14 of this Ordinance	P	P	P	P					
Horticulture, specialized <sup>16</sup>	P	P	P	P		P	P		
Hosiery manufacture								P	P

<sup>14</sup> The minimum lot size shall be 20 acres, and all buildings, structures and high-intensity activity areas shall be set back a minimum of two times the minimum setback requirements for the district in which it is located.

<sup>15</sup> The minimum lot size shall be 3 acres, and all buildings, structures and high-intensity activity areas shall be set back a minimum of two times the minimum setback requirements for the district in which it is located.

<sup>16</sup> Within residential districts (R-2, R-1, R-15, R-MF), the minimum lot size shall be 3 acres, and all buildings, structures and high-intensity activity areas shall be set back a minimum of two times the minimum setback requirements for the district in which it is located.

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Hospital, health and welfare centers, nursing homes and/or convalescent homes					P	P	P		
Hotels, motels and inns (see definition for permitted accessory uses)						P	P		
Ice manufacture, storage and sales								P	P
Industrial chemical manufacture									P
Inert debris landfill and land clearing <sup>17</sup>	SU	SU	SU	SU	SU	SU		SU	P
Insulation material manufacture and sale									P
Interior design shops						P	P		
Jail and penal institutions								P	P
Jewelry and watch sales and service, goldsmith						P	P		
Junkyards and auto wrecking <sup>18</sup>								SU	P
Kindergartens and nurseries (see daycares)									
Laboratories for research and testing								P	P
Laboratories, dental, medical or optical						P	P		
Landscape design business						P			
Land clearing and inert debris landfill (For beneficial fill see "Inert Debris")								SU	SU
Landscaping and grading business						P	P	P	P

<sup>17</sup> Personal home-owners use of inert debris landfill materials (beneficial fill) not to exceed two (2) acres in size, within residential-zoned districts, is exempt from requiring a Special Use Permit.

<sup>18</sup> These uses may only be conducted within an enclosure not less than 6 feet in height, and with a solidity of not less than 60% outside any required yard area.

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Laundries, laundromats, and dry cleaning establishments						P	P		
Laundries, steam						SU	SU	P	P
Lawn and garden shops						P	P		
Leather goods manufacture, excluding tanning								P	P
Leather goods sales and service, including manufacturing for retail sales on premises						P	P		
Libraries, museums, and art galleries					P	SU	SU		
Light manufacturing, processing or assembly not otherwise named herein, provided no operations are carried on, or are likely to be carried on, which will create smoke, fumes, noise, odor or dust which will be detrimental to the health, safety or general welfare of the community								P	P
Lock and gunsmiths	SU					P	P	P	P
Lumberyards, building materials storage and sales								P	P
Machine shops								P	P
Meat processing and packing									P
Medical clinics, inpatient or outpatient care					P	P	P		
Metal fabricating plants using plate and structural shapes and including boiler for tank works									P
Mining Operations									CZ



Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Major utilities								P	P
Minor utilities <sup>19</sup>	P	P	P	P	P	P	P	P	P
Mixed use building					SU	SU	SU		
Mixing plants for concrete, or paving materials and manufacture of concrete products									P
Mobile home parks	Mobile Home Parks, defined as more than three manufactured dwellings under single ownership, are not permitted in any district.								
Mobile home sales and service						SU	SU	P	P
Motorcycle sales and service						SU	SU	P	P
Mulch – grinding, screening (sifting and separating of particles), mixing, blending, processing and dyeing of mulch								SU	P
Music stores, including repair and craft manufacture	SU					P	P		
Natural Gas compressor station	SU	SU	SU	SU	SU	SU	SU	SU	SU
Newsstands						P	P		
Oil and Gas Exploration, Development and Production	SU	SU	SU	SU	SU	SU	SU	SU	SU
Office, business/ professional or governmental					P	P	P		
Office, engineering supply and similar sales and services including blueprinting, photostatting and similar services					P	P	P		

<sup>19</sup> Any noise-producing equipment must be stored within a structure, or must be set back a minimum of 50 feet from any public right-of-way or property line.

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Open air sales and service of accessory buildings and gazeboes and similar free-standing structures						SU	SU		
Open air sales or displays from a temporary building or structure						SU	SU	P	P
Optical and scientific instrument, jewelry and clock, musical instrument manufacture								P	P
Owner-occupied bed and breakfast homes with no more than two (2) rooms (units) for rent for stays no longer than seven (7) consecutive days and may be located on legal, non-conforming and conforming lots of record, on at least one and one half (1.5) acres, which may have standard setbacks as set in the district in which it is located.	P	P	P						
Opticians and optical sales and service						P	P		
Oxygen manufacture and/or storage									P
Paint and enamel manufacture not employing a boiling process									P
Paint retail shops						P	P		
Paper, cardboard and building board manufacture									SU
Pawnshops and secondhand stores						P	P		
Pet shops						P	P		

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Pharmaceutical products manufacture								P	P
Photographic studios, camera shops						P	P		
Recreational facilities (gyms, yoga studios, et cetera)						P	P		
Planing or sawmills								P	P
Plastics manufacture									P
Plating works									P
Plumbing shop and yard								P	P
Post offices					P	P	P		
Pottery (hand crafted) and related retail						P	P		
Pottery, porcelain and vitreous china manufacture									P
Printing and publishing offices and sales						P	P		
Printing, publishing and reproduction establishments							P	P	P
Private recreation camps and grounds <sup>20</sup>						P			
Public or private recreation camps and grounds <sup>21</sup>	SU	SU							
Public or private schools, training and conference centers <sup>22</sup>	P	P	P	P	P	SU	SU	P	P
Public parks and recreation areas, including marinas and concessions <sup>23</sup>	SU	SU	SU	SU					

<sup>20</sup> Minimum lot size is 10 acres, and all buildings, structures, and high-intensity activity areas must be set back at least 50 feet from all property line/boundary areas.

<sup>21</sup> Minimum lot size is 20 acres, and all buildings, structures, and high-intensity activity areas must be set back at least two times the minimum setbacks required within the district.

<sup>22</sup> Within residential zones (R-2, R-1, R-15, R-MF), the minimum lot size shall be 3 acres and all buildings, structures and high-intensity activity areas must be set back at least two times the minimum setbacks required within the district.

<sup>23</sup> Minimum lot size is 3 acres, and all buildings, structures, and high-intensity activity areas must be set back at least two times the minimum setbacks required within the district.

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Public utility transmission lines	P	P	P	P	P	P	P	P	P
Quarrying Operations									CZ
Radio and television stations and their towers, when the towers are located on the same site with the station						P	P		
Rag, bag and carpet cleaning establishments									P
Railroad freight yards, terminals or classification yards and rights-of-way								P	P
Recreational vehicle storage facility						SU	SU	P	P
Recycling industries that do not include the storage and/or processing of hazardous waste									P
Repair and service of office and household equipment	SU	SU	SU			P	P	P	P
Repair and servicing of industrial equipment machinery, except railroad equipment								P	P
Repair shops for jewelry, shoes, radios, televisions, and other small office or household appliances	SU	SU	SU			P	P		
Retail stores and personal service shops similar to those listed dealing in direct consumer and personal services						P	P		
Rock crushers									P
Rodenticide, insecticide, and pesticide mixing plants									P

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Sanitary landfill, excluding the burning of trash out of doors									SU
Schools, public and private with a minimum lot area of three acres and provided that all buildings, structures and high intensity activity areas shall be set back a minimum of two times the minimum yard requirement for the district in which it is located	SU	SU	SU						
Scrap paper or rag storage, sorting or baling, when conducted within a building								P	P
Secretarial and job service offices					P	P	P		
Self-storage facility/mini-warehouse storage facility with related retail and services (i.e. moving truck rental)						SU	SU	P	
Sexually oriented businesses (see also Section 2.15.8)								P	P
Sheet metal shops								P	P
Sign manufacture, painting and maintenance						P	P	P	
Soap, detergent and washing compound manufacture									P
Solar farm less than 2 acres (see also Section 2.15.6)	P	P	P	P	P			P	P
Solar farm greater than 2 acres (see also Section 2.15.6)	SU	SU	SU	SU	SU			SU	SU
Sporting goods sales						P	P		

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Spray irrigation of tertiary tested wastewater (reclaimed water)	P	P	P	P	P	P	P	P	P
Stonecutting, monument manufacture and sales								P	P
Storage warehouses								P	P
Storage yards (outdoor storage)								P	P
Street and railway rights-of-way	P	P	P	P	P	P	P	P	P
Swimming pool and related items sales and service						P	P		
Tannery or tanning operations									P
Tar and waterproofing materials manufacture, treatment and storage									P
Wireless support structures that are 60 feet or less in height	P	P	P	P	P	P	P	P	P
Concealed wireless facilities that are 60 feet or less in height	P	P	P	P	P	P	P	P	P
Concealed wireless facilities greater than 60 feet, but 150 feet or less in height	SU	SU	SU	SU	P	P	P	P	P
Wireless support structures that are greater than 60 feet, but 199 feet or less in height	SU	SU	SU	SU	SU	SU	SU	P	P
Wireless support structures that are greater than 199 feet, but 400 feet or less in height	SU	SU	SU	SU	SU	SU	SU	SU	SU

Zoning District	R-2	R-1	R-15	R-MF	O&I	C-1	CB-1	IL	IH
Temporary construction trailers or structures (see definitions for requirements)	P	P	P	P	P	P	P	P	P
Textile machinery manufacture									P
Textile manufacture including spinning, dyeing, bleaching and other heavy processes									P
Tire recapping and re-treading								P	P
Tobacco processing and storage								P	P
Trailer sales areas								P	P
Truck terminals, repair shops, hauling and storage yards								P	P
Upholstery, paper hanging and decorator shops						P	P	P	P
Uses and structures customarily accessory to any permitted use in Commercial Zones						P	P		
Veterinary clinics and hospitals with dog runs or equivalent facilities						SU	SU	SU	SU
Veterinary clinics and hospitals						P	P	P	P
Wastepaper and rags, collection and baling								P	P
Wholesale and jobbing establishments, including incidental retail outlets for only such merchandise as is handled at wholesale								P	P
Woodworking shops, mill work								P	P

## **2.9 – General Environmental Performance Standards**

### **2.9.1 – In General**

All uses in any district shall comply with all the applicable performance requirements of the State of North Carolina regarding noise, glare, resource pollution, air pollution and/or other regulatory standards applicable to the environs and/or their protection. All uses shall be so constructed, maintained and operated as to not be injurious to the use and occupation or enjoyment of the adjacent premises by reason of the emission or creation of noise, vibration, light, smoke, dust or other particulate matter, toxic or noxious waste materials, odors, radiation, fire, explosion hazard or glare, stormwater discharge, or other such matters or events.

### **2.9.2 – Specific Requirements**

In addition to the above and not in conflict, the following specific standards shall apply to all uses unless otherwise indicated:

#### **A. Noise**

No use shall be operated so as to produce continuous or regularly-recurring noise measuring in excess of 70 dB(A) on a neighboring property, unless both the noise-producing property and the noise-receiving property are within the IL or IH zoning districts. This restriction shall not apply to noises of a temporary or emergency nature, and shall not apply to church bells, warning sirens, or other noise-producing uses that are purposely designed to carry sound beyond the subject property.

#### **B. Vibration**

No use shall be operated so as to produce ground vibration noticeable, without instruments, at the lot line of the premises where the use is located.

#### **C. Smoke and Other Particulate Matter**

Every use shall be so operated as to prevent the emission of smoke from any source whatsoever, to a density greater than described as Number 1 on the Ringlemann Smoke Chart, provided, however, that smoke equal to but not in excess of that shade of appearance described as Number 2 on the Ringlemann Chart may be emitted for a period or periods totaling four minutes in any 30 minutes. For the purpose of grading the density of smoke, the Ringlemann Chart as published and used by the United States Bureau of Mines, and which is hereby made, by reference, a part of these regulations, shall be standard. All measurements shall be made at the point of emission.

Every use shall be so operated as to prevent the emission into the air of dust or other solid matter which may cause damage to property and health of persons or animals at or beyond the lot line of the premises on which the use is located.

#### **D. Odors**



No use shall be operated so as to produce the emission of hazardous, objectionable or offensive odors in such concentration as to be readily perceptible at or beyond the lot line of the premises on which the use is located.

E. Toxic, Noxious or Hazardous Matter

No use shall for any period of time, discharge across the boundaries of a lot on which it is located, toxic, noxious or hazardous matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or general welfare, or cause injury or damage to persons, property or the use of property or land.

F. Electromagnetic Interference

No use, activity, or process shall be conducted which produces electromagnetic interference with normal radio or television reception beyond the lot line of the property on which the use is located.

G. Fire and Explosion Hazards

Each use shall be operated so as to minimize the danger from fire and explosion and to comply with the regulations contained in the building code and fire prevention code.

H. Humidity, Heat or Glare

Any activity producing humidity in the form of steam or moist air, or producing heat or glare, shall be carried on in such a manner that the steam, humidity, heat or glare is not perceptible at or beyond the boundary of the zoning district in which the use is located, or any residential, business, or office/institutional zoning district boundary.

I. Light

All lighting shall be beamed down and away from adjoining property. To the extent practicable, all light produced on-site shall be contained within the perimeter of the site by design, orientation or shielding of the light source. The following lighting shall be prohibited:

(1) No fixture shall be erected which is an imitation of an official highway or traffic control light or sign.

(2) No fixture shall be in a direct line of vision with any traffic control sign or light.

(3) No fixture shall have a flashing or intermittent pattern of illumination.

(4) No fixture shall be located within a public right-of-way.

(5) No fixture shall be erected which because of the design of the light source, orientation or intensity causes direct glare onto adjacent property or streets, creating a nuisance or a hazard or causing confusion to drivers.

(6) Search lights are prohibited except when used by Federal, State, or local authority.

(7) No fixture shall violate any law of the State of North Carolina relative to outdoor lighting.

See Section 2.11 for additional requirements.

J. Stormwater Discharge

No use shall for any period of time, discharge across the boundaries of the lot on which it is located, stormwater containing toxic or noxious matter in such concentrations as to be detrimental to or endanger the public health, safety, comfort, or general welfare, or cause injury or damage to persons, property or the use of property or land.

**2.10 – Landscaping and Buffering Standards**

Attractive landscaping of a project is an essential component of overall visual appeal. It affords an opportunity to soften the impact of new development. Therefore, it is important that the landscape plan demonstrate clearly thought-out goals. There are many possible approaches to achieving the degree of screening necessary for the various conditional districts. A clearly stated rationale should accompany the landscaping plan that explains how the plan both serves the needs of the project and fits in with the community setting. For example, some factors that may be addressed are as follows:

- Site conditions, such as the amount of sun or shade, slope, and wet or dry areas
- Representative native species of both canopy and understory trees to provide continuity with wooded areas nearby
- Plants that provide screening in cold seasons
- Cost and maintenance considerations
- Growth rates
- Flowering species that can benefit both passers-by and beneficial insects

Landscaping plants shall be selected that are, for the most part, a naturally occurring species and arrangement for the area. The use of non-naturally occurring and rare plantings is not discouraged for “specimen” or “contrast” plantings.

- A. A landscaping plan must be submitted to the Town with every non-residential application. Landscaping refers to topography, trees, shrubs, grass, and vegetation. The landscaping plan shall indicate where existing trees and vegetation are preserved.
- B. A buffer is a strip of land with the screening required thereon. Screening may include landscaping, walls, fences, hedges, berms, and existing vegetation.
- C. Street trees shall be required along streets at intervals of 40 feet. Each tree shall be of at least 2.5-inch caliper when installed and be a height of 30 feet at maturity.
- D. Chain link fences are to be discouraged unless screened by vegetation.
- E. Plantings adjacent to building walls should be included along sides of buildings where devoid of architectural interest.
- F. The buffer width, height, and appropriate screening for commercial uses adjacent to other commercial uses, adjacent to residential uses, or to land zoned as such, shall be in accordance with Table 2.

In situations where the property for which site plan or building permit approval is sought was timbered in violation of development regulations, and the timber harvest results in the removal of all or substantially all of the trees that were protected under Town regulations governing

development of that tract, the Town may withhold approval for up to three (3) years after the completion of the timber harvest.

The Town may refuse to approve a site plan or deny a building permit for up to five (5) years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under Town regulations governing development of the tract for which the approval is sought, and the harvest was a willful violation of Town regulations.

### **2.10.1 – Additional Requirements**

- A. Plantings as required by this Section shall not be located in drainage, access or utility easements, under overhead power lines or in sight triangles.
- B. All developments shall provide secure, safe, and sanitary facilities for the storage and pickup of refuse. Such facilities shall be convenient to collections and shall be appropriate to the type and size of development being served. All dumpsters/refuse storage facilities shall be screened by a solid wall, fence, tight evergreen hedge, or a combination. Such screening shall be of sufficient height and design to effectively screen the facility from the view of adjacent properties and roads.
- C. Fences, walls, and earth berms may be used in combination with trees and shrubs to fulfill required landscaping; provided, however, that these manmade features are designed and located in such a way that will not conflict with other site features and functions and will be in harmony with the surrounding landscape.
- D. All portions of the landscaping area not planted with shrubs and trees or covered by a wall or other barrier shall be planted in grass and/or ground cover, or covered by a natural mulch of a minimum depth of three (3) inches.

### **2.10.2 – Water Conservation Guidelines**

Given the finite water resources of the community, it is recommended that year-round water conservation be practiced. Xeriscaping is recommended where possible to conserve water.

### **2.10.3 – Landscape Buffering Requirements and Screen Types**

There are three general types of landscaped buffer screens:

Screen A: This screen creates a year-round visual barrier such that there are no direct views from the street or from adjacent properties to the development at any time of year. Plants are typically evergreen and can be used in combination with walls and berms. Minimum spacing shall generally be no wider than 20 feet between tree trunks (but may be wider depending on tree type), with evergreen shrubs spaced five feet on center.

Screen B: This screen breaks up the view such that some elements of the property can be seen from some views and/or during some seasons. 25-35% deciduous plants may be allowed. Minimum spacing shall generally be no wider than 30 feet between tree trunks (but may be wider depending on tree type), with evergreen shrubs spacing ranging from five to eight feet on center.

Screen C: This buffer area simply preserves existing vegetation. It is intended less as a visual barrier and more for a specific purpose. Examples could include, but are not limited to, erosion control, providing continuity with nearby wooded areas, providing wildlife habitat, protecting existing vegetation, providing shade, and/or for aesthetic purposes. Minimum spacing shall generally be no wider than 40 feet between canopy tree trunks and no wider than 20 feet between ornamental tree trunks.

Height and width of all screen types to be determined case-by-case depending on height of structure to be screened, in combination with topography of site and of adjacent sites. Berms, walls, and/or building layout changes may also be necessary. Minimum widths and plant types for satisfying the screen requirements are in Table 2. The plantings are to reach screening goals within 24-36 months of the installation and to be maintained as shown on any plans.

**Table 2: Landscape Buffer Requirements**

Proposed Land Use Class	For adjacent property development					Land use across an adjacent street				
	C-1	O&I	IL	IH	Res	C-1	O&I	IL	IH	Res
C-1	n/a	n/a	B 20 ft	B 20 ft	A 20 ft	n/a	n/a	n/a	n/a	n/a
CB-1	n/a	n/a	n/a	n/a	A 20ft	n/a	n/a	n/a	n/a	n/a
O&I	n/a	n/a	B 20 ft	B 20 ft	A 30 ft	n/a	n/a	n/a	n/a	n/a
IL	B 40 ft	A 40 ft	n/a	n/a	A 60 ft	A 20 ft	A 20 ft	C 20 ft	C 20 ft	A 40 ft
IH	B 60 ft	A 60 ft	n/a	n/a	A 80 ft	A 40 ft	A 40 ft	C 20 ft	C 20 ft	A 60 ft
Residential	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

Adjacent property (but not street) buffers may be waived for mixed-use projects as a condition of an approved Special Use Permit.

#### 2.10.4 – Screening of Storage Areas

This section addresses the outdoor storage, utility, and equipment areas often associated with commercial uses. Requirements herein do not apply to mercantile locations where commodities for sale are displayed on the sales site.

Preliminary site design for any project should include providing for adequate outdoor storage needs. These areas include space where materials are temporarily stored, waste and recycling is handled and stored, mechanical/electrical equipment is located or loading and vehicular work yards are located.

Whenever possible storage areas should be concealed by site or building design. Where such is not possible, screening should be provided as follows.

**Table 3: Storage Area Screening Requirements**

Type of Item to be Screened	Screening Requirements
Ground-mounted electrical transformer	Border plantings on the two most visible sides of the equipment at least as high as the equipment, such as evergreen shrubbery planted to achieve an approximate 80% visual obstruction
Waste and recycling outdoor containers, stored construction materials, utility supplies, etc.  (does not apply to temporary storage of six months or less)	A 95% solid treated wood fence at least one foot higher than the object to be screened and coming within 12 inches of the ground, with border plantings of evergreen shrubs that constitute an approximate 30% screen on the two most visible sides –OR- An approximate 95% dense planting of evergreen shrubs and/or small trees that reaches the screen density within 24 months of installation and is maintained in perpetuity or until a fence is erected
Repair work, dismantling or servicing of vehicles	Conceal area using 8-foot high, 100% opaque fence, with evergreen border plantings that conceal 35% of the fence or equivalent screening
Satellite dish antennas that are 25 inches in diameter or greater	A 70% visual barrier that is the height of the dish or greater when viewed from the public right-of-way or adjacent residential usages

Storage areas that are deemed hazards to the public or stored items that could be windblown or require security shall be further enclosed on all sides by wall or fence with border plantings and shall include an operable gate. Gates shall not swing into any public way.

Project landscaping shall be established prior to the facility earning a certificate of occupancy. It is the owner’s responsibility to maintain the landscape plantings in good health and to replace any failed plants promptly.

**2.10.5 – Screening of Loading Areas**

This Ordinance provides for loading and delivery areas for all buildings used for trade or industry. A minimum dimension for loading spaces and a quantity requirement for providing spaces based on building area is included. Such spaces shall have access to a public service alley, private driveway, or, if necessary, a public street.

Whenever possible, all loading areas shall be located between the building and the rear lot line of the property, and/or shall be screened from view of the street and adjacent properties. Developments that use loading areas extensively are encouraged to recess this functional area of the building into the mass of the building or creatively blend it into the landscape using building offsets, screen walls, berms, and other design techniques.

The following list of screening requirements is intended to protect the public and adjacent properties from views to loading areas.

**Table 4: Loading Area Screening Requirements**

Type of Item to be Screened	Screening Requirements
Delivery door or overhead door without exterior dock and steps	None
Overhead delivery doors with loading docks and steps	6-foot high screening device of solid structure (wall, fence, etc.) with low border plantings at corners or 25-feet on center areas of border plantings –OR–An approximate 95% dense planting of evergreen shrubs and/or small trees that reaches effective density within 24 months and is maintained in perpetuity or until a landscaped fence is erected
Loading dock areas that are also used to store recycling waste containers or outdoor stored materials for any period of time	A 95% solid wooden fence or wall at least one foot higher than the tallest storage or equipment article. Fence shall extend to within 12 inches of the ground and have border plantings of evergreen shrubs that constitute an approximate 30% screen on the two most visible sides of the loading area—OR—An approximate 95% dense planting of evergreen shrubs and/or small trees that reaches effective density within 24 months of installation and is maintained in perpetuity or until a landscaped fence is erected

Screening structures and landscaping may include breaks in the visual barrier for vehicular and pedestrian egress. There, openings in the screening shall be limited to a minimum practical width and located so as to obscure line of sight from the public way.

**2.10.6 – Applicability**

- A. Existing uses shall not be considered non-conforming for this section until expansion of the use is greater than 10% of the footprint of the use (building(s), ancillary structures, parking, loading, etc.). Generally impervious surfaces; pervious areas that are actively engaged in the primary use of permitted ancillary uses are included in this calculation.
- B. Any expansion under 10% within three years of an additional expansion shall be counted toward the percentage of the total.
- C. This shall apply to all non-residential applications and Special Use Permits with the exception of wireless facilities and structures.

**2.11 – Lighting**

**2.11.1 – Intent and Purpose**

Outdoor lighting shall be designed to provide the minimum lighting necessary to ensure adequate safety, night vision, and comfort, reduce light pollution and not create or cause excessive glare on adjacent properties and street rights-of-way.

### 2.11.2 – Illuminating Engineering Society of North America (IESNA) Cutoff Classifications<sup>24</sup>

- Full Cutoff – A fixture light distribution where no light intensity is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 10% of the lamp’s light intensity is emitted at or above an angle 10 degrees below that horizontal plane, at all lateral angles around the fixture.
- Cutoff – A fixture light distribution where no more than 2.5% of a lamp’s light intensity is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 10% of the lamp’s light intensity is emitted at or above an angle of 10 degrees below that horizontal plane, at all lateral angles around the fixture.
- Semi-cutoff – A fixture light distribution where no more than 5% of a lamp’s light intensity is emitted at or above a horizontal plane drawn through the bottom of the fixture and no more than 20% of the lamp’s light intensity is emitted at or above an angle 10 degrees below that horizontal plane, at all lateral angles around the fixture.
- Noncutoff – A fixture light distribution where there is no light intensity limitation in the zone above the maximum distribution of light intensity.

### 2.11.3 – Additional Definitions

The following definitions apply to Section 2.11 of this Ordinance.

**Candela:** A measure of luminous or light intensity in a certain direction. Useful in determining how much light is shining out of a fixture and in what direction.

**Diffusing Panel (lens):** A translucent material covering the lamps in a luminaire in order to reduce the brightness by distributing the light flux over an extended area.

**Direct Lighting:** Lighting involving luminaries that distribute 90 to 100% of the emitted light in the general direction of the surface to the illuminated. The term usually refers to light emitted in a downward direction.

**Fixture:** An assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

**Flood Lamp:** A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

**Flood Light:** A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

**Footcandle (FC):** A quantitative unit measuring the amount of light (illumination) falling onto a given point. One footcandle equals one lumen per square foot.

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<sup>24</sup> Descriptions have minor wording modifications to provide non-technical clarity.

**Glare:** The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause annoyance, discomfort, or loss of visual performance and ability.

**HID:** High intensity discharge lighting is a bulb type including mercury vapor, metal halide, high pressure or low-pressure sodium, which glow when an electric current is passed through a gas mixture inside the bulb.

**Holiday/Festive Lighting:** Lighting that is installed with the intent to operate during a designated temporary period of time where a specific theme or event is a focus of attention.

**IESNA:** The Illuminating Engineering Society of North America, a non-profit professional organization of lighting specialists that has established recommended design standards for various lighting applications.

**Illuminance:** The amount of light falling on a surface-measured in lux or footcandles.

**Internal Refractive Lens:** A glass or plastic lens installed between the lamp and the sections of the outer fixture globe or enclosure. Refractive refers to the redirection (bending) of the light as it goes through the lens, softening and spreading the light being distributed from the light source thereby reducing direct glare.

**Light Source:** The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

**Light Trespass:** Light emitted by a lighting installation that falls outside the boundaries of the property on which the installation is sited. This has adverse effects on residents, vehicle operators and pedestrians, the natural environment.

**Lumen:** A quantitative unit used to identify the amount of light emitted by a light source. A lamp is generally rated in lumens.

**Maintained Footcandles:** Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high-pressure sodium and 0.64 for metal halide and mercury vapor.

**Medium Base:** The size of lamp socket designed to accept a medium or Edison base lamp.

**Outdoor Performance Area:** An area permanently dedicated to the public presentation of music, dance, theater, media arts, storytelling, oratory, or other performing arts, whether publicly or privately owned, including but not limited to amphitheaters and similar open or semi-enclosed structures.

**Outdoor Sports Field:** An area designed for recreation (public or privately owned). These areas include, but are not limited to baseball/softball diamonds, soccer fields, football fields, golf courses, golf driving ranges, tennis courts, racetracks, firearm shooting ranges, and swimming pools.

**Right-of-Way:** An interest in land to the county which provides for the perpetual right and privilege of the county, its agents, franchise holders, successors, and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a public street, including related and customary uses of street rights-of-way such as sidewalks, bike paths, landscaping, mass transit facilities, traffic control, traffic control devices and signage, sanitary sewer, storm water drainage, water supply, cable television, electric power, gas, and telephone transmission and related purposes in, upon, over, below, and across the rights-of-way.



**Temporary Lighting:** Lighting used for a limited duration, but in no case longer than thirty (30) days.

**Vehicular Canopy:** A roofed, open, drive-through structure designed to provide temporary shelter for vehicles and their occupants while making use of a business' services.

**Wall Pack:** A type of light fixture typically flush-mounted on a vertical wall surface.

**Wide-body Refractive Globe:** A translucent lamp enclosure used with some outdoor fixtures to provide a decorative look (including but not limited to acorn- and carriage light-style fixtures).

"Wide-body" refers to a wider than average size globe (greater than 15.75" in diameter).

"Refractive" refers to the redirection (bending) of the light as it goes through the lens, rendering the light fixture more effective. Wide-body refractive globes are intended to soften and spread the light being distributed from the light source thereby reducing direct glare.

#### **2.11.4 – Light Measurement Technique**

Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant.

Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five (5) percent. Measurements shall be taken with a light meter that has been calibrated within the previous two years. Light levels are specified, calculated and measured in footcandles (FC). All FC values are maintained footcandles unless specified otherwise. See the definition for maintained footcandles in Section 2.11.3 for maximum allowed light loss factors.

#### **2.11.5 – General Standards for Outdoor Lighting**

- A. Lighting Plan – A lighting plan shall be provided for review and must be approved prior to issuance of the building permit. The lighting plan shall demonstrate a consideration for reduced energy consumption through the selection of energy efficient fixtures.
- B. Unless otherwise specified in the following subsections, the maximum light level shall be 0.5 maintained footcandles at any property line in a residential district, or on a lot occupied by a dwelling, congregate care or congregate living structure, unless otherwise approved by the Town.
- C. All floodlights shall be installed such that the fixture shall be aimed down at least 45 degrees from vertical. These lights shall be positioned such that any such fixture located within 50 feet of a public street right-of-way is mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed 15 degrees from perpendicular to the right-of-way. The Planning Department may require shields to be installed on floodlights before, during or after the installation when needed to further reduce lighting trespass, glare and light pollution. Flood lights shall not be aimed at residential property.

- D. All flood lamps emitting 1,000 or more lumens shall be aimed at least 60 degrees down from horizontal or shielded such that the main beam from the light source is not visible from adjacent properties or the public street right-of-way.
- E. All wall pack fixtures shall be full-cutoff fixtures.
- F. All fixtures installed, owned, or leased by governmental or public agencies, or their agents, for the purpose of illuminating public streets are otherwise exempt from this regulation. Fixtures installed through private development are not exempt.
- G. The lighting plan shall demonstrate a consideration for reduced energy consumption through the selection of energy efficient fixtures.
- H. With the exception of essential all-night security lighting, the plan shall demonstrate lighting reduction procedures, implemented using timers or other methods (such as fixtures that automatically change wattage output). Said lighting reduction shall be active between approximately 12:00 am and dawn. For 24-hour commercial activities, this requirement may be adjusted by approval of the Town Board.

**2.11.6 – Lighting in Outdoor Areas (Residential and Non-residential)**

- A. Other than flood lights and flood lamps, all outdoor area and parking lot lighting fixtures of more than 2,000 lumens shall be full-cutoff fixtures, or comply with Section 2.11.6(D) below.
- B. The mounting height of all outdoor lighting, except outdoor sports field lighting and outdoor performance area lighting shall not exceed 37 feet above finished grade, unless approved by the Town Board as having no adverse effect.
- C. Security Lighting for Open Parking Facilities – For lighted parking lots, the minimum light level shall be no less than 0.2 footcandles. All light levels are measured at ground level. The minimum light level requirements vary depending on the activity classification. The specified minimum footcandle (FC) value above 0.2 FC as outlined in Table 5 means that the lowest light level point or location in the parking lot must not exceed the minimum stated FC value in the table. An average-to-minimum uniformity ratio of 4:1 means that the average FC cannot be more than four times the minimum FC.

**Table 5: Security Light Levels for Open Outdoor Parking Facilities**

Use/Task	Minimum Maintained Footcandles	Uniformity Ratio (Average to Minimum)
Parking in residential areas	Acceptable minimums range from 0.2 FC to 0.6 FC	4:1

Parking in high-intensity non-residential areas (e.g. large shopping centers, fast food eateries, major athletic/civic/cultural events)	0.9 FC minimum	4:1
Parking in medium/low-intensity non-residential areas (e.g. community shopping, office parks, hospitals, commuter lots, cultural/civic/recreational events, neighborhood shopping, industrial employee parking, schools, churches)	Acceptable minimums range from 0.2 FC to 0.7 FC	4:1

Adapted from *IESNA 8<sup>th</sup> Edition Lighting Handbook*

Notes:

- (1) Illumination levels are horizontal on the task (e.g. pavement or surface area).
- (2) Uniformity ratios dictate that average illuminance values shall not exceed minimum values by more than the product of the minimum value and the specified ratio. For example, for commercial parking with medium/low activity, the average footcandles shall not be in excess of 2.8 (0.7 x 4).
- (3) A low/medium activity can be reclassified upward when appropriate and only with Planning Department approval.

D. Exceptions

- (1) Non-cutoff decorative post-mounted fixtures may be used, but must be equipped with a solid top when available to direct the light downward or meet the cutoff classification. Mounting heights of 18 feet or less above ground are allowed when the maximum initial lumens generated by each fixture does not exceed 9,500 initial lamp lumens.
  - a. All metal halide, mercury vapor, fluorescent, induction, white high pressure sodium and color improved high pressure sodium lamps used in non-cutoff fixtures shall be coated with an internal white frosting inside the outer lamp envelope.
  - b. All metal halide solid-top decorative post fixtures equipped with a medium base socket must use an internal refractive lens, a diffusing panel (lens) or a wide-body refractive globe as described in Section 2.11.3.
- (2) Dusk-to-dawn open bottom security lights must be fully shielded to provide a full-cutoff light distribution.
- (3) Temporary lighting for special events or short duration. Typically these are low wattage or low voltage applications for public festivals, celebrations, and the observance of holidays, carnivals and celebrations. Portable (non-permanent) internally-illuminated signs come under this classification and, as such, can be used for up to 30 days only.
- (4) Airport lighting controlled by the Federal Aviation Administration.

- (5) Lighting of the United States of America and State of North Carolina flags and other flags or insignia of any governmental entity.

### **2.11.7 – Lighting for Vehicular Canopies**

Areas under a vehicular canopy shall have an average maximum horizontal illuminance of 24 maintained footcandles. Areas outside the vehicular canopy shall be regulated by the standards of Subsection 2.11.6 above. Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or both of the following:

- Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy that provides a full-cutoff of fully-shielded light distribution.
- Surface mounted fixture incorporating a flat glass that provides a full-cutoff or fully-shielded light distribution.

### **2.11.8 – Outdoor Sports Fields/Outdoor Performance Areas**

- A. The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed 80 feet from the finished grade unless approved by the Town Board.
- B. All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices).
- C. The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area. The maximum light level shall be 0.5 maintained footcandles at any property line in a residential district, or on a lot occupied by a dwelling, congregate care, or congregate living structure.
- D. As outdoor sports field/outdoor performance area lighting non-conforming fixtures fail, maintenance replacement fixtures must be installed that comply with the requirements of these lighting standards.
- E. The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.

### **2.11.9 – Lighting of Outdoor Display Areas**

The following provisions apply to outdoor display areas except for car dealership parking lots, as specified in 2.11.9(D) below:

- A. Parking lot outdoor areas shall be illuminated in accordance with the requirements for subsection 2.11.6 above. Outdoor display areas shall have a maximum average maintained illuminance of 24 maintained footcandles.
- B. All light fixtures shall meet the IESNA definition of cutoff fixtures. Forward throw fixtures (type IV light distribution, as defined by the IESNA) are required within 25 feet of any public street right-of-way. Alternatively, directional fixtures (such as floodlights) may be used, provided they shall be aimed in accordance with Subsections 2.11.5(C) and 2.11.5(D) of this Ordinance.

- C. The mounting height of outdoor display area fixtures shall not exceed 37 feet above finished grade.
- D. For car dealership parking lots, the following provisions shall apply:
  - (1) Full-cutoff fixtures shall be used.
  - (2) Mounting Heights – Up to a maximum of 35 plus 2-foot raised base for parking areas as needed.
  - (3) Lighting at the first row, the car bumper may not exceed a maximum average maintained illuminance of 24 footcandles.
  - (4) Lighting in the non-display are of the parking lot after hours shall be no higher than 7 footcandles average maintained.

**2.11.10 – Lighting of Buildings**

- A. Lighting fixtures shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building façade, plantings, and other intended site features, and away from adjoining properties and the public street right-of-way.
- B. Illumination on any vertical surface or angular roof shall not exceed 5 footcandles average maintained.
- C. To the extent practical and where possible, lighting fixtures shall be directed downward rather than upward.
- D. When upward aiming is used, placement of low-wattage fixtures with shields (as needed) close to the building to graze the façade is required to minimize reflected light from windows and other surfaces. The Planning Department can waive this requirement in rare and unusual cases if it is demonstrated that the physical location of light fixtures close to the building to accomplish this design is not possible.

**2.11.11 – Permanent Sign and Billboard Lighting**

External lighting fixtures illuminating signs and billboards shall be aimed and shielded so that direct illumination is focused exclusively on the sign. Externally lighted signs shall be lighted from the top of the sign downward. The Planning Department can waive this requirement in rare and unusual cases if it is demonstrated that the physical location of light fixtures for top-down aiming is not possible. The maximum watts permitted to illuminate a sign are determined by multiplying the sign face area by 2 watts per square foot. Internally illuminated signs are permitted, provided that the message or letters of such sign consist of nonreflective material. For additional guidance, see Section 2.13.

Exception: Signs less than 7 feet (2 meters) in height above grade may be illuminated by ground mounted uplighting not exceeding 100 lamp watts per sign face.

NOTE: Refer to Section 2.11.6(D)(3) regarding portable internally illuminated signs.

**2.11.12 – Holiday/Festive Lighting**

Holiday/festive lighting is allowed, provided it complies with the definition outlined in Section 2.11.3. The connection of multiple holidays and/or festival events over a number of weeks and/or months is not permitted. Lamps below 7 watts are exempt and have no restrictions on use.

#### **2.11.13 – Walkways, Bikeways and Parks (Sections to be Lighted)**

The walkway, pathway, or ground areas that are to be lighted shall be illuminated to a level of at least 0.2 and no more than 0.5 average horizontal maintained footcandles.

#### **2.11.14 – Landscape Lighting**

All landscape and residential façade lighting systems shall employ shielded directional luminaires not to exceed 40 lamp watts. The luminaires shall be aimed such that the light source cannot be seen from any reasonable viewing point on an adjacent property.

#### **2.11.15 – Permitting and Approval Process**

The following section applies generally to the Permitting and Approval Process and outlines requirements of the applicant seeking a permit for work involving outdoor lighting for residential subdivision single-family and multi-family developments, commercial, multi-use, office, institutional and industrial projects. Specific permitting requirements are to be in compliance with the procedures established by the Planning Department. These aforementioned requirements shall serve as the framework by which this Section of the Ordinance is implemented.

As with any permitting process, the applicant shall be required to submit the appropriate supporting documentation at the time the application is submitted for review. The documentation submitted shall contain, but not be limited to the following, all or part of which may be part of, or in addition to, the information required elsewhere in this Ordinance, and by the policies and procedures established by the Planning Department.

- A. The applicant for any permit required for work involving outdoor lighting for commercial, office, institutional and industrial projects with a gross floor area of more than 5,000 square feet, residential projects other than detached single-family dwellings of more than 6 units, all vehicular canopies and all outdoor display areas shall submit documentation at time of site plan or plot plan approval that the proposed lighting plan complies with the provisions of this lighting standard.
- B. A lighting plan to scale is required that shows a point-by-point footcandle array on a 10-foot by 10-foot grid in a printout format indicating the location and aiming of illuminating devices. The printout shall include a summary table to indicate compliance with the average maintained and minimum footcandles and average-to-minimum uniformity ratios. Footcandle point values in the appropriate areas to determine light trespass compliance is also required. The lighting plan shall include as a minimum an arrangement of the subject outdoor lighting, a fixture schedule detailing the mounting height and technique, fixture type, bulb type/wattage, controls, lenses, etc. The lighting plan shall demonstrate a consideration for reduced energy consumption through the selection of energy efficient

fixtures as well as the implementation of the stated lighting practices as outlined in this Ordinance.

- C. A point-by-point photometric footcandle array created from industry-recognized lighting software systems and/or manual calculations created by a professional engineer, lighting certified professional, vendor, or an individual that possesses the skills to perform such calculations. Methods used for calculating the lighting footcandle levels shall be indicated in the application documentation. The footcandle array shall be provided in a hardcopy printed format indicating the location and aiming of all applicable illuminating devices covered under the subject application based on the site and/or building arrangement plan, complete with consideration of adjoining properties and roadways.
- D. Description of the illuminating devices, fixtures, lamps, supports, reflectors, poles, raised foundations and other devices (including, but not limited to, manufacturers or electric utility catalog specification sheets and/or drawings, and photometric report indicating fixture classification [cutoff fixture, wall pack, flood light, etc.]).

Projects that are not required to submit items identified in sub-section 2.11.15(A) above are still subject to comply with the provisions of this ordinance and may be required to provide this information upon request.

The Planning Director or his/her designee may modify and/or waive any part(s) of the above referenced permit requirements, provided the applicant can otherwise demonstrate compliance with this Code. Note: An example of this provision might be where a contractor or utility repeatedly installs the same lighting equipment on different projects in the Town. One submittal containing the specification sheets of a particular group of fixtures may be sufficient for the Planning Department to modify the project requirement and require that only the other provisions of the ordinance be met since the fixture specification provisions have already been met. This modification would conserve personnel and lighting supplier/installer resources.

#### **2.11.16 – Nonconformities**

- A. Any lighting fixture lawfully in place or approved by the Town prior to the adoption of this Ordinance shall be exempt from these requirements. At the time that a non-conforming fixture is replaced, moved, upgraded or otherwise changed, the fixture must be brought into compliance with the requirements of this Ordinance. Any expansion of, or addition to, an existing lighting system must conform to the requirements of this Ordinance.
- B. Routine maintenance, including changing the lamp, ballast, starter, photo control, lens, and other required components, is permitted for all existing fixtures. When the fixture housing is changed, the fixture must come into compliance.
- C. Major renovation(s) of vehicular canopies (50% or more of the existing light fixtures) will require compliance with Section 2.11.7.
- D. Property owners that install lighting fixtures after the effective date of this Ordinance and are found to be in non-compliance shall receive written notification according to this Ordinance.
- E. See Section 2.11.8(D) for nonconformity provisions for outdoor sports fields and performance areas.

## **2.12 – Off-street Parking and Loading**

### **2.12.1 – Off-street Parking Requirements**

There shall be provided at the time of the erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats, or floor area, or before conversion from one type of use or occupancy to another, permanent off-street parking space in the amount specified by this section, except in the situation discussed in Section 2.12.4. Such parking space may be provided in a parking garage or properly graded open space.

**A. Certification of Minimum Parking Requirements**

Each application for a zoning permit submitted to the Planning Department as provided for in this Ordinance shall include information as to the location and dimensions of off-street parking and the means of entrance and exit to such space. This information shall be in sufficient detail to enable the Planning Department to determine whether or not the requirements of this section are met.

**B. Definition of a Parking Space**

The storage space of one automobile. The size of a parking space shall be in accordance with generally accepted geometric design principles for the type space and lot.

**C. Minimum Off-street Parking Requirements**

The following off-street parking space shall be required, as shown in Table 6. Note that any fractional space shall be considered the next whole number (e.g. 47.3 is considered 48).

**Table 6: Classification Off-street Parking Requirements**

<b>RESIDENTIAL CLASSIFICATIONS</b>	
Housing designed for and used by the elderly	1 space per 4 dwelling units
Incidental home occupations	1 space in addition to the residential requirement
Multi-family residences	1.5 spaces per dwelling unit
Rehabilitation homes	1 space per 2 beds
Congregate care	1 space per 2 dwelling units
Single-family and two-family residences (may be in a single drive, with one car behind the other)	2 spaces per dwelling unit
<b>COMMERCIAL AND INDUSTRIAL CLASSIFICATIONS</b>	
Auto service station and/or repair shops	4 spaces per service bay, plus 1 space per wrecker or service vehicle
Auto sales	1 space per 400 square feet of building area devoted to sales
Bank and consumer financial services	1 space per 200 square feet of gross floor area
Barber and beauty shops and other personal services	2 spaces per operator
Car washes	1 space per 2 employees
Delivery, ambulance and other similar services	1 space per vehicle, plus 1 space for each 2 employees



Drive-through service such as banks, automobile service stations, dry cleaners, car washes and similar uses (in addition to use requirements)	Stacking for 4 vehicles at each bay, window, or lane
Dry cleaners or laundries (self-service)	1 space per 4 rental pieces of equipment
Eating establishments and nightclubs serving meals	10 spaces, plus 1 space for every 3 seats
Fire stations	1 space per person on duty on a normal shift
Hotel, motel, motor court and similar uses	1 space per unit, plus 2 spaces per 3 employees on a normal shift
Mobile home sales	5 spaces, plus 1 space per 20,000 square feet of gross area
Manufacturing, industrial, warehousing and wholesaling	1 space per 3 employees on the largest shift
Post offices	1 space per 200 square feet of public service area, plus 2 spaces per 3 employees on the largest shift
Retail sales (except those listed below)	1 space per 200 square feet of gross floor area
Retail sales of bulky items which require high rates of floor space to the number of items offered for sale, such as antiques, appliances, art, bicycles, carpet, floor covering, furniture, motorcycles, paint, upholstery and similar uses	1 space per 300 square feet of gross floor area
Retail uses dealing primarily in service and/or repair	1 space per 200 square feet of gross floor area
Designed shopping centers	5 spaces per 1,000 square feet of gross floor area (optional to computing parking on a store-by-store basis)
Radio, television stations	2 spaces per 3 employees on the largest shift
Transportation terminals, such as airports, bus terminals and railroad passenger stations	1 space per 4 seating accommodations for waiting passengers, plus 1 space for each 2 employees on the largest shift
Wholesale with related retail	1 space per 3 employees on the largest shift, plus additional spaces per square foot of gross floor area devoted to retail sales as applicable from the appropriate "retail sales" schedule above
<b>OFFICE AND INSTITUTIONAL CLASSIFICATIONS</b>	
Child care and kindergarten, less than 6 children	1 space per teacher or staff, plus space for 1 car drop-off and pick-up
Child care and kindergarten, 6 or more children	1 space per teacher or staff, plus stacking for 4 cars for drop-off and pickup or stacking for 1 car per 10 children, whichever is greater
Churches and other places of worship	1 space per 4 seats in the largest assembly room
Dormitories	1 space per 4 beds
Fraternity, sorority houses	1 space per 2 beds
Elementary and Junior High schools	5 spaces, plus 1 space per teacher or staff
Funeral homes	1 space per 4 seats in the main chapel

General offices	1 space per 200 square feet of net rentable area (net rentable area shall be considered to be 80% of gross floor area unless otherwise shown by applicant)
Hospital, nursing and convalescent homes	1 space per 2 beds, plus 1 space per staff doctor on duty
Library, museum and art galleries	1 space per 300 square feet of gross floor area
Medical, dental and similar offices	7 spaces per doctor or practitioner
Nursing, convalescent homes designed and used primarily for the elderly	1 space per 3 beds, plus 1 space per staff doctor on duty
Orphanage, juvenile homes	1 space per 2 beds
Senior High schools, trade and vocational schools, colleges and universities	7 spaces per classroom
Auditoriums, stadiums, assembly halls, and gymnasiums located on a high school, college or university campus	1 space per 12 fixed seats and 1 space per 12 movable seats in largest assembly room
<b>RECREATION CLASSIFICATIONS</b>	
Amusements, dance halls, night clubs not serving meals	1 space per 3 persons in designed capacity, plus 2 spaces per 3 employees on the largest shift
Auditoriums, stadiums, assembly halls, convention centers, gymnasiums, fraternal or social clubs or lodges, community recreation centers	1 space per 3 fixed seats and 1 space per 3 movable seats in the largest assembly room
Bowling alleys	4 spaces per lane
Golf courses	4 spaces per tee
Indoor movie theaters	1 space per 3 fixed seats and 1 space per 3 movable seats
Public swimming pools	1 space per 100 square feet of water area
Recreation uses such as golf driving range, miniature golf, tennis, billiards or pool centers, or similar recreation uses	1 space per tee, green, court and/or other method of participation, however styled
Recreation facilities such as community center, swimming pool, tennis courts, and similar activities when located in conjunction with a townhouse, condominium, group housing or homeowner association development	1 space per 25 memberships or tenants

D. Combination of Required Parking Spaces

The required parking spaces for any number of separate uses may be combined in one lot or parking structure, but the required parking spaces assigned to one use may not be assigned to another use at the same time.

E. Daytime/Nighttime Assignments

One-half of the required parking spaces for places of worship, theaters, or assembly halls whose peak attendance is at night or weekends may be assigned to a use which will be closed at night or on weekends.

F. Lighting

Access ways, walkways and parking areas, if lighted, shall be lighted by fixtures which shall be so installed as to protect the street and neighboring properties from direct glare or hazardous interference of any kind.

G. Remote Parking

(1) On all off-street parking lots, the required space shall be provided on the same plot with the use or on a lot separated therefrom by not more than 400 feet, except for residential uses which must be provided on the same plot.

(2) Where provision of required off-street parking for a building or other uses established subsequent to the adoption of this section involves one or more parcels or tracts of land that are not a part of the plot on which the principal use is situated, the applicant for a permit for the principal use shall submit with his application for a zoning permit an instrument duly executed and acknowledged, which subjects the parcels or tracts of land to parking uses in connection with the principal use for which it is made available. The applicant shall cause said instrument to be registered in the office of the Register of Deeds upon issuance of a zoning permit.

(3) Parking in one zoning district in connection with a use not permitted in that district shall be permitted in accordance with the following:

- a. Commercial uses may park in Industrial Districts
- b. Industrial uses may park in Commercial Districts
- c. Office and Institutional uses may park in Commercial and Industrial Districts
- d. Residential uses may park in Commercial, Industrial, and Office and Institutional Districts

(4) Any use located in one zoning district which is also a permitted use in another zoning district may also park in such other zoning district in which the use is permitted.

### **2.12.2 – Parking Lot Improvement, Design and Locational Requirements**

All off-street parking lots including exits, entrances, drives, and parking areas shall:

- Be designed to allow for traffic movement in accordance with generally accepted geometric design principles;
- Have physical access to a public street;
- Be so designed that all access to the public street is by forward motion;
- Be graded, property drained, stabilized and maintained to prevent dust and erosion; and
- Be continuously provided and maintained as long as the use which they serve exists.

No parking lot designed or provided for more than six cars shall be located in the required front yard within the following districts:

- R-2 Residential
- R-1 Residential
- R-15 Residential
- O&I Office and Institutional
- IL Light Industrial

Within the C-1 Commercial District and IH Heavy Industrial District, parking lots may be located in the front yard, but not within 10 feet of any public right-of-way line. When a parking lot with space for more than 10 cars adjoins any plot zoned for residential purposes, a buffer shall be provided to protect residences from light, glare, noise and fumes. This buffer shall be a five foot wide strip of land on which is placed a four foot high, at least 50% opaque fence or a dense evergreen screen of equal height and opaqueness, provided that smaller evergreen plantings may be permitted where in the opinion of the Planning Department there is a reasonable expectation that such plantings will reach the required height and opaqueness within a two-year period.

For all non-residential uses and any uses requiring a Special Use Permit, the following requirements will also apply:

- (1) Parking lots, wherever possible, shall be located to the side and rear of structures and away from streets and highways, thereby using buildings or other architectural elements as a visual barrier for the parking. Otherwise, adequate screening should be provided for aesthetic purposes and to prevent the glare of auto lights upon adjacent properties.
- (2) Parking spaces shall not directly abut structures. Leave adequate space (15 feet minimum) for sidewalks, landscaping, and plantings between parking and structures.
- (3) Landscape plantings and trees are required in parking lots to reduce the visual impact of large open areas of pavement. To reduce the buildup of heat on dark colored paving during hot weather (heat island effect) provide trees for shade of at least 50% of the paved area based on existing conditions and the type of paving materials used. Reflective paving materials may be permitted to reduce the shading requirements. (See #5 below)
- (4) Landscaped islands are required (at minimum) at the ends of parking aisles, at a maximum of every 10 spaces, and between bays of parking. Project designers are encouraged to submit landscape plans that accomplish these goals in alternative and creative ways. Submittals must be presented with enough detail to provide a full understanding of what is proposed. (See #5 below)
- (5) Designers are requested to provide (and show) plant beds that are appropriate for the plant material. Trees and other plant materials may not achieve optimal size in planting sites that are restricted or limiting to normal growth.
- (6) All plans shall show:
  - a. Dimensioned-parking lot plans with landscaped areas clearly delineated and dimensioned.

- b. Paving materials (asphalt, concrete, pervious materials, etc.).
  - c. Landscape materials including trees, screen plantings, ornamental plantings, ground covers including type, size, frequency, shading capacity, etc.
- (7) A mix of trees and landscape plants shall be planted between parking bays and around the perimeter of parking areas to provide screening, shade and visual variety.
  - (8) Maintenance of landscape plants is required for the implementation of the approved landscape plan. Plantings that are resistant to drought do not require heavy irrigation, are not subject to being eaten by deer, and which are native to Chatham County, are encouraged and will be reviewed favorably. Replacement of dead plants is expected and is the responsibility of the property owner.
  - (9) Plant selections should be incorporated into submittals.

**2.12.3 – Off-street Loading Requirements**

Every structure or building used for trade, business or industry hereafter erected shall provide space as indicated herein for the loading, unloading and maneuvering space of delivery vehicles off the street or public alley. Such space shall have access to a public alley, private driveway, or, if such cannot reasonably be provided, to a public street. For the purpose of this section an off-street loading space (exclusive of adequate access drives and maneuvering space) shall have a minimum dimension of 12 feet by 40 feet and an overhead clearance of 14 feet in height above the alley or street grade.

**Table 7: Required Off-street Loading Space by Type of Use**

Type of Use	Required Off-street Loading Space
Retail Business	1 space for each 20,000 square feet of gross floor area or fraction thereof
Wholesale and Industries	1 space for each 20,000 square feet of gross floor area or fraction thereof
Office and Institutions	1 space for each 50,000 square feet of gross floor area or fraction thereof

Loading areas shall be screened in accordance with Section 2.10.5.

**2.12.4 – Existing Buildings in Downtown Area with Non-conforming Parking**

Existing buildings, as of July 1, 2018, in the Downtown area of Goldston are not required to meet the off-street parking requirements outlined above if there is a change in use of the building or renovation of the building; however, if an existing building is expanded or a new building is constructed, it is required to meet the off-street parking requirements. This exception is made due to the presence of on-street parking in this area and the historic nature of the area. For the purposes of this section, the Downtown area is defined as any building fronting upon Main Street between Goldbar Avenue and Hillcrest Avenue; and any building fronting upon Bellevue Street between Goldbar Avenue and a theoretical straight-line extension of Hillcrest Avenue.

## **2.13 – Regulations Governing Signs**

The regulations governing the use of signs are set forth in this section. All signs shall be erected, altered, and maintained in accordance with the following provisions and only those signs as specified and as regulated shall be erected within the jurisdiction. Any sign or type of sign not expressly mentioned in this section shall be prohibited.

### **2.13.1 – Nonconforming Signs**

See Section 2.7 for provisions on nonconforming signs.

### **2.13.2 – Lighting of Signs**

See Section 2.11 for provisions on the lighting of signs.

### **2.13.3 – Prohibited Signs**

- A. Any sign that obscures a sign displayed by public authority for the purposes of giving traffic instruction or direction or other public information.
- B. Any sign that uses the word “stop” or “danger” or otherwise presents or implies the need or requirement of stopping or caution or the existence of danger, or which is a copy or imitation of or which for any reason is likely to be confused with any sign displayed by a public authority. Provided, however, this provision is not intended to prevent the placement on private property of signs such as “stop” or “yield” or other such wording or design where such is necessary for traffic control or other such legitimate notice to the public.
- C. Any sign that obstructs any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress for any building as required by law.
- D. Any portable sign that is not considered a Temporary Sign as defined in Section 1.2.
- E. Any sign that violates any provision of any law of the State relative to outdoor advertising.
- F. Signs with flashing, intermittent or animated illumination except for official warning or regulatory signs. Provided, however, electronically or electrically controlled message centers or reader boards where different copy changes, involving alphabetical or numerical characters only, present messages of a public service or commercial nature on the same lamp bank shall not be considered to be flashing signs.
- G. Signs affixed to trees, telephone poles, light poles, State-owned sign posts or public road right-of-way control fencing, except when used to post property or other such public purposes.
- H. Signs erected in or over the public right-of-way except as permitted by the North Carolina Department of Transportation. Enforcement of this provision shall be the responsibility of the North Carolina Department of Transportation.
- I. Signs intentionally set in motion by wind, water, motor drive or otherwise.
- J. Signs, banners, streamers, or pennants tied or consecutively strung together, but not including temporary holiday decorations.
- K. Any sign with a sign area over 200 square feet.

- L. Any sign which would constitute the sole and/or principal use of any lot, plot, parcel or tract of land. This provision is intended to prohibit any sign which viewed within the context of its design, orientation, location on property, physical situation, relationship to surrounding property, streets and uses of land and other such factors would appear to constitute a principal use of land as regulated by this Ordinance. However, no sign listed as “signs permitted in any zoning district”, temporary signs in this section, or off-premise directional signs are intended to be prohibited by this provision.

#### **2.13.4 – Signs Permitted in Any Zoning District**

The following signs are permitted in any zoning district:

- A. Signs not exceeding four square feet in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations.
- B. Flags and insignias of any government.
- C. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
- D. Integral decorative or architectural features of buildings, except letters, trademarks, moving lights or moving parts.
- E. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- F. On-premise signs pertaining to realty, such as for sale, rent or lease, not exceeding four square feet in area and not illuminated. Signs up to 32 square feet are permitted for properties 10 acres in size or larger. There shall be a limit of one such sign for each street abutting the lot.
- G. Church, community or public building bulletin boards and identification signs, lighted or unlighted shall not exceed 32 square feet in area. There shall be a limit of two such signs for each street abutting the lot, or one such sign not exceeding 64 square feet in area.
- H. Signs advertising agricultural products, produced on the premises, not exceeding 32 square feet in area. There shall be a limit of one such sign for each street abutting the lot.
- I. Signs identifying, by name only, residential subdivision, planned housing development, recreational facility, permitted campgrounds or mobile home parks and not exceeding 32 square feet in area. There shall be a limit of one double-faced sign or two single-faced signs for each road or driveway entrance to the development named on the sign.
- J. Signs of any political party or announcing the candidacy of any individual for any nomination or office, provided that in any residential district no such sign shall exceed 32 square feet in area and in any district other than a residential district no sign shall exceed in area the maximum area of sign display permitted on any lot in that district; provided further that all such signs shall be removed not later than 10 working days after the date of the election to which they pertain.
- K. Signs not exceeding 32 square feet in area, warning the public against hunting, fishing, or trespassing on the land on which the same are displayed.
- L. Temporary signs may be allowed pursuant to Section 2.13.9.

### **2.13.5 – Signs Permitted in the O&I Office and Institutional District**

A. Sign Area

Within the O&I district, each lot or parcel may have a maximum of 1.5 square feet of sign area for each linear foot of frontage on a private- or public-maintained street. Double frontage or corner lots or parcels shall be permitted an additional sign area computed at half the rate as above for the additional street frontage. Such additional sign area need not be proportionally directed toward such streets.

B. Freestanding Signs

Not more than one half the total sign area for any one lot may be in the form of freestanding signs. No part of any freestanding signs shall exceed a height of 10 feet above the ground at its base.

C. Attached Signs

No sign shall be attached to a building in such a way as to extend above the roof line which forms the background of the sign.

D. Sign Size

No one sign shall exceed a size of 50 square feet.

### **2.13.6 – Signs Permitted in the C-1 Commercial and CB-1 Central Business District's**

A. Sign Area

Within the commercial district's, each lot or parcel may have a maximum of two square feet of sign area for each lineal foot of frontage on a private- or public-maintained street or highway. Double frontage or corner lots or parcels shall be permitted an additional sign area computed at half the rate as above for the additional street frontage. Such additional sign area need not be proportionally directed toward such streets.

B. Freestanding Signs

Not more than two-thirds of the total sign area for any one lot may be in the form of freestanding signs. No part of any freestanding sign shall exceed a height of 30 feet above the ground at its base.

C. Attached Signs

No sign shall be attached to a building in such a way as to extend above the roof line which forms the background of the sign.

D. Sign Size

No one sign shall exceed a size of 150 square feet.

### **2.13.7 – Signs Permitted in the IL Light Industrial District**

A. Sign Area

Within the IL district, each lot or parcel may have a maximum of two square feet of sign area for each lineal foot of frontage on a private- or public-maintained street or highway. Double frontage or corner lots or parcels shall be permitted an additional sign area computed at half the rate as above for the additional street frontage. Such additional sign area need not be proportionally directed toward such streets.



B. Freestanding Signs

No part of any freestanding sign shall exceed a height of 30 feet above the ground at its base.

C. Attached Signs

No sign shall exceed a height of 30 feet from the average finished grade of the lot on which the structure to which the sign is attached is located.

D. Sign Size

No one sign shall exceed a size of 200 square feet.

**2.13.8 – Signs Permitted in the IH Heavy Industrial District**

A. Sign Area

Within the IH district, each lot or parcel may have a maximum of two square feet of sign area for each lineal foot of frontage on a private- or public-maintained street or highway. Double frontage or corner lots or parcels shall be permitted an additional sign area computed at half the rate as above for the additional street frontage. Such additional sign area need not be proportionally directed toward such streets.

B. Freestanding Signs

No part of any freestanding sign shall exceed a height of 30 feet above the ground at its base.

C. Attached Signs

No sign shall exceed a height of 30 feet from the average finished grade of the lot on which the structure to which the sign is attached is located.

D. Sign Size

No one sign shall exceed a size of 200 square feet.

**2.13.9 – Temporary Signs**

A. All temporary signs shall not be erected for more than 30 calendar days per year, shall not exceed 32 square feet in size, and shall not exceed ten (10) feet in height, measured from ground level to the top of the sign. No such signs shall be permitted on public property or within public rights-of-way unless authorized by the responsible landowner or agency. There shall be no more than one (1) sign per street or road frontage per parcel.

B. Banner signs shall be permitted as temporary signs, provided they do not exceed 32 square feet in size. Banner signs shall be erected for no more 30 calendar days per year. No banner signs shall be permitted on public property or within public rightsof-way unless authorized by the responsible landowner or agency. There shall be no more than one (1) sign per street or road frontage per parcel.

**2.13.10 – Off-premise Directional Signs**

A. Off-premise directional signs are permitted in any zoning district provided no sign is larger than 32 square feet and no part of the sign is higher than eight (8) feet above the ground at its base.

- B. Three off-premise directional signs are allowed per business, church, park, historic property, school, or other place of assembly.
- C. Only one (1) off-premise directional sign is permitted per property; however, multiple uses are allowed to be identified on the sign.
- D. The square footage of the off-premise directional sign shall not be counted against the square footage of other signs allowed on the property.
- E. Written permission from the owner(s) of the property where the sign is proposed to be located is required to be submitted with the sign permit application.
- F. Verification from the North Carolina Department of Transportation that the sign will not be in violation of any State regulations at its proposed location must be submitted with the sign permit application.

#### **2.13.11 – Permit Required**

- A. No sign shall be erected, placed, attached, suspended, altered, remodeled, relocated or otherwise put into use or structurally changed except pursuant to a permit issued by the Planning Department. Each application for a sign permit, whether permanent or temporary, shall include such information as the Planning Department may deem necessary in order to determine compliance with the provisions of this Ordinance.
- B. Those signs listed in Section 2.13.4 (Signs Permitted in Any Zoning District) shall not require a permit.

#### **2.14 – Home Occupations**

##### **2.14.1 – Neighborhood Home Occupations**

Customary home occupations are permitted in residential districts where such occupations are carried on in the residence and/or accessory buildings subject to the following limitations.

- A. Such occupations shall be engaged in only by residents of the premises and not more than three additional on-site employees who may be non-residents. The total number of resident and non-resident employees working on-site shall not exceed four. The use shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
- B. No more than 25% percent of the heated living space, excluding basements, shall be used for home occupations. Basements may also be used for home occupations in addition to the 25% or a detached garage.
- C. No outdoor display of goods or materials shall be allowed on the property.
- D. One non-illuminated sign is allowed which shall not exceed four square feet in area.
- E. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or which causes fluctuation in line voltage off the premises.

- F. Accessory buildings may be used for home occupations provided the building area is not larger than 1,000 square feet. If multiple buildings are used, the total combined square footage shall not exceed 1,000 square feet.
- G. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street in an area other than in a required front yard.

The customary home occupations referred to in this subsection may include the merchandising and the sale of goods and products at retail, and the manufacture and assembly of goods and products.

Occupations that have no non-resident employees, no signs, no on-site retail sales, and no visits from the general public do not require a home occupation permit.

### **2.14.2 – Rural Home Occupations**

Rural home occupations are those that by their nature are not compatible on small lots near other residences, and may require an outdoor storage area for goods and materials associated with the business.

- A. Rural home occupations may be allowed on parcels that are no smaller than three acres in size.
- B. Such occupations shall be engaged in only by residents of the premises and not more than three additional on-site employees who may be non-residents. The total number of resident and non-resident employees working on-site shall not exceed four. The use shall be subordinate to its use for residential purposes by its occupants.
- C. No more than 25% percent of the heated living space, excluding basements, shall be used for home occupations. Basements may also be used for home occupations in addition to the 25%.
- D. One non-illuminated sign is allowed which shall not exceed four square feet in area.
- E. No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference that is a nuisance off the lot. All operations must conform to the noise requirements of Section 2.9.2(A). In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or which causes fluctuation in line voltage off the premises.
- F. Accessory buildings may be used for home occupations provided the building is not larger than 2,500 square feet. If multiple buildings are used, the total combined square footage shall not exceed 2,500 square feet.
- G. Commercial driveway permits may be required to assure traffic hazards are minimized. The driveway shall be located and improved such that it provides all weather access and does not interfere with other traffic using said drive. Any need for parking generated by the conduct of such home occupation shall be met off the street in an area other than in a required front yard.

- H. Buildings, material storage and operations used for home occupations shall be setback from side and rear property lines a minimum of 50 feet except for noise generating operations, as determined by the Planning Department, in which case the setbacks shall be a minimum of 100 feet. The front setback shall be a minimum of 40 feet and shall be measured from the property line or the edge of the road right of way, which ever is greater.
- I. To lessen the impact on adjacent properties, visual screening shall be installed to provide at a minimum a 15 foot wide opaque buffer. This may include but not be limited to a 6 foot high opaque fence and/or the planting of vegetation that at a minimum provides a continuous all season opaque screen at least 6 feet in height within 4 years of planting. Planting shall be a minimum of 3 gallon shrubbery or 10 gallon trees.
- J. All required permits (i.e. Chatham County Central Permitting, Chatham County Environmental Health, North Carolina Department of Transportation or other local and state agencies) must be obtained prior to the issuance of the home occupation permit.

Any person wanting to conduct a home occupation within their residence shall apply for a home occupation permit. A home occupation permit approved by the Planning Department must be received prior to beginning said occupation. Permits are not transferable. The home occupation permit is valid only as long as the use meets the provisions for home occupation specified herein and the permit may be revoked any time the use does not meet the provisions of this or other applicable ordinances.

## **2.15 – Special Use Permits**

Permits for Special Uses as provided for in this Ordinance may be authorized by the Town Board in certain circumstances and subject to certain procedures as set forth herein. In some zoning districts, certain listed uses are permitted only as Special Uses.

### **2.15.1 – Procedure**

- A. Requests for Special Use Permits as authorized by this Ordinance shall be processed and considered in the same format as set forth in this Ordinance for conditional zoning district requests, but shall follow quasi-judicial procedures. A community meeting must be held by the applicant, following the same procedure described in Section 2.4.7 (A). No vote greater than a majority vote shall be required for the Town Board to issue such permits. For the purposes of this section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered “members of the board” for calculation of the requisite majority.
- B. In considering an application for a Special Use Permit, the Town Board shall give due regard that the purpose and intent of this Ordinance shall be served, public safety and welfare secured, and substantial justice done. If the Town Board should find, after public hearing, the proposed Special Use Permit should not be granted, such proposed permit shall be denied. Special Use Permits may include time limits for expiration if specified criteria are not met.
- C. In granting a Special Use Permit, the Town Board shall make the following affirmative findings:

- (1) The use requested is among those listed as an eligible Special Use in the district in which the subject property is located or is to be located.
  - (2) The requested Special Use Permit is either essential or desirable for the public convenience or welfare.
  - (3) The requested permit will not impair the integrity or character of the surrounding or adjoining districts, and will not be detrimental to the health, safety or welfare of the community.
  - (4) The requested permit will be consistent with the objectives of the Land Use Plan.
  - (5) Adequate utilities, access roads, storm drainage, recreation, open space, and other necessary facilities have been or are being provided, consistent with the Town's plans, policies and regulations.
- D. In granting a Special Use Permit, the Town Board may impose such additional restrictions and requirements upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured, and substantial justice done. If all requirements and conditions are accepted by the applicant, the Town Board shall authorize the issuance of the Special Use Permit, otherwise the permit shall be denied. Any Special Use Permit so authorized shall be perpetually binding upon the property included in such permit unless subsequently changed or amended by the Town Board, as provided for in this Ordinance.
- E. A member of the Town Board shall not participate in or vote on any quasi-judicial matter in a manner that would violate the affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

### **2.15.2 – Plans**

Final plans for any development to be made pursuant to any Special Use Permit shall be submitted to the Planning Department for review prior to the issuance of any permits. Such review shall be for the purpose of determining compliance with the permit conditions and other Ordinance requirements.

### **2.15.3 – Violations**

Any violation of a term or condition of a Special Use Permit shall be treated the same as a violation of this Ordinance and shall be subject to the same remedies and penalties as any such violation.

### **2.15.4 – Changes or Amendments**

Upon request by the property owner, the Town Board may change or amend any Special Use Permit, after a public hearing upon recommendation by the Planning Board and subject to the same consideration as provided for in this Ordinance for the original issuance of a Special Use Permit. No

proposal to amend or change any Special Use Permit shall be considered within 12 months of the date of the original authorization of such permit or within 12 months of the hearing of any previous proposal to amend or change any such permit.

### **2.15.5 – Specific Conditions for Special Uses Listed in Residential Districts**

The minimum requirements for the zoning district in which a Special Use is located shall be the minimum requirements for such Special Use. In addition, for the following Special Uses, which are listed as Special Uses in the residential districts, the listed conditions shall be imposed along with any additional conditions the Town Board may attach in the granting of a Special Use Permit.

- A. Animal Husbandry, Specialized
  - (1) Minimum lot area – two times the minimum lot area requirement for the district in which it is located
  - (2) All buildings, structures and high-intensity activity areas shall be set back a minimum of two times the minimum yard requirement for the district in which it is located.
- B. Bed and Breakfast Inns with No More than 6 Rooms for Rent
  - (1) Minimum lot area – 3 acres
  - (2) All buildings, structures and high-intensity activity areas shall be set back a minimum of two times the minimum yard requirement for the district in which it is located.
- C. Boarding Kennels
  - (1) Minimum lot area – 3 acres
  - (2) All buildings, structures and high-intensity activity areas shall be set back a minimum of two times the minimum yard requirement for the district in which it is located.
- D. Breeding Kennels
  - (1) Minimum lot area – 3 acres
  - (2) All buildings, structures and high-intensity activity areas shall be set back a minimum of two times the minimum yard requirement for the district in which it is located.
- E. Golf Courses and Tennis Clubs, Public or Private
  - (1) Minimum lot area – 5 acres
  - (2) All buildings, structures and high-intensity activity areas shall be set back a minimum of two times the minimum yard requirement for the district in which it is located.
- F. Public and Private Recreation Camps and Grounds
  - (1) Minimum lot area – 20 acres
  - (2) All buildings, structures and high-intensity activity areas shall be set back a minimum of two times the minimum yard requirement for the district in which it is located.
- G. Mobile Home Parks
  - See Chapter 4 for additional requirements related to Mobile Home Parks.

### **2.15.6 – Standards for Solar Energy Uses**

This section is intended to provide the opportunity for solar energy to serve as a viable form of energy generation while protecting public health, safety and general welfare. All regulations in the zoning ordinance shall apply unless expressly allowed or modified in the standards below.

A. Solar Collectors

Solar collectors shall be permitted as an accessory use to existing structures or facilities in any zoning district under the following standards:

- (1) Roof mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.
- (2) Ground mounted solar systems shall meet the minimum zoning setbacks from property lines for the zoning district in which it is located.
- (3) The maximum height for a ground mounted solar system under this standard is 15 feet as measured from the grade of the base of the collector to its highest point.

B. Solar Farms on Less than Two Acres

Solar farms on less than two acres in size shall meet the following standards:

- (1) Collectors and all their components shall not exceed 25 feet in height as measured from the grade of the base of the collector to its highest point.
- (2) All structures and collectors shall meet a 50-foot minimum perimeter setback from all property lines.
- (3) In cases where buffers do not exist, a modified version of the Type B buffer as described in Section 2.10.3 of this Ordinance shall be appropriate to the location of the site, the adjacent land use, and the area topography.

C. Solar Farms on Greater than Two Acres

Solar farms on greater than two acres in size shall meet the following standards:

- (1) A Special Use Permit shall be applied for and approved before any activity may proceed on the proposed solar farm site and must comply with the procedures for Special Use Permits outlined in Section 2.15.1 of this Ordinance.
- (2) Collectors and their components shall not exceed 25 feet in height as measured from the grade of the base of the collector to its highest point.
- (3) All structures and collectors shall meet a 50-foot minimum perimeter setback from all property lines, with a 100-foot minimum setback from any public roadway where applicable.
- (4) In cases where buffers do not exist, a modified version of the Type B buffer as described in Section 2.10.3 of this Ordinance shall be appropriate to the location of the site, the adjacent land use, and the area topography.

D. General Standards for All Solar Farms

All solar farms shall comply with the following:

- (1) Shall comply with all building and electrical codes.
- (2) Shall not create a visual safety hazard for passing motorists or aircraft.
- (3) Shall be removed, at the owner's expense, within 180 days of determination by the Planning Department that the facility is no longer being maintained in an operable state of good repair or no longer supplying solar power.

### **2.15.7 – Standards for Event Center, Limited**

This section is intended to provide the opportunity for smaller-scale event centers to serve as a venue for business opportunities and gathering space in the Town while protecting the health, safety and welfare of the community. All regulations in this Ordinance shall apply unless expressly allowed or modified in the standards below.

A. Size and Capacity Limits

Gathering, meeting or hosting area event space shall be limited to no more than 5,000 square feet in size.

B. Accessory Uses Permitted

Accessory and/or ancillary uses shall be those directly related to the event being held. Examples are food and beverages service, dance floors, outdoor speakers, music, festive lighting, decorations, tents, etc.

C. Signage Allowed

Event advertising shall be limited to the permanent on-premise signage as allowed in Section 2.13 of this Ordinance.

### **2.15.8 – Standards for Sexually Oriented Businesses**

A. Separation Requirements

(1) Sexually oriented business(es) shall not be located in any building, or portion thereof, that is within 1,000 feet of a:

- a. Existing sexually oriented business,
- b. A place of worship or building which is used primarily for religious worship and related religious activities,
- c. K-12 schools (public, private, or specialty),
- d. Public or private library,
- e. State licensed child care facility, or
- f. A public or private park or recreational area which has been designated for park or recreational activities including but not limited to: a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, wilderness areas, or other similar land.

(2) Sexually oriented business(es) shall not be located in any building, or portion thereof, that is within 300 feet of a:

- a. Residential zoning district or any residential land use including any open space established as part of the residential subdivision approval process.

(3) Measurement shall be made in a straight planar line, without regard to the intervening structures or objects, from the nearest portion of the building or structure used as part of the premises where a sexually oriented business is conducted to the nearest portion of a building, structure, or open space area of a use listed above.

## **2.16 – Board of Adjustment**

### **2.16.1 – Board of Adjustment Created**



There is hereby created a board of adjustment to be known as the Goldston Board of Adjustment, consisting of the same regular membership and alternate membership as the Goldston Planning Board, which is in turn subject to appointment by the Town Board. The chair of the Planning Board shall also serve as the chair of the Board of Adjustment, and the vice chair of the Planning Board shall also serve as the vice chair of the Board of Adjustment.

### **2.16.2 - Meetings**

Meetings of the board of adjustment shall be held at the call of the Chairman or any two (2) other members of the board, and at such other times as the board may determine. The board shall adopt rules governing its organization and all proceedings coming before the board. All meetings of the board shall be open meetings in accordance with the North Carolina Open Meeting law, and its records shall show the vote of each member upon every question or his or her absence or failure to vote. The board shall also keep records of its hearings and any other official action. Proceedings of the board of adjustment shall be in accordance with G.S. 160D-302.

#### **A. Oath**

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

#### **B. Hearing Notice**

Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice as provided by the zoning ordinance. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the county shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

#### **C. Subpoenas**

The board of adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160D-406(g) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

D. Conflicts of Interest

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

**2.16.3 – Powers and Duties of the Board of Adjustment**

The board of adjustment hears and decides requests for variances and appeals of decisions of administrative officials charged with enforcement of the ordinance. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The board of adjustment shall follow quasi-judicial procedures when deciding appeals and requests for variances. The board shall hear and decide all matters upon which it is required to pass under any statute or ordinance that regulates land use or development.

A. Administrative Review

To hear and decide appeals where it is alleged there is error in any decision made by any administrative official in the enforcement of this Ordinance.

B. Variance

Where there are unnecessary hardships in the way of carrying out the strict letter of this Ordinance, the board of adjustment is empowered in passing upon appeals in specific cases, to vary or modify any of the regulations or provisions of this Ordinance relating to the construction or alteration of buildings or structures so that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done. The board of adjustment may not, however, grant variances for the use of land or structures.

(1) Variances from the provisions of this Ordinance may be granted only upon appeal from a decision, action, determination, or order of the Zoning Official and shall demonstrate substantially the following:

- a. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
- d. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

- (2) Furthermore, the board of adjustment must make such findings of fact to substantiate all of these requirements. In considering applications for variances from the provisions of this Ordinance, demonstration of financial disadvantage alone shall not constitute conclusive evidence of unnecessary hardship.
- (3) Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.
- (4) Departure from or violation of any of those conditions or safeguards shall be deemed a violation of this Ordinance, and shall be subject to the penalties, as provided in Section 2.19.
- (5) A variance, once granted, shall continue for an indefinite period of time unless otherwise specified at the time granted.
- (6) No change in permitted uses may be authorized by a variance.

C. Quasi-Judicial Decisions

The board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the ordinance specifies. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The person required to provide notice shall certify that proper notice has been made.

D. Quasi-Judicial Procedure

A. Process Required. - Boards shall follow quasi-judicial procedures in determining appeals of administrative decisions, special use permits, and certificates of appropriateness, variances, or any other quasi-judicial decision.

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

and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

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

D. Presentation of Evidence. - The applicant, the town, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party, may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

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

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

G. Subpoenas. - The board making a quasi-judicial decision under this Chapter through the chair or, in the chair's absence, anyone acting as chair may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, the applicant, the town, and any person with standing under G.S. 160D1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be immediately appealed to the full board. If a person fails or refuses to obey a subpoena issued pursuant to this

subsection, the board or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

H. Appeals in Nature of Certiorari. - When hearing an appeal pursuant to G.S. 160D-947(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below, and the scope of review shall be as provided in G.S. 160D-1402(j). I. Voting. - The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

J. Decisions. - The board shall determine contested facts and make its decision within a reasonable time. When hearing an appeal, the board may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the town that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

K. Judicial Review. - Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D1405(d). (2019-111, s. 2.4.)

#### **2.16.4 – Appeal Procedure**

The board of adjustment shall hear and decide appeals from decisions of administrative officials charged with enforcement of the Zoning Ordinance and may hear appeals arising out of any other ordinance that regulates land use or development, pursuant to all of the following:

- A. Any person who has standing under G.S. 160D-1402(c) or the Town may appeal a decision to the board of adjustment. An appeal is taken by filing a notice of appeal with the town clerk. The notice of appeal shall state the grounds for the appeal.

- B. The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
- C. The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or constructive notice of the decision within which to file an appeal. In the absence of evidence to the contrary, notice pursuant to 160D-403(b) given by first class mail shall be deemed received on the third business day following deposit of notice for mailing with the United States Postal Service.
- D. It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" in letters at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision. Absent an ordinance provision to the contrary, posting of signs shall not be required.
- E. The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- F. An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in an affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement proceedings shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- G. Subject to the provisions of subdivision (F) of this subsection, the board of adjustment shall hear and decide the appeal within a reasonable time.
- H. The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board of adjustment may

reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

### **2.16.5 – Vote Required – Judicial Appeal**

The board of adjustment, by a vote of 4/5 of its members shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered ‘members of the board’ for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with Section 2.16.3(C) of this Ordinance. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

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

## **2.17 – Amendments to Zoning Regulations**

### **2.17.1 – Statement of Intent**

For the purpose of establishing and maintaining sound, stable and desirable development within the Town of Goldston, this Ordinance shall not be amended except to correct an error in the Ordinance or, because of changed or changing conditions in a particular area or in the Town generally, or to extend the boundary of an existing zoning district or to rezone an area to a different zoning district, or to change the regulation and restrictions of the Zoning Ordinance. These amendments shall be reasonably necessary to promote the public health, safety and general welfare and to achieve the purposes of the adopted Land Use Plan.

### **2.17.2 – Amendment Initiation**

Subject to the limitations of the foregoing statement of intent, an amendment to this Ordinance may be initiated by:

- A. Text Amendment
  - (1) The Town Board on its own motion;

- (2) The Planning Board;
- (3) Application by any person who owns property or resides in the area of jurisdiction of this Ordinance.

B. Map Amendment

- (1) The Town Board on its own motion;
- (2) The Planning Board;
- (3) The owner or authorized agent of the owner.

### **2.17.3 – Conditional Zoning District Rezoning**

It is the intent of this section that the applicant for rezoning to any district other than a conditional zoning district shall be prohibited from offering any testimony or evidence concerning the specific manner in which he/she intends to use or develop the property. If the applicant believes that the development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with principles underlying the Town's land use plan, he/she shall apply for rezoning to the appropriate conditional zoning district specifying the nature of his proposed development. Conditional Zoning District requests shall follow the requirements in Section 2.4. No permit shall be issued for any development within a conditional zoning district except in accordance with the approved conditional zoning district.

### **2.17.4 – Procedure for Submission and Consideration of Applications for Text Amendment or General Use Zoning Map Amendment**

A. Town-Initiated Amendments

All applications for amendments to this Ordinance initiated by the Town Board, Planning Board or Town departments/staff shall be in writing, signed and filed with the Planning Department. The Planning Department shall, before scheduling any amendment on the application for public hearing, ensure that it contains all the required information as specified in this Ordinance and on the application. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Planning Department, but shall be returned to the applicant with a notation of the deficiencies in the application. Completed applications shall be received a minimum of 30 days prior to the public hearing at which the proposed amendment is scheduled to be heard.

B. Citizen-Initiated Amendments

All applications for text or map amendments initiated by a property owner or citizen shall be required to submit an application containing the following information and follow the procedure outlined in Section 2.4.7. Applications for these amendments shall not require a Community Meeting. No amendment to zoning regulations or a zoning map that down-zones property shall be initiated nor shall it be enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the county. For purposes of this section, "down-zoning" means a zoning ordinance that affects an area of land in one of the following ways:

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



(2) By reducing the permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

C. Contents of Application

All applications for amendments to this ordinance without limiting the right to file additional material shall contain at least the following:

- (1) If the proposed amendment would require a change in the zoning map, a map to scale showing the land which would be covered by the proposed amendment. If the proposed amendment does not affect the entire property, a boundary survey and vicinity map showing the property's total acreage, parcel number, current zoning classification(s) and the general location in relation to major streets, railroads, and/or waterways.
- (2) A legal description of such land or adequate description to define the area to be rezoned
- (3) The alleged error in this Ordinance, if any, which would be remedied by the proposed amendment with a detailed explanation of such error in the Ordinance and detailed reasons how the proposed amendment will correct the same.
- (4) The changed or changing conditions, if any, in the area or in the Town generally, which make the proposed amendment reasonably necessary to the promotion of the public health, safety and general welfare.
- (5) The manner in which the proposed amendment will carry out the intent and purpose of the adopted Land Use Plan or part thereof.
- (6) All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.
- (7) Information required on the application form received from the Planning Department.

#### **2.17.5 – Joint Public Hearing for Town-Initiated Amendments**

The Town Board and the Planning Board shall receive public comment on applications for amendments to this Ordinance in a public hearing at a Town Board meeting upon proper notice. The lack of quorum of the Planning Board at such meetings shall not affect the proceedings nor require further hearings.

#### **2.17.6 – Public Hearing and Notice Thereof**

A public hearing shall be held by the Town Board before adoption of any proposed amendment to this Ordinance. Notice of the public hearing shall be given according to State law. When a zoning map amendment is proposed, a notice of the public hearing shall be prominently posted on the site proposed for rezoning or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but sufficient notices shall be posted to provide reasonable notice to interested parties. Mailed notice shall be required in compliance with State law when the Town initially zones property.

#### **2.17.7 – Planning Department Prepares Final Analysis and Recommendation**

Following the public hearing the Planning Department shall prepare an analysis of the application and a recommendation to approve, deny, or defer action on the application. This information shall be presented to the Planning Board at least by the second regular meeting following the public hearing.

### **2.17.8 – Planning Board Action on the Amendment Application**

The Planning Board shall consider the amendment upon receipt of the Planning Department recommendation beginning no later than the second regular meeting following the public hearing. The Planning Board shall provide a written recommendation to the Town Board that addresses consistency with the adopted land use plan and other matters as deemed appropriate. A recommendation by the Planning Board that a proposed amendment is inconsistent with the land use plan shall not preclude consideration of approval of the proposed amendment by the governing board.

The Planning Board has a maximum of three regularly scheduled meetings to consider the request, following receipt of the Planning Department recommendation. Failure of the Planning Board to make a recommendation to the Town Board following the Planning Board's third regular meeting shall be considered a favorable recommendation without conditions.

A Planning Board member shall not vote on recommendations regarding any zoning map or text amendment where the outcome of the matter being considered is likely to have a direct, substantial, identifiable financial impact on the member.

### **2.17.9 – Town Board Receives Recommendation of Planning Board**

The Town Board shall not consider the adoption of the proposed amendment until after the Planning Board makes a recommendation, or fails to make a recommendation within the time allowed. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the board that at the time of action on the amendment the board was aware of and considered the planning board's recommendations and any relevant portions of the comprehensive plan. A member of the Town Board shall not vote on any zoning map or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, identifiable financial impact on the member. Prior to adopting or rejecting any zoning amendment, the Town Board shall adopt a statement describing whether its action is consistent with an adopted land use plan, is reasonable, and in the public interest. Should the Town Board adopt a zoning amendment after finding that such an action is not consistent with an adopted comprehensive plan, the Board of Commissioners must also issue a declaration that the adopted comprehensive plan in question is also amended. The statement must include an explanation of "the change in conditions the governing board took into account in amending the zoning ordinance to meet the development needs of the community." A plan amendment and a zoning amendment may be considered concurrently. When adopting or rejecting any petition for a zoning text or map amendment, a brief statement explaining the reasonableness of the proposed rezoning shall be approved by the board. The statement of reasonableness may consider, among other factors: (i) the size, physical conditions, and other attributes of any areas proposed to be rezoned; (ii) the benefits and

detriments to the landowners, the neighbors, and the surrounding community; (iii) the relationship between the current actual and permissible development and the development under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment.

#### **2.17.10 – Withdrawal of Application**

An applicant may withdraw his application at any time by written notice to the Planning Department. However, any withdrawal of an application after the giving of the first notice as required in Subsections 2.4.7(C) and 2.17.5 shall be considered, for the purposes of Subsection 2.17.10, a denial of the petition and any fees paid are non-refundable.

#### **2.17.11 – Effect of Denial on Subsequent Petitions**

When the Town Board shall have denied a map application or the application shall have been withdrawn after the first notice of the public hearing thereon, the Town Board shall not entertain another application for the same or similar map amendment, affecting the same property or a portion of it until the expiration of a one year period, extending from the date of denial or withdrawal, as applicable. Provided, however, one additional application may be made before the expiration of the one year period for the same property or a portion of it if the second application is for a zoning district designated as a conditional district.

#### **2.17.12 – Vested Rights and Permit Choice**

##### **A. Permit Choice**

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

##### **B. Vested Rights**

Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

- (1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.
- (2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.
- (3) A site-specific vesting plan pursuant to G.S. 160D-108.1.
- (4) A multi-phased development pursuant to subsection (f) of this section.
- (5) A vested right established by the terms of a development agreement pursuant to 160D-403.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by the town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

### **C. Duration of Vesting.**

Upon issuance of a development permit, the statutory vesting granted by subsection (B) of this section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive. Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this section, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

### **D. Multiple Permits for Development Project**

Subject to subsection (C) of this section, where multiple local development permits are required to complete a development project, the development permit applicant may choose the version of each of the local land development regulations applicable to the project upon submittal of the application for the initial development permit. This provision is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

### **E. Multi-Phased Development**

A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

### **F. Continuing Review**

Following issuance of a development permit, the town may make subsequent inspections and reviews to ensure compliance with applicable land development regulations in effect at the time of the original application.

### **G. Process to Claim Vested Right**

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

### **H. Miscellaneous Provisions**

The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and G.S. 136-131.2 in which case the rights granted by this

section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in 160D-108, nothing in this section shall be construed to alter the existing common law.

### **2.17.13 Vested Rights and Site Specific Vesting Plans**

#### **A. Site-Specific Vesting Plan**

Consists of a plan submitted to the town in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by the town. Unless otherwise expressly provided by the town, the plan shall include the approximate boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site of the proposed buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the town pursuant to a development regulation, and the document that triggers the vesting shall be so identified at the time of its approval. A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

#### **B. Establishment of Vested Right**

A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific vesting plan, including any amendments thereto.

#### **C. Approval and Amendment of Plans**

If a site-specific vesting plan is based on an approval required by a local development regulation, the town shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-602 shall be held. A local government may approve a site-specific vesting plan upon any terms and conditions that may reasonably be necessary to protect the public health, safety, and welfare. Conditional approval results in a vested right, although failure to abide by the terms and conditions of the approval will result in a forfeiture of vested rights. The Town shall not require a landowner to waive the landowner's vested rights as a condition of developmental approval. A site-specific vesting plan is deemed approved upon the effective date of the town's decision approving the plan or another date determined by the governing board upon approval. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the town as follows: any substantial modification must be reviewed and approved in the same manner as the original approval; minor modifications may be approved by staff, if such are defined and authorized by local regulation.

#### **D. Continuing Review**

Following approval or conditional approval of a site-specific vesting plan, the town may make subsequent reviews and require subsequent approvals by the town to ensure compliance with the terms and conditions of the original approval, provided that these reviews and approvals are not inconsistent with the original approval. The town may, pursuant to G.S. 160D-403(f), revoke the original approval for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

#### **E. Duration and Termination of Vested Right**

(1) A vested right for a site-specific vesting plan remains vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the town.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, a local government may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the town and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with subsection (a) of this section.

(3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.

(4) A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

#### **F. Subsequent Changes Prohibited; Exceptions**

(1) A vested right, once established as provided for in this section, precludes any zoning action by a local government which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:

- a. With the written consent of the affected landowner.
- b. Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan.
- c. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the town, together with interest as provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.
- d. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the town of the site-specific vesting plan or the phased development plan.
- e. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case the town may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.

(2) The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not

affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.

(3) Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of a local government to adopt and enforce development regulations governing nonconforming situations or uses.

#### **G. Miscellaneous Provisions**

(1) A vested right obtained under this section is not a personal right, but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.

(2) Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(3) In the event a local government fails to adopt a development regulation setting forth what constitutes a sitespecific vesting plan triggering a vested right, a landowner may establish a vested right with respect to property upon the approval of a zoning permit, or otherwise may seek appropriate relief from the Superior Court Division of the General Court of Justice.

## **2.18 – Enforcement**

### **2.18.1 – Planning Director**

This Ordinance shall be administered and enforced by the Planning Director or designee. If the Planning Director or designee shall find that any of the provisions of this Ordinance are being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or addition, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Ordinance to insure compliance with or to prevent violations of its provisions.

### **2.18.2 – Certificate of Zoning Compliance**

No land shall be used or occupied and no building hereafter structurally altered, erected, or moved, shall be used, or its use changed until a certificate of zoning compliance shall have been issued by the Planning Department or Zoning Official stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance. No building shall be occupied until that certificate is approved. A record of all certificates shall be kept on file in the office of the Planning Department and copies shall be furnished upon request.

#### **A. Application Procedures**

Each application for certificate of zoning compliance shall be accompanied by a plan, one copy of which shall be returned to the owner upon approval. The plan shall show the following:

- (1) The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
- (2) The location of the said lot with respect to adjacent rights-of-way;
- (3) The shape, dimensions, and location of all buildings, existing and proposed on the said lot;
- (4) The nature of the proposed use of the building or land, including the extent and location of the use on the said lot;
- (5) The location and dimensions of off-street parking and the means of ingress and egress to such space; and
- (6) Any other information which the Planning Department may deem necessary for consideration in enforcing the provisions of this Ordinance.

B. Right of Appeal

If the certificate of zoning compliance is denied, or not acted upon within 15 days of submittal, the applicant may appeal the action of the Planning Department to the Board of Adjustment.

**2.18.3 – Duties of Planning Director, Planning Department, Zoning Official, Board of Adjustment, and Courts as to Matters of Appeal**

It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Planning Department or Official and that such questions shall be presented to the Board of Adjustment only on appeal from the Planning Director or Official; and that from the decision of the Board of Adjustment recourse shall be to courts as provided by law.

**2.19 – Penalty for Violations**

Upon determination of a violation of any section of this chapter, the penalty for which is a civil penalty, the Town of Goldston may cause a warning citation (aka Notice of Violation) to be issued to the violator setting out the nature of the violation, the section violated, the date of the violation, an order to immediately cease the violation, or if the violation is in the nature of an infraction for which an order or abatement would be appropriate in a civil proceeding, a reasonable period of time is stated in which the violation must be abated. The warning citation shall specify that a second citation shall incur a civil penalty, together with costs, and attorney fees if applicable.

Within 30 days of a violation warning citation, an appeal may be made as described in Section 2.16.4, Appeal Procedures.

Upon failure of the violator to obey the warning citation a civil citation may be issued by the Planning Director or designee and either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of



the County or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to pay the citation to the Town of Goldston within 15 days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid otherwise further citations may be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated. Each day's continuing violation of any provision of this Ordinance shall be a separate and distinct offense. This means that on the 16<sup>th</sup> day of non-compliance, civil penalties will accrue on a daily basis as long as the violation continues.

The civil penalty, if not paid to the Town within 15 days of the issuance of a citation, may be recovered by the Town in a civil action in the nature of debt. Said civil penalties shall be assessed in the amount of \$50.00 per day for the first violation. If the same violation occurs on the same property within six (6) years after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day shall automatically apply. Civil penalties will continue to accrue until compliance has been met on the property. The Planning Department has the discretion to waive the escalation of the penalty if the violator is working to correct the violation in good faith and has made tangible progress during the grace period.

In addition to the penalties set out above, any provision of this Ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law.

In addition to the penalties set out above, any provision of this Ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by general court of justice. When a violation of such a provision occurs, the Town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

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

Town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith. The provisions of the Ordinance may be enforced by one, all or a combination of the remedies authorized and prescribed by this section.

### **2.20 – Effects Upon Outstanding Building Permits**

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure or part thereof for which a building permit has been granted prior to the time of passage of this Ordinance and said permit remains valid. However, if a building permit expires, any further construction or use shall be in conformity with the provisions of this Ordinance.

### **2.21 – Interpretation, Purpose and Conflict**

In interpreting and applying the provisions of this chapter of this Ordinance they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

### **2.22 – Validity**

If any section, subsection, sentence, clause, or phrase of this chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Town Board hereby declares that it would have passed this chapter of this Ordinance and each section, subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

## **CHAPTER 3: SUBDIVISION REGULATIONS**

### **3.1 – General Provisions**

#### **3.1.1 – Authority**

By the authority of Chapter 160D Article 1 through 14 of the General Statutes of North Carolina, the Goldston Town Board does hereby exercise the powers and authority to regulate the subdivision of land within its territorial jurisdiction.

#### **3.1.2 – Purpose**

This chapter of this Ordinance is adopted for the following purposes:

- A. To protect and provide for the public health, safety and general welfare of the Town.
- B. To provide for the orderly growth and efficient development of the Town.
- C. To provide for the coordination of subdivision streets with existing and/or planned streets.
- D. To insure an adequately planned street system and to avoid sharp curves, steep grades and hazardous intersections.
- E. To provide for safe and adequate water and sewer systems, schools, parks and playgrounds.
- F. To provide for the dedication of right-of-ways for streets and utilities.
- G. To insure against flood damage.
- H. To facilitate an orderly system for the design and layout of land.
- I. To insure the proper legal description, and documenting of land.
- J. To provide for the re-subdivision of land.
- K. To avoid overcrowding of the land and extreme concentration of the population.
- L. To provide for the orderly safe flow of traffic and to avoid congestion and traffic hazards.
- M. To provide for the protection of lakes, streams, rivers, and wetlands within the jurisdiction.
- N. To help implement the Town of Goldston Land Use Plan.

The minimum standards specified herein are adopted and shall be considered as achieving the purposes listed above.

#### **3.1.3 – Jurisdiction**

- A. This document shall govern each and every subdivision of land, as herein defined, lying within the Town of Goldston and its extraterritorial jurisdiction as provided in Chapter 160D-801 of the General Statutes of North Carolina.
- B. Whenever a subdivision of land takes place as herein defined, a plat shall be prepared, approved and recorded pursuant to the provisions specified herein. Since the definition of subdivision refers to the division of land into lots or building sites for sale or building development whether immediate or in the future, this shall be interpreted to mean that any time a separate residential structure is to be situated on a parcel of land, a separate lot shall be created and said lot shall, prior to any construction thereon, be reviewed according to the procedure set forth herein, unless said lot is exempted from the definition of subdivision.

- C. The owner of land shown on a subdivision plat submitted for recording, or his/her authorized agent, shall sign a statement on the plat stating whether or not any land shown thereon is within the jurisdiction of the subdivision regulations of the Town of Goldston. (See Section 3.8).
- D. Whenever land shown on a plat for recordation is within the territorial jurisdiction of the subdivision regulations of the Town, but is exempt from the regulations, the owner of the land shown or his/her authorized agent shall sign a statement giving the reasons why.

### **3.1.4 – Interpretation**

The parts and provisions of this chapter in their interpretation and application shall be considered to be the minimum requirements for the promotion of the public health, safety and general welfare.

### **3.1.5 – Conflict with Public Provisions**

This chapter is not intended to interfere with, annul or abrogate any other ordinance, rule or regulation, statute or other provision of law applicable to the Town of Goldston. Where any provisions of this document imposes limitations different from those imposed by any other provision of the document or any other ordinance, rule or regulation, or other provision or law, whichever provisions are more restrictive or impose higher standards shall control.

### **3.1.6 – Conflict with Private Provisions**

This chapter is not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of this document are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this document shall govern. Where the private provisions impose more restrictive or higher standards than this document then such private provisions shall be operative and supplemental to these regulations.

### **3.1.7 – Separability**

If any part or provision of the regulations in this chapter or application thereof to any person or circumstances is held invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in all controversy in which such judgment shall have been rendered. Such judgment shall not affect or impair the validity of the remainder of this document even without any such part, provision or application.

### **3.1.8 – Amendments**

For the purpose of providing for the public health, safety and general welfare, the Town Board may amend, when deemed necessary, the provisions imposed by these regulations. Public hearings on all proposed amendments shall be held in the manner prescribed by Chapter 160D-601 of the General Statutes of North Carolina.

### **3.1.9 – Variances**

#### **A. General**

Where the Planning Board finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may recommend variances to these subdivision regulations to the Town Board so that substantial justice may be done and the public interest secured, provided that such variance shall not have the effect of nullifying the intent and purpose of these regulations; and further provided the Planning Board shall not recommend nor the Town Board grant such variances unless it shall make findings based upon the evidence presented to it in each specific case:

- (1) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this ordinance would deprive the applicant of the reasonable use of his/her land.
- (2) That the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner.
- (3) That the circumstances giving rise to the need for the variance are peculiar to the parcel and are not generally characteristic of other parcels in the jurisdiction of this ordinance.
- (4) That the granting of the variance will not be detrimental to the public health, safety and welfare or injurious to other property in the territory in which said property is situated.

#### **B. Conditions**

In approving variances, the Town Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

#### **C. Procedures**

A petition for any such variance shall be submitted in writing by the subdivider for the consideration of the Planning Board. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. Applicants shall pay any administrative fee established by the Town at the time of the application or request.

### **3.1.10 – Prohibited Acts, Enforcement, and Penalties**

- A. No owner or agent of the owner, of any land located within the territorial jurisdiction of the Town, shall subdivide his/her land in violation of these regulations or transfer or sell land by reference to, exhibition of or any other use of a plat showing a subdivision of land before the plat has been properly approved under these regulations and recorded in the office of the Register of Deeds. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring land does not exempt the transaction from these regulations.
- B. The Register of Deeds shall not record a plat of any subdivision unless the plat has been approved in the manner prescribed by these regulations or the owner has certified that the subdivision is exempt from these regulations. (See 3.1.3(C) and 3.1.3(D))
- C. As provided in NCGS Section 160D-807-375, no officer or agency of the Town may issue permits for the construction of any building or structure located on, or authorize the

extension, connection or construction of any public or private facilities or services to a lot or other division of land that has not been properly created and approved, as provided by these regulations.

- D. The Planning Department is responsible for enforcing these regulations.
- E. The Town may enjoin illegal subdivision, transfer or sale of land by action of injunction. Any violation of these regulations shall constitute a misdemeanor and violations of such provisions shall be punished by a fine or by imprisonment for a term not exceeding 30 days, as provided in NCGS §160D-807-375.
- F. As provided in NCGS §160D-404, any violation of the provisions of these regulations or a failure to comply with any of its requirements may subject the offender to a civil penalty of \$50.00 per day for the first violation. If the same violation occurs on the same property within six (6) years after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day shall automatically apply. For the purposes of assessing civil penalties each day such violation continues shall be considered a separate and distinct offense. In the case where a stop work order is violated, the fine can immediately be assessed at \$500 per day.
- G. In situations where the property for which First Plat approval is sought was timbered in violation of development regulations, and the timber harvest results in the removal of all or substantially all of the trees that were protected under Town regulations governing development of that tract, the Town may withhold approval for up to three (3) years after the completion of the timber harvest. The Town may withhold approval of a First Plat for up to five (5) years after the completion of a timber harvest if the harvest results in the removal of all or substantially all of the trees that were protected under Town regulations governing development of the tract for which the approval is sought, and the harvest was a willful violation of Town regulations.

### **3.1.11 - Fees**

Reasonable fees sufficient to cover the costs of administration, inspection, technical review, publication of notice and similar matters may be charged to applicants for subdivision plat approval, variances and other administrative relief. The amount of the fees charged shall be as set forth in the Town's annual budget or as established by resolution of the Town Board. Fees established in accordance herewith shall be paid upon submission of an application.

## **3.2 - Security for Completion and Maintenance of Improvements**

### **3.2.1 - Improvement and Adequate Security**

- A. Completion of Improvements  
Before the plat is signed by the mayor or his/her designee, all applicants shall be required to complete, in accordance with the Town's requirements, all the street, sanitary, and other

improvements in the subdivision, including without limitation, improvements on the individual lots of the subdivision as required in these regulations, specified in the final subdivision plat, and as approved by the Town and to dedicate same to the appropriate government body, free and clear of all liens and encumbrances on the property and public improvements thus dedicated.

B. Adequate Security

- (1) When seventy-five (75) percent of the improvements based on the total estimated cost of the improvements to be installed have been completed, all weather access for emergency vehicles has been provided, and waterlines are completed and ready for acceptance by the Town if public water is available; upon request the Town may enter into a contract with the applicant under which the applicant agrees to complete all required improvements. Once the contract has been executed by the Town and the applicant and the security required herein is provided, the final plat may be signed and recorded if all requirements of this Ordinance, except the completion of the improvements, have been met. To secure the obligation under the contract, the applicant shall provide any one or a combination of the guarantees set forth below to cover the costs of the uncompleted improvements. The amount of the security shall not be less than 125% of an amount determined by a licensed architect, registered landscape architect, registered engineer, surveyor, or licensed contractor acceptable to the Town as sufficient to secure to the Town the satisfactory construction, installation, and dedication of the incomplete portion of required improvements including labor and material payments. The security shall also assure all lot improvements on the individual lots of the subdivision as required in these regulations.
- (2) Such adequate security shall comply with all statutory requirements and shall be satisfactory to the Town Attorney as to form and manner of execution as set forth in these regulations, and the Planning Department as to sufficiency (i.e., inflation or rising construction costs shall be taken into account of security amount). A copy of the power of attorney for any countersigning agent shall be attached. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued unless the developer determines that the scope of work necessitates a longer duration. . If the improvements are not complete and the current performance guarantee is expiring, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period until such required improvements are complete. A developer shall demonstrate reasonable, good faith progress toward completion of the required improvements that are the subject of the performance guarantee or any extension. The form of any extension shall remain at the election of the developer. The Town Attorney may at any time during the period of such security accept a substitution of principal or sureties on the security. The security shall take one of the following forms:
  - a. Surety Performance Bond(s)

- i. The applicant shall provide a surety bond from a bonding company authorized to issue such bonds in North Carolina.
    - ii. The bond shall be payable to the Town of Goldston and shall be in an amount equal to at least 125% of the entire estimated cost, as approved by the Town, of installing all uncompleted improvements. Applicants must submit a request for bonding including a detailed construction cost estimate upon submission of the final plat.
    - iii. The bond amount and term shall be as approved by the Planning Department and such consultants as deemed necessary.
    - iv. The Town Attorney shall review the submitted bond and make a recommendation regarding its legal sufficiency to the Planning Department.
  - b. Cash or Equivalent Security
    - i. The applicant shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible to cash at face value, with the Town. Any irrevocable letter of credit or other instrument shall be made payable to the Town of Goldston. The amount of deposit shall be equal to at least 125% of the entire estimated cost, as approved by the Town, of installing all uncompleted improvements.
    - ii. The amount and term of such security shall be as approved by the Planning Department and such consultants as deemed necessary.
    - iii. The Town Attorney shall review the submitted security and make a recommendation regarding its legal sufficiency to the Planning Department.
- (3) A contract, satisfactory to the Town as to form, shall accompany any security accepted by the Town for improvements, and shall be signed and approved prior to recordation of the Final Plat.
- (4) When the requirements of 3.2.2 B(1) are met, the performance guarantee shall be returned or released, as appropriate, in a timely manner upon acknowledgement by the town that the improvements for which the performance guarantee is being required are complete. The town shall return Letters of Credit or escrowed funds upon completion of required improvements to the specifications of the town, or upon acceptance of the required improvements, if subject to town acceptance. When required improvements that are secured by a bond are completed to the specification of the town, upon request by the developer, the town shall timely provide written acknowledgement that the required improvements have been completed.
- C. Temporary Improvement
 

The applicant shall build and pay for all costs of temporary improvements required by the Town and shall maintain the same for the period required by the Town. Prior to construction of any temporary facility or improvement, the applicant may be required to file with the Town a separate suitable financial guarantee for temporary facilities, such guarantee assuring that the temporary facilities will be properly constructed, maintained and removed.
- D. Costs of Improvements



All required improvements shall be made by the applicant, at his/her expense, without reimbursement by the Town.

E. Failure to Complete Improvement

In those cases where the required improvements have not been installed in accordance with the contract, an authorized agent of the Town may declare the applicant to be in default and require that all the improvements be installed regardless of the extent of the building development at the time of default. The authorized agent of the Town may take such actions necessary to collect on the security and provide for the completion of the required improvements.

F. Acceptance of Dedication Offers

Acceptance of formal offers of dedication of public areas, easements, and parks shall be by deed or other instrument acceptable to the Town. The approval by the Town of a subdivision plat shall not be deemed to constitute or imply the acceptance by the Town of any easement, street, or park shown on said plat.

G. Legal Responsibilities

No Person shall have or may claim any rights under or to any performance guarantee provided pursuant to ordinance or in proceeds of any such performance guarantee other than the following:

1. The County to whom such performance guarantee is provided.
2. The developer at whose request or for whose benefit such performance guarantee is given.
3. The person or entity issuing or providing such performance guarantee at the request of or for the benefit of the developer.

### **3.2.2 – Inspection of Improvements**

A. General Procedure

The Town and other reviewing agencies may provide for inspection of required improvements during construction to assure their satisfactory completion. If the reviewing agencies find upon inspection that any of the required improvements have not been constructed in accordance with the construction standards and specifications of the Town or agencies involved, the applicant shall be responsible for completing the improvements. Wherever the cost of improvements is covered by a financial security, the applicant and the bonding company, if applicable, shall be jointly and severally liable for completing the improvements according to specifications.

B. Release or Reduction of Security

(1) Certificate of Satisfactory Completion

The Town will not accept the required improvements, nor will an authorized agent of the Town release or reduce said security, until the District Engineer of the North Carolina Department of Transportation (NCDOT), or other appropriate authority, has submitted a certificate stating that all required public street improvements have been satisfactorily completed, or until an engineer, surveyor, licensed architect, registered landscape architect, or contractor acceptable to the Town has certified that all other

required improvements have been completed in conformity with the requirements of this ordinance. Upon such certification, the Town may thereafter accept the improvements in accordance with the established procedure and release the financial guarantee.

(2) Reduction of Security

A guarantee may be reduced upon actual completion of required improvements and then only to the ratio that the required improvements completed bears to the total required improvements for the subdivision.

### **3.2.3 – Deferral or Waiver of Required Improvements**

A. Conditions

The Town may defer or waive at the time of final approval, subject to appropriate conditions, the provision of any or all such improvements as, in its judgment, are not requisite in the interests of the public health, safety, and general welfare, or which are inappropriate because of inadequacy or lack of connecting facilities.

B. Payment in Lieu of Improvements

Whenever it is deemed necessary by the Town to defer the construction of any improvement required herein because of incompatible grades, future planning, inadequate or lack of connecting facilities, or for other reasons, the applicant may be required to pay his/her share of the costs of the future improvements to the Town prior to signing of the final subdivision plat, or the applicant shall post financial security assuring completion of said improvements upon demand of the Town.

### **3.3 – Types of Subdivisions**

For the purposes of these regulations, subdivisions shall be classified into three (3) types. This ordinance only regulates the first two, major and minor. Exempt Subdivisions are included in the list to help applicants determine which category they are in. The specific review procedure the subdivision plat follows depends upon its classification. Subdivision plats shall be classified as follows:

A. Major Subdivisions

All subdivisions not classified as minor subdivisions, including but not limited to subdivisions of six (6) or more lots, or any size subdivision requiring any new street, the creation of any public improvements, or the request for a variance.

B. Minor Subdivisions

Any subdivisions containing five (5) lots or less with access to an existing public street, not involving any new street or road, the creation of any public improvements, or the request for a variance.

C. Expedited Review Subdivisions

The Town may require only a plat for recordation for the division of a tract or parcel of land in single ownership if all of the following criteria are met:

(1) The tract or parcel to be divided is not exempted under Section (D)(2) below.

- (2) No part of the tract or parcel to be divided has been divided under this subsection in the 10 years prior to division.
- (3) The entire area of the tract or parcel to be divided is greater than five acres.
- (4) After division, no more than three lots result from the division.
- (5) After division, all resultant lots comply with the following:
  - a. Any lot dimension size requirements of the applicable land use regulations.
  - b. The use of the lots is in conformity with the applicable zoning requirements.
  - c. A permanent means of ingress and egress is recorded for each lot.

This review can only be done once every ten (10) years. If you have residual land and qualify for this review, but you have done it in the last ten (10) years, you will be required to go through the minor subdivision process and pay the Recreational Fee for the district it is in. This review is connected with the land, not the owner. Furthermore, this review is not a faster process, regardless of its title.

#### D. Exempt Subdivisions

The following are not subject to any subdivision regulations pursuant to this document:

- (1) The combination or recombination of portions of previously platted lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as shown in its subdivision regulations;
- (2) The division of land into parcels greater than ten (10) acres if no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for widening or opening streets or other public transportation corridors or greenways;
- (4) The division of a tract in single ownership, the entire area of which is not greater than two acres, into not more than three lots if no street right-of-way dedication is involved and if the resultant lots are equal to or exceed the standards of the town as shown by its subdivision regulations;
- (5) A conveyance made for the purpose of dividing up the estate of a decedent among his/her heirs and devisees, by will or the courts; and
- (6) The combination or recombination of previously recorded lots or portions of previously recorded lots if the total number of lots is not increased, provided the resultant lots meet or exceed the standards of the Health Department.

#### E. Recording of Non-Building Lots

Subdivision lots which are not approved for building development may be approved for recording through the minor subdivision procedure. Such plats shall display a note stating that the lots are not approved for building development and do not meet the requirements of the subdivision regulations, but are approved for recording purposes only.

### **3.4 - Procedure for Subdivisions**

#### **3.4.1 - General Purpose**

The purpose of this section is to establish the procedure that shall be followed by the developer in submitting plats to the Planning Board and other agencies. Major and Minor Subdivisions follow different procedures outlined below. Expedited Review subdivisions are only required to submit a plat. Exempt subdivisions are not regulated by this ordinance.

### **3.4.2 – Major Subdivision**

#### **A. General Procedure**

The procedure consists of four main steps:

- (1) Concept Plan
- (2) First Plat
- (3) Construction Plan
- (4) Final Plat

#### **B. The overriding consideration in having a four step procedure is to assure that subdivisions develop soundly. Other objectives are as follows:**

- (1) Assist the developer in the sound, environmentally appropriate, and economical development of his/her property through the examination of the suitability of the property for subdivision development before surveying expenses and improvement costs are incurred.
- (2) All appropriate town and county departments, state and federal agencies, administrative and utility agencies aid in the design of proposed subdivisions.
- (3) The community is engaged and is informed through the process.
- (4) Adequate time is allowed for the review of the proposed subdivision.
- (5) Environmental concerns are adequately and completely addressed.
- (6) Adequate time is allowed at the onset of the process to provide feedback before the proposed subdivision is designed.

#### **C. Concept Plan**

##### **(1) Purpose**

The concept plan is a process by which the applicant engages the community in discussion regarding the goals of the development. Environmental documentation showing existing site conditions will be required. Data layers available from the Chatham County GIS office will meet this requirement, unless additional documentation is required to show existing site conditions. The developer has the choice to design conventionally, or present a conservation design with Low Impact Development (LID) and Best Management Practice (BMP) features. Planning Department staff will review the concept designs. However, limited surveying and engineering are required by applicant. The goal is to achieve a better site plan for the developer and the public that reduces environmental impacts. Developers are encouraged to be innovative with their design and go beyond minimum regulations for safe and orderly growth by advocating sustainable planning and development practices that encourage the types and patterns of land development that will preserve and enhance what is best about our community.

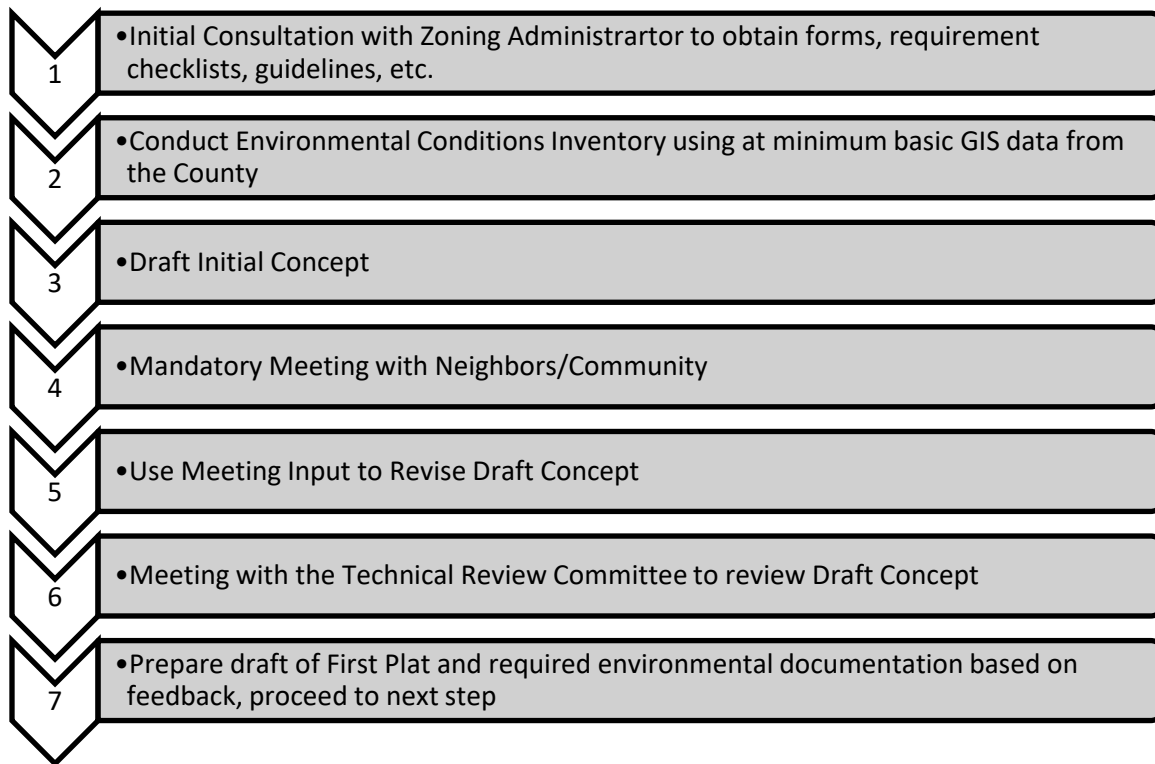
##### **(2) Process for Concept Plan Review**

- a. Pre-application meeting

This initial consultation with Town staff is to provide information on the subdivision regulations and processes, including required environmental information and checklists.

- b. Initial Environmental Documentation Conducted  
Utilizing the guidelines provided by the Planning Department, the applicant will develop an overview of the constraints on the site that will need to be addressed during the process.
- c. Draft Initial Concepts  
This is a horizontal plan giving general overviews of suggested layouts for development. It is encouraged that one of the concept drafts (if more than one is offered) be a sustainable development plan with a conservation design incorporating Low Impact Development (LID) options.
- d. Mandatory Meeting with Neighbors/Community  
This is to offer an open dialogue between applicant and neighbors/community for better communication, to share goals of the development and gather information from neighbors about any concerns about the land, the goal being to achieve a balance for the environment, neighborhood/community and applicant. The result is a better overall plan up front that is, as much as possible, embraced by the community and county and also saves applicant from spending money on multiple plans, surveying and engineering. There are specific public notice requirements:
  - i. Posting of the property with a “Development Input Meeting” sign along every road frontage. The signs will be the same dimensions and letter sizes as the Town’s notification signs for other land use notification requirements.
  - ii. Mail notification letters to residents within four hundred feet (400’) of the property to be developed (adjacent right-of-way widths not counted as part of the 400’) 20 days prior to the meeting. The applicant will supply the addressed, stamped envelopes and letters to the Planning Department and the Planning Department will send the letters.
- e. Revised Draft Concept Plan  
This is still a horizontal plan by the applicant that may be revised based on previous meetings and discussions.
- f. Technical Review Committee  
Applicant presents draft concept plan (and development timeline, if necessary) to Planning Department for scheduling to go before the Technical Review Committee (TRC). The TRC will meet with the applicant to go over the concept plan for conflicts with existing ordinances and policies.
- g. Applicant prepares First Plat  
With feedback from above, applicant now prepares First Plat for submitting to Planning Board with the documentation required by these regulations and then to the Town Board for approval.

**Figure 1: Concept Plan Process**



D. First Plat

(1) Purpose

The First Plat is the point at which the applicant submits the detailed proposal to the Town for review and approval by the Planning Board and Town Board. Approval of the First Plat allows the applicant to complete the engineering necessary to receive all required permits and submit the Construction Plan to the Planning Department for approval.

(2) Review of Environmental, Historical Structures and Cemeteries Information

Prior to submittal of the First Plat to the Planning Department, the applicant shall submit the required environmental information for review. The applicant is required to submit general environmental documentation. In addition, the applicant is required to submit copies of State, Federal and County reports regarding wetlands, streams and riparian buffer delineations if natural water resources and riparian buffers are existing on the property. At this time the applicant shall also notify the Chatham County Historical Association of the presence of any historical structures or cemeteries on or adjacent to the property.

a. General Environmental Documentation Review Process

- i. The applicant shall submit the General Environmental Documentation packet for review.
- ii. Within 30 days of submittal, the Planning Department or his/her designee shall review the information and forward a report to the applicant

b. Historical Structures and Cemeteries Notification

- i. The applicant shall notify the Chatham County Historical Association when structures of greater than 50 years in age or having historical significance are on the property or within 100 feet of the development on adjacent property.
- ii. If there is evidence of presence of a cemetery on the property, the applicant shall notify the Chatham County Historical Association.
- iii. The Chatham County Historical Association may forward recommendations for the historical structures or cemeteries to the Planning Department.
- c. Existing Natural Water Resources and Riparian Buffers Reports  
The applicant shall submit a copy of any County, State and Federal reports regarding wetlands and stream delineations and riparian buffer delineations.

(3) Planning Department Review

- a. Applicant submits First Plat to Planning Department. This is to be received by the Planning Department at least forty-six (46) days prior to the Planning Board meeting, but not longer than six (6) months from the date of the Environmental Resources report.
- b. The Planning Department shall have 14 days from the date of submittal to notify the applicant if the First Plat contains detailed supporting information that is sufficient to allow for the review of the proposed subdivision under these regulations.
  - i. If the Planning Department determines the information is not sufficient for review, he shall notify the applicant of the specific information that is required for review.
  - ii. The Planning Department shall take no further action on the First Plat until the applicant submits the required information.
  - iii. Once the applicant corrects the identified deficiencies, the applicant shall resubmit to the Planning Department at least forty-six (46) days prior to the next Planning Board meeting, and the Planning Department shall have 14 days to review the information and notify the applicant that the information is sufficient for review.
  - iv. A determination that an application contains sufficient information for review as provided in this subsection (b) does not limit the ability of other town agencies, the Planning Board or the Town Board to request additional information during the review process.
- c. Once the Planning Department has determined sufficiency, the applicant shall provide time(s) during at least two separate days for site visits by Town staff/contractors, advisory boards and elected officials. This shall not limit Town staff/contractors from making additional site visits at other times.
- d. The submittal is reviewed by the Technical Review Committee prior to the Planning Board meeting for comments and recommendations from other agencies, including the Chatham County Schools.
  - i. The Planning Department may postpone review of the proposal by the Planning Board for one month prior to notification to the adjacent property owners.
  - ii. The Planning Department shall notify the applicant within ten (10) days of the Technical Review Committee meeting of postponement.

- e. The Planning Department shall notify the applicant and adjoining property owners of the Planning Board review pursuant to Section I below.
  - f. The Planning Department forwards the staff recommendation to the Planning Board and applicant.
- (4) Planning Board Review
- a. The first Planning Board meeting shall include a Public Hearing to receive public comment on the proposed subdivision.
  - b. Following the Public Hearing, the Planning Board shall review the proposal, staff recommendation and public comments and indicate their recommendation for approval, disapproval or approval subject to modifications. If the Board recommends disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting.
  - c. The Planning Board shall have two (2) meetings in which to act on a proposal.
- (5) Town Board Review
- a. The Town Board shall review the proposal and the record, including the staff recommendation, public comments and Planning Board recommendation.
  - b. The Town Board shall have a maximum of sixty (65) days from the official submission date to the Town Board to approve, approve with modifications or disapprove the First Plat. If the Town Board gives approval subject to modifications or disapproval to the First Plat, the necessary reasons or modifications will be specified in the minutes of the meeting.
  - c. If the Town Board denies the approval of the First Plat, the applicant must wait six months from the date of denial before resubmitting a new Concept Plan.
  - d. Once the Town Board decision is filed, the applicant may begin working on the Construction Plan.
- (6) Time Limit on Validity of First Plat Approval
- Approval of a First Plat shall be valid for a period of twelve (12) months following the date of approval by the Town Board. Approval shall remain valid provided the Construction Plan application is submitted during this time period. A one-year extension may be granted if the applicant demonstrates that delays beyond their control are responsible for the lapse and have the extension submitted and reviewed following the process outlined in Section 3.4.2(E)(4) prior to the expiration of approval. If First Plat approval expires the subdivision shall not be considered for construction approval until and unless another First Plat approval is granted according to applicable regulations and appropriate additional administrative fees are paid.
- (7) Deadline for Submission of First Plat
- a. Applicant submits First Plat to Planning Department. This is to be received by the Planning Department at least forty-six (46) days prior to the Planning Board meeting, but not longer than six (6) months from the Environmental Resources report. The Planning Department can then postpone the request for up to one regular meeting. The application can be continued for one regular meeting, then the Planning Board will indicate their approval, disapproval, or approval subject to modification. Failure of the Planning Board to act on the First Plat within two



meetings will be deemed a favorable recommendation for approval of the plat by the Planning Board. Boards may call special meetings to accommodate heavy case loads in order to meet these deadlines.

- b. First Plats shall be submitted to the Town Board for consideration at the next available regular meeting after the Planning Board has acted or its time to act has expired. The Town Board shall review the First Plat and indicate its approval, disapproval or approval subject to modifications within sixty (65) days of the official submission date to the Town Board. Failure of the Town Board to act on the First Plat within sixty (65) days will be deemed approval of the plat as submitted. If the Planning Board or the Town Board disapproves or approves subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting. The approval of the First Plat by the Town Board serves as permission to begin acquiring permits according to the plans and as a basis for preparation of the construction plan.
- (8) Review of Water Plans for Acceptance into Public Water System  
Applicant must submit water plans to the Gulf-Goldston sanitary district for technical review if the proposed development will be connected to the public water system. This review is to ensure there is adequate water availability and capacity to serve the development.

**Figure 2: First Plat Review Process Diagram**



E. Construction Plan

(1) Purpose

The construction plan review is required to properly identify the design standards for all public improvements and the layout of the development set forth in the First Plat are adhered to. This plan is used to begin construction of improvements.

(2) Additional Permits

The approved First Plat will be used to obtain any additional permits (Local, State and/or Federal) or approval letters that are required to obtain a valid Construction Plan. Approval is done by the Planning Department or his/her designee unless staff deems there are significant changes from the approved First Plat. The Staff shall approve the submitted Construction Plan or require approval of the Construction Plan by the Town Board if the following significant changes from the first plat are present:

- a. Increase in the number of lots by five percent (5%) or more
- b. Increase in the number of stream crossings
- c. Number of road lanes increases on any segment except where providing for turning, acceleration or deceleration lanes pursuant to recommendation of NCDOT
- d. Linear feet of road increases by five percent (5%) or more.
- e. Discovery of historically-significant structures or cemeteries after First Plat that may alter the overall design or layout of the subdivision.

If staff requires review of the Construction Plan by the Town Board due to significant changes, the Planning Board and Town Board will review the plan. Review of the Construction Plan by the Planning Board and Town Board shall follow the following process.

(3) Process for Construction Plan Review by Planning Department

- a. The applicant shall submit the Construction Plan and all required permits to the Planning Department at least twenty-one (21) days prior to the Technical Review Committee meeting at which the Construction Plan will be reviewed.
- b. The Planning Department shall have 14 days from the date of submittal to notify the applicant if the Construction Plan contains detailed supporting information that is sufficient to allow for review under these regulations, or if there are significant changes as defined in Section (2) above. If the Planning Department determines that there are significant changes, the applicant shall follow the review process outlined in Section (4) below.
  - i. If the Planning Department determines the information is not sufficient for review, he shall notify the applicant of the specific information that is required for review.
  - ii. The Planning Department shall take no further action on the Construction Plan until the applicant submits the required information.
  - iii. Once the applicant corrects the identified deficiencies, the applicant shall resubmit to the Planning Department at least twenty-one (21) days prior to the next Technical Review Committee meeting, and the Planning Department shall have 14 days to review the information and notify the applicant that the information is sufficient for review.
  - iv. A determination that an application contains sufficient information for review as provided in this subsection (b) does not limit the ability of other Town agencies to request additional information during the review process.
- c. The Technical Review Committee shall review the Construction Plan for compliance with the approved First Plat and required permits.

- d. Once the Technical Review Committee completes its review, the Planning Department shall notify the applicant of any required changes to the Plan or give the applicant notice to proceed.
- e. If there are any changes required to the Construction Plan, the applicant shall re-submit the Construction Plan for review by the Technical Review Committee.
- f. If the applicant wishes to appeal any decision by the Planning Department concerning the Construction Plan, the appeal shall follow the process outlined below in Section (4) for review by the Town Board.

(4) Process for Construction Plan Review by Town Board

If the Planning Department determines that the Construction Plan must be reviewed by the Town Board due to significant changes from First Plat, the following process shall apply.

- a. The applicant shall submit the Construction Plan to the Planning Department no less than twenty-three (23) days prior to the Planning Board meeting at which the proposal will be reviewed.
- b. The submittal is reviewed by the Technical Review Committee prior to the Planning Board meeting for comments and recommendations from other agencies.
- c. Notice of the review shall be sent to the applicant and adjoining property owners as required in Section I below.
- d. The Planning Department forwards the staff recommendation to the Planning Board and applicant.
- e. The Planning Board shall review the Construction Plan and indicate their recommendation for approval, disapproval or approval subject to modifications. If the Board recommends disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting.
- f. The Planning Board forwards the recommendation to the Town Board for review. The recommendation shall be submitted to the Town Board for consideration not later than thirty (30) days after the Planning Board has acted or its time to act has expired.
- g. The Town Board shall review the Construction Plan and indicate approval, approval with modifications or disapproval of the Construction Plan. If the Town Board gives approval subject to modifications or disapproval to the Construction Plan, the necessary reasons or modifications will be specified in the minutes of the meeting.

(5) Deadline for Submission of Construction Plan for Town Board Review

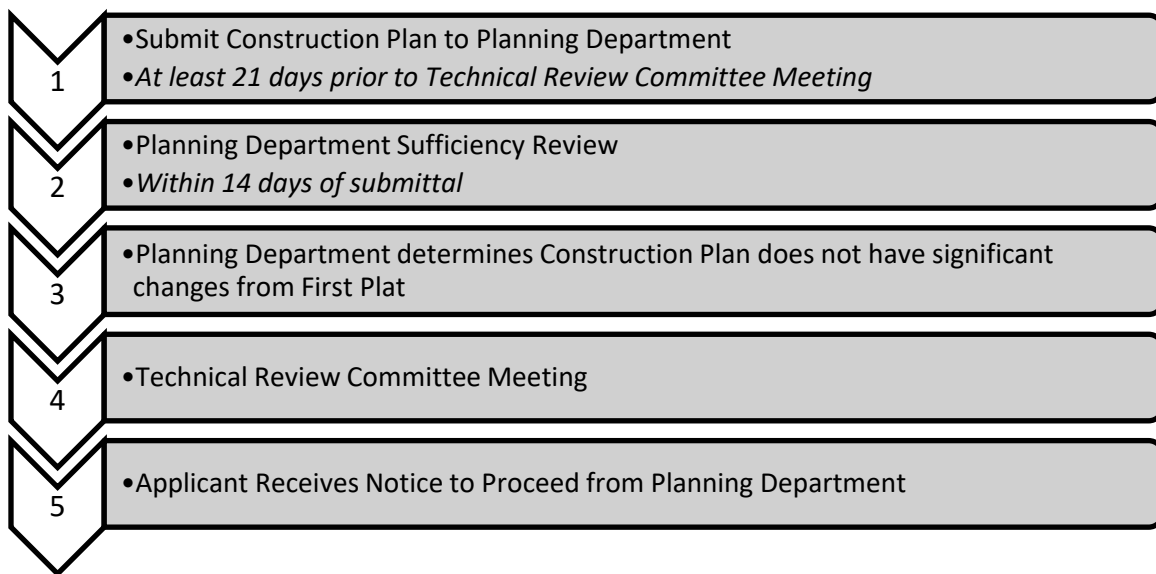
If the Town Board is required to review the Construction Plan due to significant changes, the following apply. The Construction Plan shall be submitted twenty-three (23) days prior to the day on which approval is requested for subdivisions. Within sixty (60) days after the official submission date of the Construction Plan, the Planning Board will review it and indicate their recommendation for approval, disapproval, or approval subject to modification. Failure of the Planning Board to act on the Construction Plan within this sixty (60) day period will be deemed a favorable recommendation for approval. The Construction Plan shall be forwarded to the Town Board. The Town Board will review the Construction Plan and indicate their approval, disapproval, or

approval subject to modifications within sixty (65) days of the official submission date to the Town Board. Failure of the Town Board to act on the Construction Plan within sixty (65) days will be deemed approval of the Plan as submitted. If the Planning Board recommends or the Town Board gives disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting.

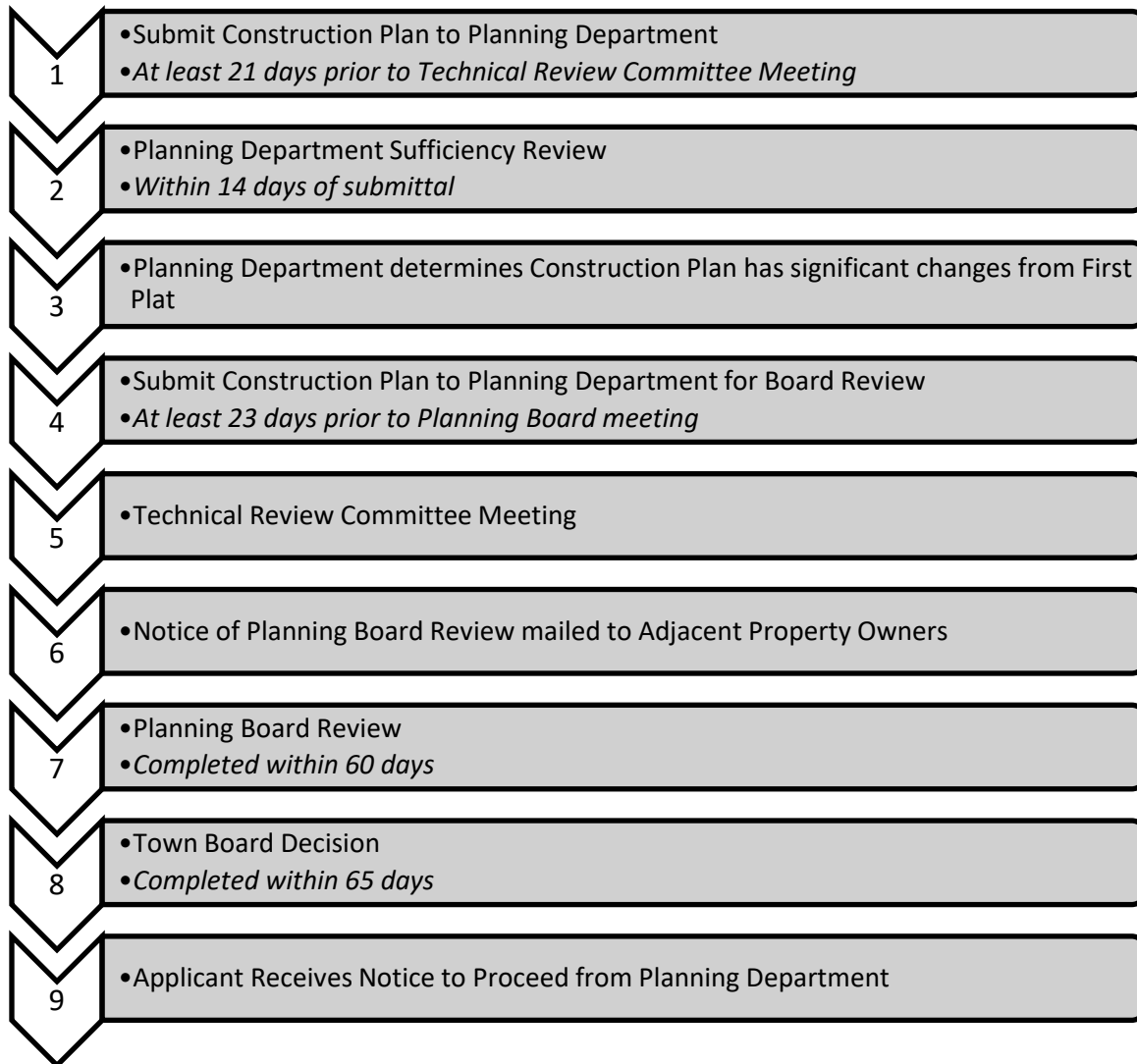
**(6) Time Limit On Validity Of Construction Plan Approval**

Approval of a Construction Plan shall be valid for a period of twenty-four (24) months following the date of approval by the Technical Review Committee or Town Board unless a request for an extension has been submitted and reviewed following the process outlined in Section (4) above prior to the expiration of approval. Approval shall remain valid provided the Final Plat application is submitted during this time period. Upon expiration of Construction Plan approval, a Final Plat of the same subdivision shall not be considered by the Town Board unless said Construction Plan (or First Plat, if necessary) is submitted for approval based on standards in effect at the time of resubmission.

**Figure 3a: Construction Plan Review Process if No Significant Changes from First Plat**



**Figure 3b: Construction Plan Review Process if Significant Changes from First Plat**



F. Final Plat

(1) Purpose

The approved Final Plat, filed with the Register of Deeds, is the permanent record of the subdivision as constructed. It shows all property lines and other dimensions important for the accurate and legal transfer of property, and records the location of street lines, and easements.

(2) Preparation and Approval of Final Plat

The Final Plat shall be prepared in conformance with these regulations by a surveyor licensed in the State of North Carolina. Said plat may be submitted when the required improvements have been installed or appropriate financial assurance for completion of improvements has been filed. Applicants shall pay all required fees as established by the Town. Review and approval of the Final Plat by the Planning Department shall follow the process outlined in Section (3) below. The Planning Department shall approve the

Final Plat if it is in substantial conformance with the approved Construction Plan, and it shall be signed by authorized staff. If the Planning Department determines that the Final Plat is not in compliance with the Construction Plan approval then this shall result in a denial of the Final Plat. Any decision by Staff can be appealed to the Town Board using the process outline in Section (G) below.

(3) Process for Final Plat Review by Planning Department

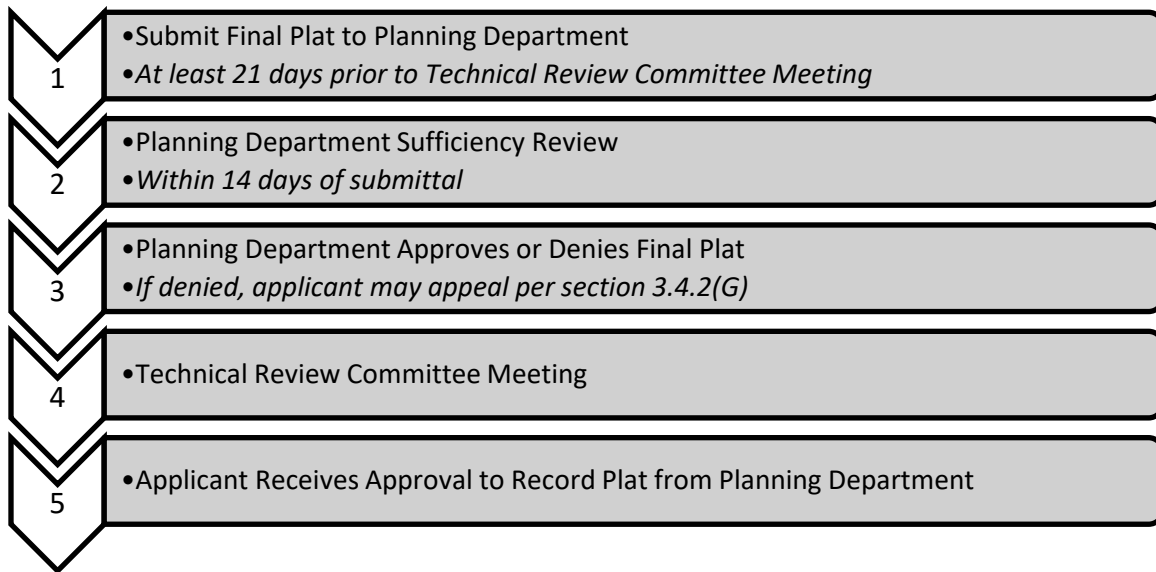
- a. The applicant shall submit the Final Plat and all required certifications to the Planning Department at least twenty-one (21) days prior to the Technical Review Committee meeting at which the Final Plat will be reviewed.
- b. The Planning Department shall have 14 days from the date of submittal to notify the applicant that the Final Plat contains detailed supporting information that is sufficient to allow for review under these regulations.
  - i. If the Planning Department determines the information is not sufficient for review, he shall notify the applicant of the specific information that is required for review.
  - ii. The Planning Department shall take no further action on the Final Plat until the applicant submits the required information.
  - iii. Once the applicant corrects the identified deficiencies, the applicant shall resubmit to the Planning Department at least twenty-one (21) days prior to the next Technical Review Committee meeting, and the Planning Department shall have 14 days to review the information and notify the applicant that the information is sufficient for review.
  - iv. A determination that an application contains sufficient information for review as provided in this subsection (b) does not limit the ability of other Town agencies to request additional information during the review process.
  - v. If the Planning Department determines during this review that the Final Plat does not substantially conform to the Construction Plan or these Regulations, the Department shall deny the Final Plat.
- c. The Technical Review Committee shall review the Final Plat for compliance with the approved Construction Plat, required permits and certifications.
- d. Once the Technical Review Committee completes its review, the Planning Department shall notify the applicant of any required changes to the Final Plat or give the applicant notice of approval.
- e. If there are any changes required to the Final Plat, the applicant shall resubmit the Final Plat for review by the Technical Review Committee.
- f. After approval of the Final Plat, the reproducible plat shall be returned to the subdivider for his/her records and for filing with the County Register of Deeds as the official plat of record. One copy of the plat exhibiting certifications shall be retained by the Planning Department for his or her records.

(4) Recording

The subdivider shall file the approved Final Plat with the Chatham County Register of Deeds for recording within sixty (60) days of the date of approval or such approval shall be null and void and the plat will be denied recordation, except as provided below. Final

Plats not recorded in the Register of Deeds Office within sixty (60) days may be reviewed by the Planning Department for compliance with current regulations. Plats found to be in compliance may be approved by signature of the Planning Director or his/her designee, dated, and allowed to be recorded. Plats not in compliance shall not be approved by the Planning Department or recorded prior to review and approval outline in Section (E)(4).

**Figure 4: Final Plat Review Process Diagram**



**G. Appeals**

The disapproval of a Final Plat by the Planning Department may be appealed to the Town Board if filed with the Planning Department within fifteen (15) days of notice of disapproval. The administrative fee for appeal is required in order to perfect the appeal. Any appeal shall follow the following process:

- (1) The applicant shall submit the Final Plat to the Planning Department no less than twenty-three (23) days prior to the Planning Board meeting at which the proposal will be reviewed.
- (2) The submittal is reviewed by the Technical Review Committee prior to the Planning Board meeting for comments and recommendations from other agencies.
- (3) Notice of the review shall be sent to the applicant and adjoining property owners as required in Section I below.
- (4) The Planning Department forwards the staff recommendation to the Planning Board and applicant.
- (5) The Planning Board shall review the Final Plat and indicate their recommendation for approval, disapproval or approval subject to modifications. If the Board recommends disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting.



- (6) The Planning Board forwards the recommendation to the Town Board for review. The recommendation shall be submitted to the Town Board for consideration not later than thirty (30) days after the Planning Board has acted or its time to act has expired.
- (7) The Town Board shall review the Final Plat and indicate approval, approval with modifications or disapproval. If the Town Board gives approval subject to modifications or disapproval to the Final Plat, the necessary reasons or modifications will be specified in the minutes of the meeting.
- (8) If the Final Plat is approved by the Town Board, the reproducible plat shall be returned to the subdivider for his/her records and for filing with the County Register of Deeds as the official plat of record. One copy of the plat exhibiting certifications shall be retained by the Planning Director for his or her records.
- (9) If the Town Board is required to review the Final Plat due to substantial changes, the following applies: within sixty (60) days after the official submission date of the Final Plat, the Planning Board will review it and recommend its approval, disapproval or conditional approval. Grounds for disapproval or conditional approval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act on the Final Plat within this sixty (60) day period shall be deemed recommendation of approval of the plat. Final Plats shall be forwarded to the Town Board. The Town Board will review the Final Plat and indicate their approval, disapproval or approval subject to modifications within sixty (65) days of the official submission date to the Town Board. Failure of the Town Board to act on the Final Plat within sixty (65) days will be deemed approval of the plat as submitted. If the Town Board gives disapproval or approval subject to modifications, the necessary reasons or modifications will be specified in the minutes of the meeting.
- (10) The disapproval of any plat by the Town Board may be appealed to the courts, following exhaustion of the review procedures specified herein.

#### H. Submission Dates

The official submission date shall be considered the date of the Planning Board or Town Board meeting at which a plat is considered for approval. This is not the date upon which the plat is submitted to the Planning Department for review.

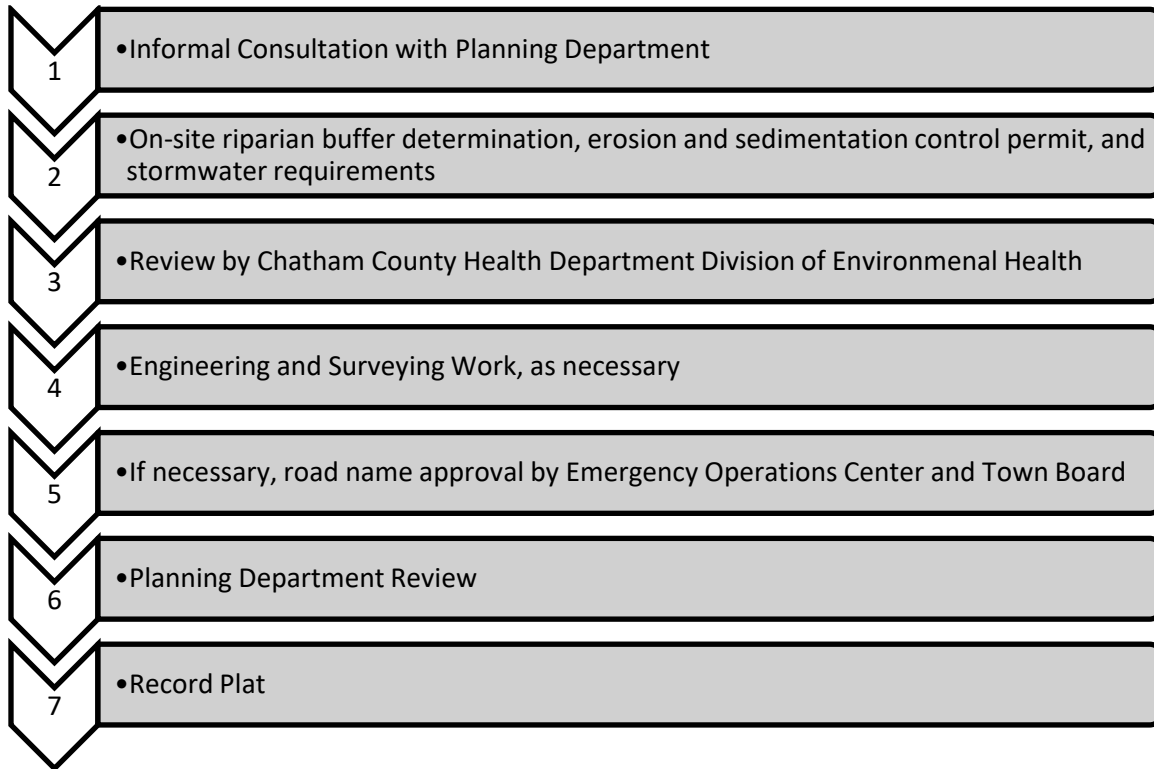
#### I. Notice of Review

The Planning Department shall give reasonable notice of the time and place of any review by the Planning Board for major subdivisions. Notice shall also be given when a request is made for the extension of approval. Notice shall be sent by regular mail not less than fourteen (14) days prior to the date specified thereon and shall be mailed to the address of the adjacent property owners as specified on the plat or application. Failure to receive notice by the subdivider or adjacent property owners shall not be grounds for disapproval by the Town Board.

### **3.4.3 – Minor Subdivisions**

All subdivisions not classified as major subdivisions, including but not limited to subdivisions of five (5) or fewer lots, and not requiring any new street, nor the creation of any public improvements, nor the request for a variance.

**Figure 5: Overview of the Minor Subdivision Plat Review Process**



#### General Procedures

- A. Minor Subdivisions may be submitted to the Planning Department for First Plat, Construction and Final Plat review simultaneously since there are no public improvements involved. Since minor subdivisions are easily reviewed by the Planning Department there is no deadline for submittal. The applicant shall submit the required number of prints of the plat to the Planning Department. Applicants shall pay any administrative fee established by the Town at the time of the application or request. The staff shall inform the applicant of necessary modifications to the plat. Minor Subdivisions involving access to more than two lots shall have the access road name approved by the Chatham County Emergency Operations Center (EOC) and Town Board.
- B. Minor subdivisions shall be reviewed and approved by the Division of Environmental Health of the Chatham County Health Department or the Division of Environmental Management (issuance of a discharge permit and permit to construct.) This approval shall be in a form prescribed by the issuing agency.
- C. The Planning Department shall review the plat and if everything is in order, the Planning Director or his/her authorized agent shall approve the plat as a minor subdivision. (See Section 3.8)
- D. The plat shall be submitted for recording by the applicant within the time limit specified in these regulations.

- E. In order for a subdivision to be considered a minor subdivision the following requirements must be met:
- (1) The subdivision must meet the requirements of the minor subdivision definition.
  - (2) The plat must meet all requirements and standards for Final Plats as required in Section 3.5.4.
  - (3) There can be no variances requested from the subdivision regulations.
  - (4) There cannot be, as a result of such subdivision, a creation of any lots which fail to meet all requirements of the subdivision regulations.
  - (5) No subdivider may use the minor subdivision procedure in the same immediate location (approximately fifteen hundred [1,500] feet) for a period of twelve (12) months after getting subdivision approval using said procedure in said location, if he/she owns, has an option on, or has any legal interest in any property adjacent to the property to be subdivided, except as provided in these regulations, specifically in Section 3.6.4B(4). However, a subdivider may use the minor procedure more than once during a twelve month period to create as many as five (5) individual lots. The minor subdivision procedure may not be used to create more than five (5) lots unless there is a twelve month period after the approval of the fifth lot.
  - (6) Additional street right-of-way dedication shall be shown on the plat in cases where the existing right-of-way does not meet the present minimum right-of-way width.
  - (7) If a minor subdivision does not meet the above listed requirements it shall be reviewed as a major subdivision, unless otherwise provided.
- F. Any appeals of a staff decision regarding a Minor Subdivision shall follow the process in Section 3.4.2(G).

### **3.4.4 - Expedited Review Subdivisions**

Subdivisions meeting the requirements listed in Section 3.3(C) are eligible for expedited review. The Planning Department shall review the plat and if everything is in order regarding the eligibility requirements for an expedited review subdivision in accordance with General Statute 160D-802, the Planning Department or his/her authorized agent shall approve the plat for recordation.

## **3.5 - Specifications for Documents to be Submitted**

### **3.5.1 - First Plat**

Plats submitted to the Planning Board shall be drawn to a convenient scale of not more than two hundred (200) feet to an inch when practical and shall show the following information. Documentation shall be submitted as double-sided copies whenever practical; a digital copy shall be submitted to the Planning Department.

- A. Name
- (1) Name of subdivision if property is within an existing subdivision.
  - (2) Proposed name if not within a previously platted subdivision. The proposed name shall not duplicate the name of any plat previously recorded.

(3) Name of property if no subdivision name has been chosen. (This is commonly the name of the property owner.)

B. Ownership

(1) Name and address, including telephone number, of legal owner or agent of property.

(2) Name and address, including telephone number, of the professional person(s) responsible for subdivision design, for the design of public improvements and for surveys.

(3) Citation of any existing legal rights-of-way or easements affecting the property.

(4) Reference to existing covenants on the property, if any.

(5) AKPAR Number

C. Description

Location of property by tax map and parcel number, when available. The Warranty Deed Book number and page on which the property is currently recorded, when available.

D. Features

The plat or application shall show the following information when available or note whether it is applicable.

(1) Location map showing relationship of the subdivision site to the surrounding area.

(2) Graphic scale, date, approximate North arrow, legend.

(3) The location of property with respect to the surrounding property and streets, the names of all adjacent property and streets, or the names of adjacent developments. The name and address of adjacent property owners according to the county tax records, which may be listed on a separate page from the plat. Property on the opposite side of an easement or public right-of-way shall also be considered adjacent property.

(4) Zoning Classification of proposed subdivision and adjacent property if applicable.

(5) The approximate location of all boundary lines of the property.

(6) Approximate total acreage of land to be subdivided in Town of Goldston jurisdiction, and outside the Town's jurisdiction if applicable.

(7) Approximate lineal feet of the proposed street.

(8) The approximate location of existing and platted streets, easements, water bodies, water courses and their associated riparian buffers (including sinkholes, dry stream beds, and pond overflow streams), railroads, parks, bridges, sewers, water mains, culverts, lands subject to flood and other pertinent features.

(9) The location and width of all existing and proposed street right-of-ways and easements, and other public ways, and riparian buffers, where applicable.

(10) The approximate location(s), type(s), and size(s) of all proposed stormwater devices and/or easements.

(11) The approximate location, dimensions, and acreage of all proposed or existing lots.

(12) The approximate location, dimensions and acreage of all property proposed to be set aside for a park or playground use, or other public or private reservation, with designation of the purpose thereof, and conditions, if any, of the dedication or reservation.

(13) Names of all streets existing and proposed.

- (14) A notation on the use of any lots proposed for a use other than single family residential.
- (15) All lots in each subdivision shall be consecutively numbered.
- (16) A notation specifying that a public water system is not presently available to the subdivision, if applicable.
- (17) A time schedule of development for subdivisions of more than 50 lots.
- (18) The approximate location of any significant cultural and/or historical sites as defined by NC Office of Archaeology, Department of Cultural Resources and/or Chatham Historical Association on the property.
- (19) The approximate location and age of any existing buildings (including mobile homes), cemeteries, or historical structures greater than 50 years in age on the property.
- (20) The approximate location of any cemeteries or historical structures located within 100 feet of the development on any adjacent property.
- (21) Indicate whether a Non-Discharge Permit for a land application waste disposal system is necessary.
- (22) Indicate whether a permit for any subsurface wastewater disposal system of 3000 gallons/day or larger is necessary.
- (23) Indicate whether a 404 permit/401 certification is necessary.
- (24) Indicate the water supply watershed district.
- (25) Indicate any state designated Well Head Protection Areas.
- (26) Indicate any element occurrences ("EO") of natural diversity, including rare species, as determined by and tracked by the NC Natural Heritage Program, NC Wildlife Resources Commission (WRC), and US Fish and Wildlife Service (FWS).
- (27) Indicate whether the property contains or is adjacent to (shares at least one boundary with) a Significant Natural Heritage Area (SNHA) as recognized by the NC Natural Heritage Program.
- (28) Indicate whether the property is located within a designated 14 digit Hydrologic Unit drainage basin that supports aquatic species that are federally listed or listed as Federal Species of Concern.

### **3.5.2 – Additional First Plat Information**

#### **A. Environmental Documentation**

The Environmental Documentation shall include the information required by the General Environmental Documentation Submittal Form developed by the Chatham County Environmental Quality Department.

#### **B. Topographic Map**

A topographic map with contours at vertical intervals of not more than five (5) feet, at the same scale as the First Plat, for all major subdivisions unless not deemed necessary by staff. Staff may require a topographic map for other subdivisions if necessary for adequate review. The date and method of preparing the topographic survey shall be stated.

#### **C. Soils Evaluation**

A soils evaluation shall be performed by a certified/licensed soil scientist or persons approved by the Health Department to perform such evaluations or investigations. Such evaluations shall be performed unless a connection to a public sewage disposal system is proposed. A soils map showing the location of suitable soils and a letter of explanation shall be submitted to perform such evaluations or investigations.

D. Utility Plans

Plans of proposed utility layouts for sewer and water where applicable, showing feasible connections to the existing utility system, or any proposed utility system.

E. U.S. Army Corps of Engineers and Division of Water Quality Permits or Certifications

Indicate if US Army Corps of Engineers and/or NC Division of Water Quality permits or certifications will be required. These permits and/or certifications may be required when development improvements may involve the placement of excavated material or fill material into streams, creeks, lakes, or wetlands. If any of these permits or certifications will be required, copies of the approved permits shall be submitted at time of Construction Plan submittal.

### 3.5.3 – Construction Plan

The construction Plan shall include all the information required to be shown on the First Plat (see Section 3.5.1). The Construction Plan shall be drawn to a convenient scale of not more than two hundred (200) feet to an inch when practical.

### 3.5.4 – Final Plat

A. General

The Final Plat shall conform substantially to the First Plat and Construction Plan as approved, and, if desired by the subdivider, it may constitute only that portion of the approved First Plat which he/she proposes to record and develop at the time, provided, however that such portion conforms to all requirements of these standards. The Final Plat shall be subject to the requirements of N.C. Gen. Stat. § 47 - 30.

B. Features

The Final Plat shall show the following information, in addition to any information required by N.C. Gen. Stat. § 47 - 30:

- (1) The Final Plat shall be drawn to an appropriate scale of not more than one (1) inch equals two hundred (200) feet on sheets having an outside marginal size of not more than twenty-four (24) inches by thirty-six (36) inches. When more than one sheet is required, an index sheet of the same size shall be labeled showing the entire subdivision with the sheets lettered in alphabetical order as a key, or the location map shall show the relationship of the separate sheets.
- (2) Location map showing relationship of the subdivision to the surrounding area.
- (3) Graphic scale, date, and north arrow accurately positioned and designated as
  - a. magnetic north,
  - b. true north, or
  - c. North Carolina grid north.
- (4) Name, and address of owner and person responsible for plans.

- (5) The location of the property with respect to surrounding property and streets, the names of all adjacent owners of record or the names of adjacent developments; and the book and page number of recordation, and the name and/or number of adjacent streets. Property on the opposite side of an easement or public right-of-way shall also be considered adjacent property.
- (6) The total acreage of land to be subdivided in the Town of Goldston or its extraterritorial jurisdiction. If less than one (1) acre, the square footage of each lot and if one (1) acre or greater the acreage of each lot.
- (7) All lots in each subdivision shall be consecutively numbered throughout the several additions if there exists more than one.
- (8) The location, and width of all existing and proposed right-of-ways and easements, alleys, and other public ways, and riparian buffers if applicable. Septic system easements shall show bearings, distances, and area.
- (9) All streets shall be named and designated as either public or private.
- (10) The location, dimension and area of all property proposed to be set aside for park or playground use, or other public or private reservation, with designation of the purpose thereof and conditions, if any, of the dedication or reservation.
- (11) The approximate location of any buildings or structures that will remain.
- (12) The approximate location of any cemeteries, with access provided from the nearest public road.
- (13) Accurate description of all monuments and markers. Where the plat is the result of a survey, one or more corners shall be labeled with coordinates on the plat, shown as "X" (easting) and "Y" (northing) coordinates, traceable to a published geodetic datum or the North Carolina State Plane Coordinate System, or both. The plat should include, at a minimum, the referenced horizontal datum and realization (i.e., "NAD 83 (2011)") as well as the data or method used to establish those coordinates, or both. If the bearings shown on the map are not referenced to the same datum as the grid coordinates shown, then either (i) the coordinates of a second point shall be labeled and the two labeled points tied together by a single azimuth or course and distance or (ii) the plat shall include, in written and graphical form, the conversion from plat bearings to reference bearings. Control monuments within a previously recorded subdivision may be used in lieu of grid control. In the interest of consistency with previously recorded plats, existing bearing control may be used where practical. Where no horizontal control monument of any United States or State agency survey system, such as the North Carolina Geodetic Survey, is located within 2,000 feet of the subject property, ties to other appropriate natural monuments or landmarks may be used in lieu of grid coordinates. In all cases, the tie lines shall be sufficient to reproduce the subject lands from the control or reference points used.
- (14) Sufficient data to determine readily the location, bearing, and length of all lines, and to reproduce such lines upon the ground; the location of all proposed monuments. This shall include but not be limited to (a) radius, (b) length, (c) cord bearing and distance.

- (15) Any other information required on surveys as specified by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors in its Manual of Practice for Land Surveying in North Carolina.
- (16) When available the tax map and parcel number of the property being subdivided and the AKPAR/parcel ID number.
- (17) When appropriate major subdivisions shall contain a note which states that a public or community water system is not presently available to the subdivision lots.
- (18) Certificate of Ownership and Dedication (See Section 3.8).
- (19) Certificate of Survey and Accuracy.
- (20) Certificate of Division of Highways (See Section 3.8).
- (21) Certificate of Approval by the Planning Board or authorized person (See Section 3.8).
- (22) Certificate of the Register of Deeds.
- (23) On Final Plats which show new publicly dedicated roads, a note shall be placed designating maintenance responsibility until acceptance of said roads by the Department of Transportation or the Town. The maintenance responsibility for private roads shall be disclosed by a note on the plat.
- (24) Soil Scientist final Certification (for minor subdivisions, required environmental health permits)
- (25) Name of Subdivision

C. As-Built Utility Plans

When public or community water and/or sewage systems are installed as-built drawings of said systems shall be submitted at the time of final review or prior to the release of a financial guarantee by the Town.

**3.6 – Requirements and Minimum Standards for Improvements, Reservations and Design**

**3.6.1 – Suitability of the Land**

A. Land Areas Unsuitable for Development

If review agencies have found areas of land which do not or cannot meet the requirements of these and other regulations, the areas of land may not be approved for subdivision unless adequate methods are formulated by the developer for meeting the regulations.

B. Land Subject to Flood

The 100 year floodplain (Special Flood Hazard Area) and floodway shall not be included when calculating the minimum useable lot area.

C. Riparian Buffers

Riparian buffers are natural vegetated areas that provide a protective distance between a stream, perennial water body or wetland and an adjacent land area. The riparian buffer areas, but not the water features to be buffered, may be included when calculating the minimum usable lot area and any other development - related regulatory requirements



based on property size, including, but not limited to, residential density and nonresidential intensity calculations and yields, tree conservation purposes, open space or conservation area requirements, setbacks, perimeter buffers, and lot area requirements. Additionally, with regard to regulated riparian buffers located on portions of a subdivision that are designated as common areas or open space and neither the State nor its subdivisions holds any property interest in that riparian buffer area, a proportionate share of the buffer area shall be attributed to each lot abutting the riparian buffer area for purposes of satisfying development - related regulatory requirements based on property size

### **3.6.2 – Roads**

#### **A. Classification**

Streets and roads are hereby classified according to the function which they are to serve, the type, speed, and volume they will carry. The broad categories shall be (a) arterials (including principal arterials and minor arterials), (b) collectors (including major collectors and minor collectors), and (c) local roads. The designation in a transportation plan of arterials and collectors does not prevent other streets proposed in or adjoining subdivisions from being similarly classified. Classifications of roads are defined Section 1.2.

#### **B. Relation to Present, Proposed and Future Road System**

(1) The location and width of all streets and roads shall not be in conflict with any adopted transportation plan. When a subdivision is proposed in an area designated for a future right-of-way on any adopted transportation plan and the construction of a road along this right-of-way is not necessary for the purpose of providing access to platted lots, or carrying the traffic that will be generated by the subdivision development, the construction of this road by the subdivider shall not be required. Such right-of-way shall, however, be reserved for dedication to the N.C. Department of Transportation for the purpose of implementing any transportation plan.

(2) For the purpose of these design standards, existing streets which terminate at or adjoin a subdivision boundary shall be deemed a part of the subdivision. The proposed street system shall extend the right-of-way of existing streets at no less width than the required minimum width. Subdivisions that adjoin only one side of existing streets shall dedicate one-half of the additional right-of-way needed to meet minimum width requirements. If any part of the subdivision includes both sides of an existing street all the required additional right-of-way shall be dedicated.

(3) Where necessary to provide public street access to adjoining landlocked property or connectivity to large tracts with future development potential, proposed public streets shall be extended by dedication of right-of-way to the boundary of such property. Legal documents shall be recorded assuring future public accessibility. Two of the issues to be reviewed when considering the extension of public roads are the improvement of traffic distribution to prevent unnecessary congestion and the improvement of public safety by providing increased access for law enforcement and emergency vehicles.

- a. If the proposed public street to be extended is to be used as access for any lots, such stub street will be required to provide a temporary turn around, located within the public right-of-way and/or a dedicated easement, and in accordance with the

standards shown for cul-de-sacs in Section 3.6.2C. See Form 14 for a note to be included on the plat.

- (4) When an arterial adjoins or is included in a subdivision, lots therein which abut the arterial shall have the number of access points limited or reduced with such conditions specified on the plat or shall be provided with another means of access, for example:
  - a. Platting a single tier of lots which back to the arterial and front on a minor street, or
  - b. Other method approved by the Planning Board such as a frontage road.
- (5) When land is subdivided into larger parcels than ordinary building lots, such parcels may be required to be arranged so as to allow for the opening of streets in the future and for logical further re-subdivision.

C. Design Standards for Roads

(1) General

Except as specified in these regulations all streets in subdivisions shall be public. The design and construction of all public streets and roads, including the grading, roadbed, shoulders, slopes, medians, ditches, drainage, driveway entrances to lots, right-of-way and pavement widths, grades, curves, intersections and other proposed features shall conform to the respective current standards of the North Carolina Department of Transportation Division of Highways, except as provided. The minimum cul-de-sac pavement radius for curb and gutter section and shoulder section is 40 feet. The minimum right-of-way radius for curb and gutter section and shoulder section is 55 feet. The roadway into the cul-de-sac shall remain unobstructed.

(2) Reserve Strips

There shall be no reserve strips controlling access to public streets except where the control of such strips is placed with the community under conditions approved by the Town Board.

(3) Street Names

Proposed streets which are obviously in alignment with others already existing and named shall bear the names of existing streets. In no case shall the name for a proposed street duplicate any existing street names in Chatham County or the towns therein, irrespective of the use of the suffix street, avenue, boulevard, road, pike, drive, way, place, court, or other derivatives.

(4) Offer of Dedication

A developer of roads in subdivisions that are to be public roads shall provide an irrevocable offer of dedication prior to Final Plat approval.

D. Private Roads

(1) Private roads may be allowed in the following types of developments:

- a. Developments which due to the very nature of their design could not occur if required to meet the requirements for subdivision roads by the Division of Highways. Such developments include apartment complexes and shopping centers.

(2) Private Roads may be allowed when the following conditions exist:

- a. The subdivision does not include any part of a proposed thoroughfare or street shown on an adopted transportation plan; and

- b. The developer shall reference on the Final Plat the recording of a roads instrument that provides the following:
    - i. Guarantees full right of access via any private road in the subdivision to any lot served by that road.
    - ii. Specifies the standards to which private roads in the subdivision have been designed and constructed.
    - iii. Affirms the developer's responsibility to maintain the private roads in the subdivision to the specified standards until such responsibility is formally transferred to future owners of the site.
    - iv. If there is an established (prior to subdivision) 60 foot wide easement to adjacent land on property and the developer proposes to use the easement as the road of access, then the road shall be designed and built to state standards.
- (3) Design and Construction Standards for Private Roads  
Standards proposed for such developments as apartment complexes and shopping centers shall be reviewed by the Town Board based on the type of requirements necessary for the development.
- (4) Certification of Private Roads  
The design and construction of private roads shall be certified to be in compliance with these regulations by a licensed engineer.

**3.6.3 - Blocks**

A. Length

Maximum block lengths will vary by zoning district, but are geared toward creating a connected street network that accommodates bicycle and pedestrian scale connections. Minimum block lengths are limited only by safety concerns such as sight distance and throat length, and by other provisions of this ordinance such as lot width.

**Table 8: Maximum Block Lengths**

Zoning District(s)	Maximum Block Length (including cul-de-sac length)
R-2, R-1, R-15 and R-MF zones	660 feet
O&I and C-1 zones	660 feet
IL and IH zones	1320 feet

In blocks greater than six hundred and sixty (660) feet in length (or at the end of cul-de-sacs) the Town Board may require at locations it deems necessary one (1) or more public pedestrian through accesses of not less than ten (10) feet in width to extend entirely across the block, or pedestrian easements in lieu thereof. Blocks are allowed to exceed maximum length where environmental conditions make connections infeasible.

B. Width

Blocks shall be wide enough to allow two (2) rows of lots, except where reverse frontage on major streets is provided or where prevented by topographic conditions or size of the property or location next to an arterial, in which case the Town Board may approve a single row of lots.

**3.6.4 – Lots**

A. Adequate Building Sites

Each lot shall contain a building site suitable for habitation as defined in 3.6.1, Suitability of the Land.

B. Arrangement

Insofar as practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines. Every lot shall have frontage on a public street.

(1) Before additional lots may be created along a private road that was created after October 1, 1975 said lots must front on a public or private road as specified in these regulations.

C. Minimum Lot Dimensions and Areas

The size, shape and orientation of lots shall be such as the Town Board deems appropriate for the use contemplated, type of water supply and sewage disposal services, soil characteristics, improvements, and relation to the street system.

(1) Residential Lots

- a. Residential lots shall meet the following minimum requirements in addition to the lot size and lot width requirements of the zoning district in which they are located:
  - i. Lots with access from a Principal Arterial must have a minimum of 300 feet of frontage on said street of access, and must have a minimum lot width of 75 feet at the building line. Providing access to residential lots from Principal Arterial roadways is not recommended.
  - ii. Lots with access from a Minor Arterial or Major Collector must have a minimum of 150 feet of frontage on said street of access, and must have a minimum lot width of 75 feet at the building line. Providing access to residential lots from Minor Arterial and Major Collector roadways is not recommended.
  - iii. Lots with access from a Minor Collector must have a minimum of 100 feet of frontage on said street of access, and must have a minimum lot width of 75 feet at the building line.
  - iv. Lots with access from a Local Road must have a minimum of 30 feet of frontage on said street of access, and must have a minimum lot width of 75 feet at the building line.
- b. The frontage on street access for arterials and collectors may be reduced for individual lots if the average lot frontage within the subject subdivision and on the subject street equals or exceeds the minimum and the reduction is not less than one third (1/3) the minimum specified.
- c. Flag lots may have the minimum road frontage reduced but not below the minimum requirement for local roads and the minimum flag pole width shall be no less than

30 feet and must run the entire length of the easement. The flag pole is the narrow portion of the lot that provides access from the road to the main body of the lot.

- d. There shall be no more than two flag lots adjacent to each other unless an easement is provided allowing one common access and such is approved by the Town Board. The maximum allowed length of a flag or access strip shall be two thousand five-hundred (2,500) feet unless it is providing access to previously landlocked property.
- e. Corner lots may be required to have greater area to allow for sight easements required by the Division of Highways.

(2) Commercial, Institutional and Industrial Lots

- a. Properties reserved or platted for commercial, institutional or industrial purposes shall be adequate in size to provide for the type of use and development contemplated. Platting of individual lots should be avoided in favor of an overall design of the land to be used for such purposes.
- b. Land shall not be platted for commercial, institutional or industrial purposes unless the subdivider can demonstrate the following; provided however these provisions shall not apply to bona fide farm activities:
  - i. A site arrangement that prevents undue interference with through traffic. (Each industrial subdivision or area shall utilize a single collector for all heavy traffic between the area and the general system of streets and roads. Minor industrial streets and individual industrial parcels shall be oriented at right angles with the collector and with adjacent railroads.)
  - ii. An integrated parking area.
  - iii. Spatial, structural, or vegetative buffers, or combination thereof against any adverse effect on any present or future adjacent residences.
  - iv. A parcel size sufficient in area to allow future expansion.

(3) A comprehensive multi-family, group housing, or other unified and planned development, including unified design and construction of units together with necessary drives and ways of access, may be approved by the Town Board although the design of the project does not include standard streets, lots, and subdivision arrangements, if departure from the foregoing standards can be made without destroying their intent.

(4) Lots to be created for the express purpose of minor utilities are exempted from the requirements of this section.

### **3.6.5 – Public Use and Service Areas**

#### **A. Public Use Areas**

##### **(1) Reservation of School Site**

This ordinance provides for the reservation of school sites in accordance with the approved Land Development Plan. Before approving such a plan, the Board of Education and Board of Commissioners shall determine jointly the specific location and size of each school site to be reserved and shown as part of the plan.

Whenever a subdivision that included part or all of a school site to be reserved under the plan is submitted for approval, the Board of Commissioners shall immediately notify

the Board of Education. The Board of Education shall promptly decide whether it still wishes the site to be reserved and shall notify the Board of Commissioners or planning agency of its decision.

If the Board of Education does wish the site to be reserved, the subdivision may not be approved without the reservation. The Board of Education must acquire the site within 18 months after the date the site is reserved, either by purchase or by exercise of the power of eminent domain. If the Board of Education has not purchased the site or begun proceedings to condemn the site within the 18 months, the subdivider may treat the land as freed of the reservation.

## (2) Recreation Sites

All residential subdivisions shall provide public community recreation areas consistent with Town plans, policies, and regulations including, but not limited to, the Goldston Land Use Plan. For purposes of this section, public community recreation areas shall be areas developed for active recreational uses. The following are illustrative of the type of facilities that shall be deemed to serve active recreational needs: tennis courts, swimming pools, sauna and exercise rooms, meeting or activity rooms in clubhouses, basketball courts, ball fields, swings, slides, and play apparatus. Each subdivision development shall satisfy its public community recreational requirement by:

- a. Dedicating and conveying to the Town the type of public recreational facilities that are most likely to be appropriate for the community consistent with the County's Parks and Recreation Master Plan. Each public community recreation area shall satisfy the standards set forth in the Master Plan as to size, shape, location, slope, access and usefulness to the community and shall be not less than the product of  $1/35$  of an acre multiplied by the maximum number of lots to be developed or maximum number of dwelling units proposed, whichever is greater. The Town shall be authorized to sell any land dedicated pursuant to this section, but the proceeds shall be used only for the acquisition, or development of other public recreation facilities.
- b. In lieu of dedicating public community recreation areas, a fee shall be paid to the Town. The fee shall be equivalent to the post-development tax value of the area of land required to be dedicated pursuant to a. above. In order to serve the public recreation needs of more than one development or subdivision, the Town shall establish recreation service districts and fees paid in lieu of dedication hereunder shall be expended for acquisition or development of recreation or park facilities or areas.
- c. The Town may require payment of the fee in lieu of dedication at the time of final approval upon finding that the land required to be dedicated is not suitable for public community recreation purposes or upon finding that the recreational needs of the proposed development can be met by other public recreational facilities planned or constructed by the Town within the

recreational service district where located. The Town shall decide during the review and approval process as to which option shall be available.

- d. This section shall not apply to non-residential subdivisions or family subdivisions. Any lot created using *subsection (d)* shall place a certificate on the plat stating that any conversion of a non-residential lot to residential use shall require compliance with Section 3.6.5 (A)(1) before the residential use may be made of the lot.

B. Easements, Dedications, and Reservations

All easements, dedications and reservations shall be shown on the plat with notes stating their purpose.

(1) Utility Easements

Easements shall be provided for utilities along lot lines where necessary to provide utilities to every platted lot. The subdivider and the utility companies shall agree on the width of easements needed. Easements for subsurface sewage disposal systems shall be staked prior to approval and shall be designated on the Final Plat as a utility easement and described by bearings and distances and acreage.

(2) Pedestrian Easements

In such cases and at such locations as the Town Board deems advisable, easements along side of rear lot lines not exceeding twenty (20) feet in width may be required for pedestrian or bicycle traffic to and from schools, neighborhood parks, and other public places.

(3) Drainage Easements

In cases in which a subdivision is traversed by a stream or drainage channel there shall be provided if requested a storm water easement of such width along each side of the stream as the Town Board deems necessary for the purpose of widening, deepening, protecting, relocation, or otherwise improving such drainage easement. Other drainage easements may be required for the proper drainage of all lots.

(4) Sight Distance Easements at Intersections

Triangular sight distance easements at all public and private street intersections shall be shown in dashed lines and so noted on the Final Plat. These easements will remain free of all structures, trees, shrubbery, driveways, and signs, except utility poles, fire hydrants, and traffic control signs. Sight distance easements shall be in accordance with the requirements of the State Division of Highways.

(5) Dedication of Waterways

Lakes, ponds, creeks, and similar areas will be accepted by the Town for maintenance only if sufficient land is dedicated as a public recreation area or park or if such area constitutes a necessary part of the drainage control system. The suitability of such dedicated areas shall be evaluated by the Planning Board prior to being considered for acceptance by the Town Board.

C. Community Assets

In all subdivisions due regard may be shown for all natural features such as large trees and water courses and for historical spots and similar community assets which, if preserved will add attractiveness and value to the property.

### **3.6.6 – Zoning or Other Regulations**

No Final Plat of land within the force and effect of an existing zoning regulation shall be approved unless it conforms to such regulations. Wherever there is a discrepancy between minimum standards or dimensions noted herein and those contained in the zoning regulations or other agencies regulations the more stringent standards shall apply.

### **3.7 – Development Prerequisite to Final Approval**

The following tangible improvements are required before Final Plat approval in order to assure the physical reality of a subdivision for which recordation will establish legality.

#### **3.7.1 – Required Improvements**

Every subdivision developer shall be required to grade and improve streets, install monuments, sanitary sewers, storm drainage, water mains, and other utilities, and make other site improvements in accordance with the following specifications.

A. Monuments and Lot Markers

Iron pins not less than three-fourths (3/4) inches in diameter and eighteen (18) inches long shall be set at all street corners, at points where the street lines intersect the exterior boundaries of the subdivision, at the intersection of curves and tangents along street lines, at all lot corners, and at all corners of the plat. These pins shall be driven so as to be snug in the ground and shall not have over six inches exposed above the finished grade. The location of these pins shall be identified with wooden stakes or other suitable markers at the time the plat is submitted for final approval so that all necessary inspections may be made by the various agencies involved in the review of the subdivision. At least one concrete monument shall be set for major subdivisions with new roads. Additional concrete monuments may be required where deemed necessary due to large acreage and/or a large number of lots.

B. Street Development

Every subdivision developer shall be required to grade and improve new streets. These improvements for public roads shall be in accordance with the minimum standards for design as specified in the most recent appropriate road standards by the Division of Highways.

C. Storm Drainage

See Chapter 7 for applicable rules and regulations.

D. Sanitary Sewers

Where public service is available, public sewer shall be provided and installed in such a manner as to serve adequately all lots within the subdivision. Where public service is not available, a soil scientist, licensed in North Carolina, shall certify that suitable soils are available for each lot in accordance with applicable state and local rules. The Chatham County Environmental Health Department will review soil scientist reports and maps and indicate its' adequacy prior to proceeding with final plat approval. Installation of all sewage



disposal systems shall conform to appropriate regulations of any governmental agency having jurisdiction thereof.

E. Water Supply Systems

Where public service is available, public water shall be provided and installed in such a manner as to serve adequately all lots within the subdivision. Where public service is not available, each lot must have a suitable water supply system approved by the Chatham County Health Department or other appropriate agency. Installation of all water supply systems shall conform to appropriate regulations of any governmental agency having jurisdiction thereof.

F. Installation of Utilities

All utility services shall be so designed and installed as to conform with all appropriate state, local and utility agency requirements. Underground electric and telephone lines are encouraged and may be required in subdivisions where lot densities and soil conditions exist to make the installation of such facilities economically feasible in the opinion of the Town Board.

G. Sidewalks

Sidewalks, sidepaths, or improved trails may be required where deemed necessary by the Town Board as an integral part of a pedestrian traffic system within a one (1) mile radius of existing or planned schools, neighborhood recreation or commercial areas, or other public places. Where provided, sidewalks shall be located not less than one (1) foot from the property line to prevent interference or encroachment by fencing, walls, hedges or other planting or structures placed on property lines at a later date. Sidewalks, sidepaths, or improved trails shall be installed to conform with accepted standards of good practice.

H. Street Name Signs and Traffic Signs

Appropriate street signs enable strangers, delivery concerns, and even potential lot buyers to find their way around. Street name signs shall be installed at all intersections. Traffic signs shall also be installed where required. The signs shall be of standard design, size and material as approved by the Division of Highways unless provided by other town regulations addressing signs. State and local permits for signs may be required prior to installation.

I. Guarantee in Lieu of Completed Improvements

No final subdivision plat shall be approved by the Town Board or accepted for recording by the County Register of Deeds until one of the following conditions has been met:

- (1) All required improvements have been constructed in a satisfactory manner and approved by the Town Board, or
- (2) The Town Board and/or any of the certifying agencies have accepted a security for completion and maintenance of improvements as established in Section 3.2 of these regulations, whereby improvements may be made and utilities installed without cost to public bodies in the event of default of the subdivider. This also assures the prospective purchaser that improvements shall be installed as stated on the Final Plat.

**3.8 – Certification Forms for Initial and Final Approvals**

**3.8.1 – Form 1**

ADEQUATE SOILS

CERTIFICATION OF REVIEW BY LICENSED SOIL SCIENTIST

I HEREBY CERTIFY THAT LOT(S) \_\_\_\_\_ SHOWN ON THIS PLAT FOR \_\_\_\_\_ HAVE BEEN REVIEWED AS APPROPRIATE AND WITH RESPECT TO THE REQUIREMENTS SET FORTH IN 15A NCAC 2T .0600 FOR SINGLE-FAMILY RESIDENCE WASTEWATER IRRIGATION SYSTEMS AS AMENDED FROM TIME TO TIME. AS OF THIS DATE, AND BASED ON THIS REVIEW OF EXISTING SITE CONDITIONS, THE LOT(S) NUMBERED ABOVE ON THIS PLAT MEETS THESE REGULATIONS.

CERTIFICATION DOES NOT REPRESENT APPROVAL OR A PERMIT FOR ANY SITE WORK. THE NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES, DIVISION OF WATER QUALITY HAS THE AUTHORITY FOR THE REVIEW, APPROVAL, OR DENIAL OF APPLICATIONS FOR NON-DISCHARGE PERMITS. THE ISSUANCE OF NON-DISCHARGE PERMITS IS BASED ON REGULATIONS IN FORCE AT THE TIME OF PERMITTING AND IS DEPENDENT ON THE SATISFACTORY COMPLETION OF A PERMIT APPLICATION AND ALL REQUIRED SUPPORTING INFORMATION.

ANY CHANGE IN USE OR ANY SITE ALTERATION MAY RESULT IN SUSPENSION OR REVOCATION OF CERTIFICATION.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
NC LICENSED SOIL SCIENTIST (SEAL)

**3.8.2 - Form 2**

ADEQUATE SOILS

CERTIFICATION OF REVIEW BY LICENSED SOIL SCIENTIST

I HEREBY CERTIFY THAT LOT(S) \_\_\_\_\_ SHOWN ON THIS PLAT FOR \_\_\_\_\_ HAVE BEEN REVIEWED IN ACCORDANCE WITH THE .1900 NORTH CAROLINA LAWS AND RULES FOR SEWAGE TREATMENT AND DISPOSAL SYSTEMS. AS OF THIS DATE, AND BASED ON THIS REVIEW OF EXISTING SITE CONDITIONS THE LOT(S) NUMBERED ABOVE ON THIS PLAT MEETS THESE REGULATIONS.

CERTIFICATION DOES NOT REPRESENT APPROVAL OR A PERMIT FOR ANY SITE WORK. FINAL SITE APPROVAL FOR ISSUANCE OF IMPROVEMENT PERMITS IS BASED ON REGULATIONS IN FORCE AT THE TIME OF PERMITTING AND IS DEPENDENT ON SATISFACTORY COMPLETION OF INDIVIDUAL SITE EVALUATIONS FOLLOWING APPLICATION FOR AN IMPROVEMENT PERMIT DETAILING A SPECIFIC USE AND SITING.

ANY CHANGE IN USE OR ANY SITE ALTERATION MAY RESULT IN SUSPENSION OR REVOCATION OF CERTIFICATION.

\_\_\_\_\_

\_\_\_\_\_

DATE

NC LICENSED SOIL SCIENTIST (SEAL)

**3.8.3 - Form 3**

CERTIFICATION OF PLANS OF STREETS

I hereby certify that the plans for streets in the subdivision shown hereon meet the design standards and specifications of the Department of Transportation, Division of Highways except as noted hereon.

\_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_

DISTRICT ENGINEER

**3.8.4 – Form 4**

CERTIFICATE OF APPROVAL FOR RECORDING

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations for the Town of Goldston, with the exception of such variances, if any, as noted in the minutes of the Town Board, and that it has been approved by the body for recording in the Office of the County Register of Deeds.

\_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Mayor, Town of Goldston

CERTIFICATE OF APPROVAL FOR RECORDING

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations for the Town of Goldston and that it has been approved for recording in the Office of the County Register of Deeds.

\_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Planning Director or Authorized Representative

**3.8.5 – Form 5**

APPROVAL FOR MINOR SUBDIVISIONS

I hereby certify that the subdivision plat shown hereon is a minor subdivision and has been found to comply with the subdivision regulations for the Town of Goldston. The plat has been approved for recording in the Office of the County Register of Deeds.

\_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Planning Director or Authorized Representative

**3.8.6 – Form 6**

OWNER CERTIFICATION OF PLAT BEING EXEMPT FROM THE SUBDIVISION REGULATIONS

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that said property is exempt from the subdivision regulations of the Town of Goldston by definition.

\_\_\_\_\_, 20\_\_\_\_\_  
\_\_\_\_\_

Owner(s) or Authorized Agent and Title

**3.8.7 – Form 7**

CERTIFICATION OF PLAT BEING EXEMPT FROM THE SUBDIVISION REGULATIONS

I hereby certify that the property shown and described hereon is exempt from the subdivision regulations of the Town of Goldston by definition.

\_\_\_\_\_, 20\_\_\_\_\_  
\_\_\_\_\_

Planning Director or Authorized Representative

**3.8.8 – Form 8**

CERTIFICATION OF OWNERSHIP AND DEDICATION

I (we) hereby certify that I am (we are) the owner(s) of the property shown and described hereon and that I (we) hereby adopt this plan of subdivision with my (our) free consent, and dedicate all rights-of-way, streets, alleys, walks, easements, parks, and other open spaces to public or private use as noted.

\_\_\_\_\_, 20\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Owner(s)

**3.8.9 – Form 9**

Reserved for Future Use

**3.8.10 – Form 10**

**CERTIFICATION OF APPROVAL OF STREETS**

I hereby certify that the streets and related improvements have been installed according to plans approved by the Division of Highways, except as noted hereon; or proper provisions have been made for their installation.

\_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
District Engineer, N.C. Division of Highways

**3.8.11 – Form 11**

**CERTIFICATION OF THE APPROVAL OF UTILITIES**

I hereby certify that the \_\_\_\_\_ improvements have been installed in an acceptable manner and according to the specifications of the Town of Goldston Unified Development Ordinance, except as noted hereon; or other provisions have been made for their installation.

\_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**3.8.12 – Form 12**

**Certificate of Agricultural District**

Note: These parcels are located near an area that is presently used for agricultural purposes. Normal agricultural operations may conflict with residential use. NC law (General Statutes Section 106-701) provides some protection for existing agricultural operations.

**3.8.13 – Form 13**

Construction of the entire private travelway shall be completed prior to the issuance of a building permit for a building on any lot served by the easement, per section 3.6.4(B)(3) of the Unified Development Ordinance.

**3.8.14 - Form 14**

The stub street(s) shown on this plat is provided for the purpose of future road extension. Once the road is extended and/or connects to another road, any easement provided for the purpose of a temporary turn around may be removed through the lawful actions of the property owner.

**3.8.15 - Form 15**

Lots to be created for the express purpose of minor utilities are exempted from the requirements of Section 3.6 of the Unified Development Ordinance, per Section 3.6.4(C)(4).

**3.8.16 - Form 16**

Field location to locate perennial, intermittent and ephemeral streams, perennial water bodies, and wetlands has been completed by (insert name of environmental professional). Lot number(s)\_\_\_\_\_ does not have any water features subject to WS-IV riparian buffer requirements.

**3.8.17 - Form 17**

Jurisdiction and permanence of the features shown has been determined by (insert name of environmental professional). Required buffers were measured landward from the outer limit of jurisdiction. Lot number(s)\_\_\_\_\_ is subject to WS-IV buffer requirements.

**3.8.18 - Form 18**

Reserved for Future Use

**3.8.19 - Form 19**

Reserved for Future Use

**3.8.20 - Form 20**

Development or redevelopment of a Minor Subdivision or an individual residential lot cumulatively exceeding 20,000 square feet of land disturbance shall comply with Section 7 of the Unified Development Ordinance.

**3.8.21 - Form 21**

Minor Subdivision on parcel #\_\_\_\_\_ was reviewed and approved as an Expedited Subdivision. No Subdivider shall use the Expedited Subdivision process on any portion of the parent tract or resultant lots for a period of ten (10) years from the date of recordation of the final plat.

## **CHAPTER 4: MOBILE HOME REGULATIONS**

The following regulations apply to the placement and use of mobile homes on properties within the Town and its extraterritorial jurisdiction.

### **4.1 – Purpose**

This section is intended to address the following purposes:

- A. To provide for the orderly growth and efficient development of the Town with respect to the placement of mobile homes.
- B. To provide for and protect the public health, safety, and general welfare of the Town.
- C. To ensure against flood damage.
- D. To facilitate an orderly system for the design and use of land for mobile homes.
- E. To avoid overcrowding of the land and extreme concentration of the population.
- F. To set forth the standards and procedures for the use of land for mobile homes in the Town.

### **4.2 – General Provisions**

- A. This section shall govern the use of land for the placement of a mobile home, as defined in Chapter 1, lying within the Town of Goldston. The regulations shall also apply to travel trailers and campers when used for permanent residence.
- B. This section is not intended to interfere with, annul or abrogate any other section of this Ordinance, or any other ordinance, rule or regulation, statute or other provision of law applicable to the Town of Goldston. Where any provision of this chapter imposes limitations different from those imposed by any other provision of this Ordinance or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
- C. This section is not intended to abrogate any easement, covenant, or any other private agreement or restriction, provided that where the provisions of this section are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of this Ordinance shall govern. Where private provisions impose more restrictive or higher standards than this section, then such private provisions shall be operative and supplemental to these regulations.
- D. These regulations shall not be interpreted as applying to any existing mobile homes or the use of land for mobile homes except as expressly stated herein.

### **4.3 – Variances**

- A. General  
Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with the regulations in this section, it may recommend variances to the Town Board. The Planning Board may not recommend nor the Town Board approve variances unless they shall make findings based upon the evidence presented to them in each specific case that the granting of the variance will not be detrimental to the public safety, health or welfare or injurious to other property.



B. Conditions

In approving variances, the Town Board may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.

C. Procedures

A petition for any such variance shall be submitted in writing by the owner at the time when the mobile home plan is filed for the consideration of the Town Board. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. Applicants shall pay any administrative fee established by the Town at the time of the application or request.

**4.4 – Prohibited Acts, Enforcement, and Penalties**

- A. It shall be illegal for any person to use their land for the placement of a mobile home in the area herein described without following the procedures and meeting the regulations specified herein.
- B. The Planning Department is responsible for enforcing these regulations and shall bring to the attention of the Planning Board and the Town Board any violation or lack of compliance.
- C. Each day’s continuing violation of these regulations shall be considered a separate and distinct offense and penalties shall be assessed in such a manner.
- D. Any person who violates these regulations shall be subject upon conviction to the penalty provisions of General Statutes Chapter 14-4 and other penalties or actions or remedy as provided for in General Statutes Chapter 160A-175.
- E. Any violation of the provisions of these regulations or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$50.00 per day for the first violation. If the same violation occurs on the same property within six years after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day shall automatically apply. If the same violation occurs on the same property within six years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day shall automatically apply. If the same violation occurs on the same property within six years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day shall automatically apply. For the purposes of assessing civil penalties, each day such violation continues shall be considered a separate and distinct offense.

**4.5 – General Requirements and Minimum Standards for Improvements, Reservations, and Design**

**4.5.1 – Suitability of the Land**

A. Land Physically Unsuitable for Mobile Home

Land which the Planning Board has found to be unsuitable for mobile homes:

- (1) Because of flooding, bad drainage, steep slopes, rock formations, and other such features which may endanger health, life, or property, aggravate erosion, or increase flood hazard, or

(2) Which other public agencies concerned have investigated and found in the best interest of the public not suitable for the type of use proposed.

May not be approved for mobile homes unless adequate methods are formulated by the developer for meeting the problems created by such land use. Such land within a lot containing a mobile home shall be set aside for such uses as shall not produce unsatisfactory living conditions.

B. Land Subject to Flood

Land within any Floodway shall not be used for a mobile home and shall not be raised by fill. Other land subject to flood may be used for a mobile home only if filled to such height as will secure a flood-free site based on data submitted by the owner and prepared by competent engineers, provided such use or fill does not endanger health, life or property or restrict the flow of water or increase flood heights. To prevent such hazards, fill material should be taken from between the stream bank and the area to be filled. In applying these provisions, land subject to flood shall be defined using the most recent available Flood Insurance Rate Maps as maintained by the North Carolina Floodplain Mapping Program. The areas shown in floodway shall not be included when calculating the lot area.

#### 4.5.2 – Mobile Home Lots

A. Size

The minimum size of mobile home lots shall be 65,430 square feet when individual wells and septic systems are used to serve each lot. The minimum lot size may be reduced to forty thousand (40,000) square feet when public water is used to serve each lot.

B. Setbacks and Buffer Strips

(1) All mobile homes shall be located at least forty (40) feet from a public street right-of-way and at least twenty-five (25) feet from other property boundary lines.

(2) There shall be minimum distance of twenty (20) feet between an individual mobile home and the edge of an adjoining private street easement or common parking area.

(3) Mobile homes shall be separated from each other by at least thirty (30) feet; provided that mobile homes placed end-to-end have a clearance of fifteen (15) feet where opposing rear walls are staggered.

(4) An accessory structure shall be no closer than five (5) feet to lot lines.

(5) All mobile home lots located adjacent to industrial or commercial land uses shall be provided with screening such as fences or natural growth along the property boundary line separating the lots and such adjacent nonresidential uses.

C. Parking Spaces

(1) Off-street parking areas shall be provided so as to provide parking at a rate of not less than 2 car spaces per lot for every lot.

(2) Required car parking spaces shall be so located as to provide convenient access to the mobile home, but shall not exceed a distance of 200 feet from the mobile home that it is intended to serve.

D. Number of Mobile Homes Permitted

(6) Each mobile home must be located on its own lot. No more than one mobile home is permitted on a single lot.

(7) When more than three mobile home lots are held under single ownership, this is defined as a mobile home park. Mobile home parks are not permitted within any zoning district.

## **CHAPTER 5: JUNKYARD REGULATIONS**

### **5.1 – Intent**

The purpose and objectives for which this chapter is adopted and enacted are as follows:

- A. To promote the public health, safety and general welfare;
- B. To preserve the natural scenic beauty of areas in the vicinity of the state maintained public roads; and
- C. To protect the public from health nuisances and safety hazards by controlling vectors, concentrations or volatile or poisonous materials, and sources of danger to children.

### **5.2 – Applicability**

This section is not intended to interfere with, annul or abrogate any other section of this Ordinance, or any other ordinance, rule or regulation, statute or other provision of law applicable to the Town of Goldston. Where any provision of this chapter imposes limitations different from those imposed by any other provision of this Ordinance or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

These regulations shall be in effect in all portions of the Town of Goldston and its extraterritorial jurisdiction.

### **5.3 – Exemptions of Chapter**

The following uses and activities are exempted:

- A. Bona fide service stations or garages as defined by this chapter are exempted;
- B. All bona fide farms and farm related uses;
- C. Recycling centers using enclosed structures or solid waste containers, bins, truck trailers and rolling stock to store materials and equipment; and
- D. Salvage material or junk cars in enclosed buildings.

### **5.4 – Procedures; Registration and Permitting**

- A. Registration time period
  - (1) All owners, operators or maintainers of automobile graveyards or other junk yards existing at the effective date of this chapter shall register same with the town within a period of 30 days from the effective date of this chapter.
  - (2) All existing automobile graveyards or junk yards that have not been registered within 30 days shall be in violation of the registration provisions of this chapter.
  - (3) Unless the junk yards can be documented to the satisfaction of the Planning Department as existing prior to the effective date of this chapter, they shall be considered new junk yards.

(4) If so documented, the junk yards may be considered existing junk yards, be required to register and required to comply to a revised compliance schedule listed in division (G) below.

B. Registration application

(1) Registration shall be accomplished by completing a registration application and paying a fee as established by the Town Board. The Planning Department shall provide the necessary forms for the registration application.

(2) The registration application shall include, but not be limited to, the following information: land owner's and junk yard operator's name, address and phone numbers for business and home; state and/or local business registration number or licenses; the location of the property by township, state road number and property identification number; the total acreage of the property and approximate acreage involved in the junk yard operation. One copy of the completed signed registration application shall be submitted to the Ordinance Administrator.

C. Time Period for Permit of Registered Junkyards

All existing junk yards at the effective date of this chapter, registered in accordance with division (B) above, shall be granted a period of 90 days from the effective date of registration to receive a permit. Thereafter, same shall be in violation of the permitting provisions of this chapter.

D. Permit Required for Junkyards

No person, firm or business entity shall establish, operate or maintain a junk yard without obtaining a permit except existing junk yards specified in division (C) above. Any expansion of a junk yard, whether pre-existing or newly permitted, shall require a permit. The permit shall only be issued upon the persons, firm or business entity seeking the permit submitting a statement that the existing or proposed junk yard does not violate any of the provisions of this chapter. The permit shall be valid unless revoked for nonconformance with this chapter.

E. Permit Application

(1) Application for the permit shall be made to the Administrator of the chapter, on forms as the Administrator of the chapter shall prescribe along with a non-refundable permit fee as established by the Town Board.

(2) The permit application shall include, but not be limited to, the information required for the registration application and a junk yard plan.

(3) The plan shall indicate setbacks, location of public rights-of-way, all proposed structures, all structures within 500 feet of junk yard, driveways, entrances, fencing, screening, types of fencing, types of screening, dimensions of junk yard, gross acreage, preparer of plans name(s) and address(es) and phone numbers.

(4) Plans shall be at a scale no larger than one inch equals 400 feet. Three copies shall be submitted.

(5) Any expansion of a junk yard, whether pre-existing or newly permitted, shall require a permit. Procedures and standards for an expansion permit shall be those required for a new establishment.

F. Permitting Procedure

The completed permit application and junk yard plan shall be submitted to the Planning Department. The Administrator shall have the authority to either approve or deny the permit. A denied permit may be resubmitted within 14 days from the date of denial without incurring an additional permit fee.

G. Permitting Compliance

(1) Existing junk yards shall conform to the approved permit and standards of this chapter in accordance with the graduated compliance schedule listed as follows, the times listed are from the date of plan approval:

- a. Meet Section 5.5(B)(6) within one month;
- b. Meet Section 5.5(B)(7) within two months;
- c. Meet Section 5.5(B)(5) within three months;
- d. Meet Section 5.5(B)(8) within 36 months;
- e. Meet Section 5.5(B)(9) within 36 months; and
- f. Meet Section 5.5(B)(4) within 36 months.

(2) Junk yards discovered after the registration time period of division (A) above, but documented to the satisfaction of the Planning Department as being in existence prior to this chapter, shall conform to applicable portions of this chapter. The time period of compliance shall run from the date of discovery. Divisions (G)(1)(a) through (c) above shall have the time period listed but divisions (G)(1)(d), (e) and (f) shall have a time period of 12 months.

(3) New junk yards shall conform to the approved permit and standards of this chapter prior to the establishment of the use as a junk yard on the property. Failure to meet the requirements of the approved permit and standards of this chapter shall be a violation of the compliance provisions of this chapter.

## 5.5 - General Standards

Junk yards in existence on the effective date of this chapter shall conform to the requirements of this chapter as applicable.

A. Pre-existing Junkyards

Pre-existing junk yards shall meet the requirements specified in divisions (B)(4) through (10) below.

B. New Junkyards

The following criteria shall be applicable to new junk yards. All junk yards which are established from and after the effective date of this chapter, shall meet the following standards:

- (1) Not be located closer than 500 feet to a pre-existing church, school, day care center, nursing home, skilled health care facility, hospital, public buildings, public recreation facilities or residence (excluding residence of the owner or his or her agent);
- (2) Be situated on a parcel of at least four acres excluding rights-of-way that is undivided by public road right-of-way or public dedication;
- (3) The driveway or entrance roadway may not be located closer than 30 feet from any side property line;

- (4) Have a minimum setback to any required fence and/or vegetative screening from the front, side and rear property lines excluding road right-of-way of at least one foot, and at least 20 feet from the main traveled portion of a public state maintained street or highway; unless greater screening is provided by the fence or vegetation being closer to the travel way and the Department of Transportation allows or recommends the location of the screening;
- (5) All buildings, (excluding existing buildings and equipment and operations therein) equipment, operation (except roads) and junk shall not be situated within 50 feet of an intermittent or continuously flowing stream as designated on the most recent United States Geological Survey maps. Same shall not be closer than 100 feet to the bank of a river or an intermittent or continuously flowing stream that is located within one-half mile of a river;
- (6) All buildings, (except existing building and equipment and operations therein) equipment, operations (except roads) and junk shall not be situated within ten feet of the front property lines excluding road rights-of-way and at least 30 feet from the main traveled portion of the public state maintained road or highway;
- (7) All buildings, (except existing building and equipment and operations therein) equipment, operations (except roads) and junk shall not be situated within ten feet of the front, side and rear property lines;
- (8) Fence a minimum of four feet in height by either a woven or welded wire (14-gauge minimum) fence or chain link fence if within 500 feet of an occupied structure (excluding a residence occupied by the junk yard owner and/or operator). The fence shall be situated between the junk yard and the occupied structure. The fence shall extend a minimum of 500 feet along the boundary of the junk yard. The distance from the occupied structure to the farthest point of the fence shall not be less than 500 feet unless the junk yard is completely enclosed by the fencing. When fencing is required there shall be screening according to division (B)(9) below. Screening is not required when natural vegetation is a depth of 150 feet and a minimum of six feet in height between the junk yard and the occupied structure. Fencing requirements shall not apply if a residence or occupied structure is constructed on land purchased after the junk yard is registered or permitted, if not otherwise applicable;
- (9) Screening
  - a. Property that is visible from the public state maintained road shall provide an opaque fence along the road side of the property or install vegetation that provides a continuous all season opaque screen at least six feet in height within four years of planting or setting the vegetation. Vegetation not less than two feet in height at the time of planting shall be planted. Screening is not required when natural vegetation is a depth of 150 feet and a minimum of six feet in height between the junk yard and the occupied structure. Additional screening may not be required along the road when natural vegetation exists that provides an all season opaque screening. If natural vegetation is reduced below the depth or effectiveness specified the property shall be required to be screened according to this chapter. This does not exempt the property from being fenced as specified in division (B)(8) above.

Screening requirements shall not apply if the residence or occupied structure is constructed on land purchased after the junk yard is registered permitted, if not otherwise applicable.

- b. Where due to distance, topography or other site considerations the Zoning Official determines from field investigation that the height screening required would not screen the junk yard, the screening may not be required along the applicable property lines.
  - c. Vegetation that serves as screening shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow (without gaps or open spaces) will exist to a height of at least six feet along the length of the fence surrounding the junk yard or automobile graveyard, the vegetation shall be maintained as a continuous, unbroken hedgerow for the period the property is used as a junk yard.
  - d. Each owner, operator or maintainer of a junk yard shall utilize good husbandry techniques, such as pruning, mulching and proper fertilization, so that the vegetation will have maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.
- (10) All junk and/or inoperable motor vehicles shall be kept within the confines of the fence and vegetative screening at all times unless in motion by transport to or from the site; and
- (11) On-site traffic areas shall be provided and arranged in a manner to provide adequate areas to prevent backward movement onto the state maintained road.

## **5.6 - Maintenance**

- A. All junk yards shall be maintained to protect the public from health nuisances and safety hazards.
- B. The County Health Department may inspect each junk yard to determine that no vectors are present. Should vectors be identified, the owner/operator/maintainer shall submit satisfactory evidence to the Health Department and Planning Department that vectors have been eliminated.
- C. A motor vehicle, used machinery, or other used materials may be declared a health nuisance or safety hazard when it is found to be:
  - (1) A breeding ground or harbor for mosquitos or other insects, snakes, rats, or other pests;
  - (2) A point of collection for pools or ponds of water;
  - (3) An unsafe concentration of gasoline, oil or other flammable or explosive materials;
  - (4) So located that there is a danger of the vehicle falling or turning over without assistance;
  - (5) A source of danger for children through entrapment in areas of confinement that cannot be opened from the inside or the overturning of heavy items; or
  - (6) An unsafe concentration of car radiators, batteries, or other materials that pose either a hazard of immediate or long-term environmental degradation.
- D. Failure to comply with this section may result in revocation of permit as well as other penalties and remedies for violation as provided for in Section 5.7 below.



## 5.7 – Enforcement Provisions

- A. The Planning Director or his or her designee shall enforce this chapter. He or she may call upon other agencies as necessary to assist in enforcement of this chapter.
- B. In addition, whenever the Planning Director his or her designee receives a complaint alleging a violation of this chapter, he or she shall investigate the complaint, take whatever action is warranted, and inform the complainant what actions have been or will be taken.
- C. The owner, tenant or occupant of any building or land or any part thereof and agent or other person who participate in, assists, directs, creates or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.
- D. The following procedure shall apply upon discovery of a violation.
  - (1) If the Administrator finds that any provisions of this chapter is being violated, he or she shall send a written notice to the person responsible for the violation, indicating the nature of the violation, ordering the action necessary to correct it, and advising the violator of the number of days or months within which the violation shall be corrected. If applicable, the violator shall be informed of his or her right to appeal to the Board of Adjustment.
  - (2) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety or welfare, the Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in this section.

## 5.8 – Relief; Variance; Decision

- A. Relief

Unless otherwise listed, appeals from the specific provisions of this chapter and appeals from any ruling of the Planning Department shall be submitted to the Board of Adjustment within ten days of receipt of adverse action or ruling.
- B. Variance
  - (1) The Board of Adjustment may authorize upon appeal in specific cases the variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will, in an individual case, result in practical difficulty or extreme hardship, and so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done, the variance may be granted in the individual case of extreme hardship upon a finding by the Board of Adjustment that the following conditions exist:
    - a. There are extraordinary and exceptional conditions pertaining to the particular place or property in question because of its size, shape or topography that are not applicable to other automobile graveyards and junk yards governed by this chapter;
    - b. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other operators of other automobile graveyards and junk yards governed by this chapter;

- c. A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other operators of automobile graveyards or junk yards governed by this chapter;
  - d. The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare;
  - e. The special circumstances are not the result of the action of the applicant; and/or
  - f. The variance requested is the minimum variance that will make possible the legal use of the land in question.
- (2) In granting a variance the Board of Adjustment shall make findings that the requirements of this section have been met. The Board of Adjustment shall make a finding, and written notice of the decision shall be prepared and furnished to the applicant. In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of the conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
- C. Decision
- (1) Decision of the Board of Adjustment may be appealed. The petition for the writ of certiorari must be filed with the County Clerk of Superior Court within 30 days after the later of the following occurrences: (a) A written copy of the Board of Adjustment's decision has been filed in the Office of the County Planning Department; and (b) A written copy of the Board of Adjustment's decision has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for the copy at the hearing of the case.
- (2) A copy of the petition writ of certiorari shall be served upon the Town through the Office of the town clerk.

## 5.9 - Penalty

Penalties and remedies for violations shall be as follows.

- A. Any violation of the provisions of this chapter or failure to comply with any of its requirements shall constitute a misdemeanor, punishable by a fine or imprisonment, not to exceed 30 days, as provided in G.S. § 14-4.
- B. Any violation of the provisions of this chapter or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$50 per day for the first violation. If the same violation occurs on the same property within six years after the initial violation is remedied, a civil penalty in the amount of \$100 per day shall automatically apply. If the same violation occurs on the same property within six years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200 per day shall automatically apply. If the same violation occurs on the same property within six years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500 per day shall automatically apply. For the purposes of assessing civil penalties each day the violation continues shall be considered a separate and distinct

offense. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the Town in a civil action in the nature of debt.

- C. This chapter may also be enforced by any appropriate equitable action. The remedy may include court order of abatement as part of a judgment in the cause. The abatement order may include removal of junk from illegal junk yards and other actions required to make the property comply with the provisions of this chapter at the owner's expense.
- D. Each day that any violation continues after final notification by the Administrator that the violation exists may be considered a separate offense for purposes of the penalties and remedies specified in this section.
- E. Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this chapter. In addition to the foregoing enforcement provisions, this chapter may be enforced by any remedy provided in G.S. § 160D-401, including, but not limited to, all appropriate equitable remedies provided in G.S. § 160D-405 and particularly the remedy of injunction and order of abatement as allowed in G.S. § 160D-807.
- F. Any building permit(s) associated with the property that has the junk yard permit may be revoked by the permit issuing authority (in accordance with the provisions of this section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirements lawfully imposed by the Town Board. Before the permit(s) may be revoked, the permit recipient shall be given ten days' written notice of intent to revoke any relevant permit. The notice shall inform the recipient of the alleged reasons for the revocation and of his or her right to obtain an informal hearing on the allegations before the Planning Department. If any relevant permit is revoked, the Ordinance Administrator shall provide to the permittee a written statement of the decision and the reasons therefor.

## **CHAPTER 6: OFF-PREMISE SIGN REGULATIONS**

The purpose of this Chapter is to provide standards and restrictions for off-premise signs and to regulate the erection and placement of such signs in the Town of Goldston and its extraterritorial jurisdiction. It is the intent of these regulations to preserve the scenic and aesthetic character of the Town in order to protect and promote the tourist industry and the quality of life of the Town's residents and visitors. The regulations further seek to ensure the safety of the motorists in the community by reducing the distracting influence of uncontrolled off-premise signage. Further, it is not the intent of this chapter to regulate any sign, which contains any non-commercial message that does not direct attention to a business operated for profit, or to a commodity or service for sale.

- A. The provisions of this chapter shall apply to the erection and maintenance of all off-premise signs within the jurisdiction of this Ordinance. It shall be unlawful following the effective date of this Ordinance to erect any off-premise sign except in conformance with the provisions of this chapter. Furthermore, it shall be unlawful to move, relocate, or enlarge any off-premise sign erected or constructed prior to the enactment of this Ordinance, except to bring the sign into conformance with this Ordinance.
- B. The provision of this chapter shall apply to the Town of Goldston and its extraterritorial jurisdiction.
- C. Whenever the regulations of this chapter conflict with the requirements of another section of this Ordinance, or another ordinance or statute, the more restrictive standard shall apply.

### **6.1 – General Provisions**

#### **6.1.1 – Administration**

The Planning Director shall be designated the sign administrator and shall be responsible for the administration and enforcement of this chapter. The duties of the sign administrator shall include the issuance of permits as required in this section and the enforcement of sign provisions.

#### **6.1.2 – Permit Requirements**

- A. General Requirements  
Except as otherwise provided in this Ordinance, it shall be unlawful to erect, move, alter or maintain any sign regulated in this chapter without first obtaining a sign permit. Application for the permit shall be made in writing on forms furnished by the Planning Department and signed by the applicant or authorized agent. No permit shall be required, however, for the maintenance requirements of Section 6.5 hereinafter. Failure to secure a permit shall constitute a violation of this chapter of this Ordinance.
- B. Plans, Specifications and Other Data Required  
The application shall be accompanied by complete information as required on forms provided by the Planning Department and shall include, without being limited to, a site plan and elevation drawings of the proposed sign, indicating the proposed location of the sign, setbacks, height, dimensions and square footage of the proposed sign and any other data as the Planning Department may determine is necessary for review of the application. The

Planning Department shall not issue a sign permit unless the plans, specifications and intended use of such sign conform in all respects to the applicable provisions of this chapter.

### **6.1.3 – Fees**

#### **A. Fees Required**

A sign permit fee shall be paid for each sign permit applied for in accordance with this ordinance in an amount determined by the Town Board. This permit fee does not include building inspection permit fees, which shall be additional. A sign permit fee shall not be charged for replacing a non-conforming sign with a conforming sign or for bringing a non-conforming sign into conformance with this ordinance if such action is undertaken voluntarily within 3 years of the effective date of this ordinance.

#### **B. Fees Payable**

Sign permit fees shall be paid upon the application for a sign permit and prior to commencement of any sign construction on the lot where the sign will be located.

### **6.1.4 – Revocation of Permits for Non-use**

#### **A. Commencement of Work**

If actual work for the permitted sign on the site is not commenced within 180 days from the date of issuance of such sign permit, or if substantial work for the permitted sign is suspended for a period of 180 days, after issuance of the sign permit, the permit shall automatically become null and void. The work on any sign shall be completed within one year of the date of issuance of the sign permit.

#### **B. Extensions of Time**

The provisions of subsection (A) above shall not apply when delays are not a result of willful acts or neglect of the persons obtaining the permit. In that event, the sign administrator may grant an extension of 30 days of time within which operations must be started or resumed. All requests for such extensions and approval thereof shall be in writing.

### **6.1.5 – Forfeiture of Fees**

When any permit has been revoked under the terms of this section, the permit fees shall not be refunded. If a sign permit is denied, the permit fee will not be refunded.

### **6.1.6 – Permit for New Off-premise Advertising Signs**

A. A permit shall be issued upon proper application, approval, and the payment of fees for lawful off-premise advertising signs.

B. The erection of new off-premise advertising sign structures shall not commence until a permit has been issued. The sign structure must be completely constructed and erected within 180 days from the date of issuance of the permit. During the 180-day period, the new sign structure shall be considered in existence for the purpose of spacing of adjacent signs as set out in the appropriate rules and regulations of this chapter.

### **6.1.7 – Transfer of Permit**

The transfer of ownership of an off-premise advertising sign for which a permit has been lawfully issued to the original owner shall not in any way affect the validity of the permit for that specific sign, provided that the sign administrator is given notice in writing of the transfer of ownership within 30 days of the actual transfer.

### **6.1.8 – Revocation of Permit**

Any valid permit issued for a lawful off-premise sign structure shall be revoked by the sign administrator for any one of the following reasons:

- A. Mistake of material facts by the issuing authority for which, had the correct facts been made known, the sign permit in question would not have been issued.
- B. Misrepresentation of material facts by the applicant on the application for permit for sign.
- C. Failure to construct the sign structure within 180 days from the date of issuance of the permit.
- D. Any alteration of a sign structure for which a permit has been issued which would cause that sign structure to fail to comply with the provisions of this Ordinance.
- E. Failure to maintain a sign such that it reaches a state of dilapidation or disrepair as described in Section 6.5(A).

### **6.2 – Signs Exempt from Regulations of this Chapter**

Unless otherwise prohibited hereinafter, the following signs are exempt from the permitting provisions of this Chapter. Said signs are subject to the maintenance provisions of this Chapter. Said signs may also be subject to regulations in Chapter 2, Zoning.

- A. On-premise signs
- B. Governmental signs
- C. Warning or danger signs
- D. Commemorative signs
- E. Signs on vehicles indicating the name of a business, when the vehicle is not intended to be used for a display of signs
- F. Signs required by law, statute, or ordinance
- G. Temporary signs – The following temporary signs are allowed provided a sign is not larger than 32 square feet, higher than 8 feet, and is removed within 10 days of the end of the event project:
  - (1) Sign advertising the name, time and place of any bona fide fair, carnival, festival, bazaar, horse show or similar event, when conducted by a public agency or for the benefit of any civic, fraternal, religious, or charitable cause.
  - (2) Signs advertising a specific event provided they do not stand more than 30 days.
- H. Off-premise directional signs – Off-premise directional signs are allowed provided a sign is not larger than 32 square feet or higher than 8 feet. Three off-premise directional signs are allowed per business.

### **6.3 – Signs Prohibited**

The following off-premise signs and/or features shall not be erected or maintained:

- A. Any non-governmental sign which resembles a public traffic sign or a safety warning sign.
- B. Signs, whether temporary or permanent, within any street or highway right-of-way, with the exception of those signs approved by the government with road maintenance responsibility.
- C. Any sign which obstructs ingress or egress, creates an unsafe distraction for motorists, or obstructs the view of motorists entering a public road or highway.
- D. Animated and flashing signs.
- E. Abandoned signs.
- F. Signs on roadside appurtenances. Off-premise signs on roadside appurtenances, including but not limited to roadside benches, bus stop shelters, planters, utility poles, trees, parking meter poles and refuse containers, with the exception of commemorative signs or governmental signs.

### **6.4 – Regulation of Off-premise Advertising Signs**

- A. The following regulations shall be applicable to off-premise advertising signs as defined in Section 1.2. Any sign not specifically allowed is prohibited.
  - (1) Location – Off-premise advertising signs may be allowed along US Highway 421 provided the provisions of this chapter are met.
  - (2) Size
    - a. No off-premise advertising sign shall exceed 200 square feet per directional flow of traffic.
    - b. A maximum of two faces per sign structure is allowed, positioned either back to back or v-shaped, such that only one face is allowed per side. Both sides of a double-faced or v-shaped sign shall be of equal size. In no case shall there be more than one face per directional flow of traffic.
    - c. The area of a sign shall be considered to be that of the smallest rectilinear figure (but which shall have a continuous perimeter of not more than eight straight lines) which encompasses all lettering, wording, frame design or symbols, together with any background on which the sign is located and any illuminated part of the sign, if such background or such illuminated part of the sign is designed as an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of the sign, but supports and bracing which are not intended as part of the sign shall be excluded. In the case of a multi-faceted sign, the area of the sign shall be considered to include all faces visible from one direction.
  - (3) Height
    - a. No off-premise advertising sign shall exceed 25 feet in height, as defined below.
    - b. The 25 feet height shall be measured from the elevation of the nearest roadway. Measurements shall be taken from the edge of the roadway on a sight line perpendicular to the roadway from the sign location. If the sign site is at an

intersection of roadways, the roadway with the highest traffic density shall be the site of the measuring point.

(4) Spacing

- a. The minimum distance between any two off-premise advertising sign structures shall be one mile on either side of the same street, road, or highway.
- b. No off-premise advertising sign shall be located within a 1000-foot radius of a school, residential structure, a church or place of worship, public park or cemetery.
- c. No off-premise advertising shall be located within 250 feet of any bridge or the intersection of two or more streets, roads or highways.

(5) Setbacks

Minimum setback distances shall be as follows:

- a. 10 feet from any road right-of-way.
- b. 20 feet from the edge of the travel way of a road if no right-of-way exists.
- c. 25 feet from property lines other than a and b.
- d. Outside all sight visibility triangles.

B. Non-commercial Messages

Any sign allowed under this ordinance may contain, in lieu of any other copy, any otherwise lawful noncommercial message that does not direct attention to a business operated for profit or to a commodity or service for sale.

## **6.5 - Maintenance**

- A. The following maintenance requirements must be observed for all off-premise signs visible from any public street or highway within the jurisdiction of this Ordinance:
  - (1) No sign shall have more than 20 percent of its surface area covered with disfigured, cracked, ripped or peeling paint or poster paper for a period of more than 30 successive days.
  - (2) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts, or be allowed to stand more than 15 degrees away from perpendicular for a period of more than 30 successive days.
  - (3) No sign shall be allowed to have weeds, vines, landscaping or other vegetation growing upon it and obscuring its view from the street or highway from which it is intended to be viewed for a period of more than 30 successive days.
  - (4) No directly or indirectly illuminated sign may be allowed to stand with only partial illumination for a period of more than 30 successive days.
- B. The sign administrator may inspect all signs for compliance with these maintenance requirements.

## **6.6 - Enforcement**

### **6.6.1 - Enforcement**

Violation of the provisions of this chapter shall be enforceable as set forth below.



A. Notice of Violation

The sign administrator shall have the authority to issue a notice of violation for all violations of this chapter. Where the owner of the sign is indicated on the sign or is otherwise apparent or known to the sign administrator, a copy of the notice of violation shall be delivered to the sign owner by hand delivery or by certified mail. In all other cases, a copy of the notice of violation shall be posted on the sign. A copy of the notice of violation shall also be delivered by hand delivery or certified mail to the property owner as shown on the Chatham County tax records.

B. Time to Remedy Violation

All violations shall be remedied within 30 days. The 30 day period shall commence upon the service of the notice of violation as set forth above.

C. Extension of Time for Compliance

The sign administrator shall have the authority to grant a single 30 day extension of time within which to remedy the violation. An extension of time may be issued based upon a written request for extension of time which sets forth valid reasons for not complying within the original time period.

D. Remedies for Failure to Comply

Pursuant to NC General Statutes section 160D-404 (c), the sign administrator, in consultation with the town attorney, may choose from the remedies set forth below to enforce the requirements of this chapter when there is a failure to comply with the notice of violation. Those remedies are as follows:

- (1) In addition to or in lieu of the other remedies set forth in this section, the sign administrator may issue a citation setting forth a civil penalty, pursuant to NC General Statutes section 160A-175. Civil penalties shall be assessed in the amount of \$50.00 per day for the first violation. If the same violation occurs on the same property within 6 years after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day shall automatically apply. If the same violation occurs on the same property within 6 years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day shall automatically apply. If the same violation occurs on the same property within 6 years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day shall automatically apply. For the purposes of assessing civil penalties, each day such violation continues shall be considered a separate and distinct offense. The citation shall be served upon the person(s) described in Subsection (A) by the means set forth therein. In the event the offender does not pay the penalty within 30 days of service of the citation, the civil penalty shall be collected by the town in a civil action in the nature of debt, which shall not subject the offender to the penalty provisions of NC General Statutes section 14-4.
- (2) In addition to or in lieu of the other remedies set forth in this section, the sign administrator shall have the authority to issue a remove order for any sign not brought into compliance with the provisions of this ordinance within the time required by the foregoing provisions. Remove orders shall be issued to and served upon the person(s) described in subsection (A) by the means set forth therein. The sign shall be removed

within 30 days after the service of the remove order at the expense of the offender. The remove order shall describe with particularity the location of the sign to be removed and all of the reasons for issuance of the remove order, including specific reference to the provisions of this chapter which have been violated.

(3) In addition to or in lieu of the other remedies set forth in this section, the town attorney may seek injunctive relief in the appropriate court.

E. Removal and Recovery of Expense

In the event of failure to comply with the requirements of a remove order, the sign administrator may cause such sign to be removed. The sign owner and property owner may be jointly and severally liable for the expense of removal. Notice of the cost of removal shall be served upon the person(s) described in Subsection (A) by the means set forth therein. If said sum is not paid within 30 days thereafter, said sum shall be collected by the town in a civil action in the nature of debt, which shall not subject the offender to the penalty provisions of NC General Statutes section 14-4.

F. Removal of Dangerous Signs

Pursuant to NC General Statutes 160D-402, the zoning administrator shall have the authority to summarily remove, abate or remedy a sign which the Building Inspector determines to be dangerous or prejudicial to the public health or safety. The expense of the action shall be paid by sign owner, or if the sign owner cannot be determined, by the property owner, and if not paid, shall be a lien upon the land or premises where the nuisance arose, and shall be collected as unpaid taxes.

G. Stay upon Appeal

In the event of a timely appeal of a decision of the sign administrator to the Board of Adjustment, enforcement of all proceedings and the furtherance of the action appealed from is stayed, unless the sign administrator certifies to the Board of Adjustment that a stay would cause imminent peril to life or property.

## 6.6.2 – Appeals and Applications

A. Types of Appeals

The Board of Adjustment shall hear and decide all appeals from any order, requirement, decision or determination made by the sign administrator. In deciding appeals, it may hear both those based upon an allegedly improper or erroneous interpretation of the ordinance and those based upon alleged hardship resulting from strict interpretation of the ordinance.

B. Procedure for Filing Appeals

No appeal shall be heard by the Board of Adjustment unless notice thereof is filed within 30 days after the interested party or parties receive notice of the order, requirement, decision or determination by the sign administrator. The applicant must file his application for a hearing with the sign administrator, who shall act as clerk for the Board of Adjustment in receiving this notice. All applications shall be made upon the form specified for that purpose, and all information required thereon shall be complete before an appeal shall be considered as having been filed.

### C. Hearings

- (1) After receipt of notice of appeal, the chair of the Board of Adjustment shall schedule the time for hearing which shall be at a regular or special meeting within 31 days from the filing of such notice of appeal.
- (2) The staff to the Board of Adjustment shall mail notices of the hearing to the affected parties to the action appealed from, and to such other persons as the sign administrator shall direct, at least 5 days prior to the hearing. Such notice shall state the general nature of the question involved in the appeal, and the time and place of the hearing.
- (3) Any party may appear in person or by agent or by attorney at the hearing. The order of business for hearing shall be as follows: (a) the chair, or such person as he shall direct, shall give a preliminary statement of the case; (b) the applicant shall present the argument in support of his application; (c) persons opposed to granting the application shall present the argument against the application; (d) both sides will be permitted to present rebuttals to opposing testimony; (e) the chair shall summarize the evidence which has been presented, giving the parties opportunity to make objections or corrections. Witnesses may be called and factual evidence may be submitted, but the Board shall not be limited to consideration of only such evidence as would be admissible in a court of law. The Board may view the premises before arriving at a decision. All witnesses before the Board shall be placed under oath and the opposing party may cross-examine them.
- (4) An application for a rehearing may be made in the same manner as provided for an original hearing. Evidence in support of the application shall initially be limited to that which is necessary to enable the Board to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. The application for rehearing shall be denied by the Board if from the record it finds that there has been no substantial change in facts, evidence or conditions. If the Board finds that there has been a change, it shall thereupon treat the request in the same manner as any other application.

### D. Decisions

- (1) A decision by the Board of Adjustment shall be made within 30 days from the time of hearing.
- (2) Written notice by certified or registered mail of the decision in a case shall be given to the applicant by the secretary as soon as practical after the case is decided. Also, written notice shall be given to owners of the subject property, if not the applicant, and to other persons who have made written request for such notice. The final decision of the Board shall be shown in the record of the case as entered in the minutes of the Board and signed by the secretary and chair upon approval of the minutes of the Board. Such record shall show the reasons for the determination, with summary of the evidence introduced and the finding of fact made by the Board. Where a variance is granted, the record shall state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the Board finds to exist. The decision may reverse or affirm, wholly or partly or modify the order, requirement,

decision or determination appealed from. The record shall state in detail what, if any, conditions and safeguards are imposed by the Board.

(3) The concurring vote of four-fifths of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the sign administrator.

(4) The decisions of the Board, as filed in its minutes, shall be a public record, available for inspection at all reasonable times.

E. Appeals from Board of Adjustment

Appeals from the Board of Adjustment may be taken to the courts, within 30 days of the decision.

### 6.6.3 – Non-conforming Signs

A. All legal, non-conforming, off-premise signs as herein defined are permitted to continue:

(1) Signs that are erected and in place prior to the adoption of this Ordinance and which do not conform to the provisions of this Ordinance are declared non-conforming signs.

(2) A sign that is erected and that is in place and which conforms to the provisions of this Ordinance at the time it is erected, but which does not conform to an amendment to this Ordinance enacted subsequent to the erection of said sign is declared a non-conforming sign.

B. Any off-premise sign may be replaced, repaired or relocated on the property it is located, provided that the replaced, repaired or relocated off-premise sign does not exceed the size (square footage) or height of the original sign.

C. All legal, non-conforming, off-premise signs are permitted to continue, provided signs shall conform to the provisions in Sections A and B above and shall not be re-established after it has been removed or has been abandoned for 180 days or more.

### 6.6.4 – Variances

A. The Board of Adjustment shall have the power to hear and act upon applications for a variance, which meet the following requirements:

(1) If the applicant complies strictly with the provisions of this chapter, the applicant can make no reasonable use of the sign allowed; and

(2) If the hardship of which the applicant complains is unique, or nearly so, and is suffered by the applicant rather than by owners of surrounding properties or the general public; and

(3) If the hardship relates to the applicant's land (such as terrain of the site) rather than in personal circumstances; and

(4) If the hardship is not a result of the applicant's own actions; and

(5) If the variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit and if the variance secures the public safety and welfare and does substantial justice.

B. In granting a variance, the Board of Adjustment shall make written findings that all of the above listed requirements have been met. If a variance is granted it shall be the least possible deviation from the requirements of this Ordinance. In granting any variance, the

Board may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violations of the provisions of the variance granted, including any conditions or safeguards, which are a part of the grant of the variance, shall be deemed a violation of this ordinance.

## **CHAPTER 7: DRAINAGE, EROSION CONTROL & STORMWATER MANAGEMENT REGULATIONS**

### **7.1 - Interlocal Agreement with Chatham County**

The Town of Goldston has an interlocal agreement with Chatham County regarding the applicability of county drainage, erosion control, and stormwater management regulations to the Town of Goldston. These regulations are enforced by Chatham County within the Town's jurisdiction.

## **CHAPTER 8: WATERSHED PROTECTION REGULATIONS**

### **8.1 – Authority and General Regulations**

#### **8.1.1 – Authority**

The legislature of the State of North Carolina has, in Chapter 160D-926, General Ordinance Authority; and in Chapter 143, Article 21, Watershed Protection Rules, delegated the responsibility or directed local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

#### **8.1.2 – Jurisdiction**

The provisions of this chapter shall apply within the limits of the Town of Goldston. Various categories of watersheds are shown on the map entitled “Watershed Protection Map of Goldston, North Carolina” (“the Watershed Map”), which is adopted simultaneously herewith. The Watershed Map and all explanatory matter contained thereon accompanies and is hereby made a part of this Unified Development Ordinance. These documents shall be permanently kept on file with the clerk to the Town of Goldston.

#### **8.1.3 – Exemptions to Applicability**

- A. Nothing contained in this Chapter shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Chapter amend, modify, or restrict any provisions of the Code of Ordinances of the Town of Goldston; however, the adoption of these provisions shall and does amend any and all ordinances, resolutions, and regulations in effect in the Town at the time of the adoption of this Unified Development Ordinance that may be construed to impair or reduce the effectiveness of the provisions in this Chapter or to conflict with any of its provisions.
- B. It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.
- C. Existing development, as defined in Section 8.1.9, is not subject to the requirements of this Chapter. Expansions to structures classified as existing development must meet the requirements of this Chapter; however, the built-upon area of the existing development is not required to be included in the density calculations.
- D. A pre-existing lot owned by an individual prior to the effective date of this ordinance, regardless of whether or not a vested right has been established, may be developed for single-family residential purposes without being subject to the restrictions of this Chapter except Section 8.3.4 where practicable. However this exemption is not applicable to multiple contiguous lots under single ownership unless the lots violate the minimum lot size established by the N.C. Environmental Management Commission. Lots in violation of N.C. Environmental Management Commission minimum standards shall be combined according to Section 8.3.8(A)(2).

### **8.1.4 – Repeal of Existing Watershed Ordinance**

This ordinance in part carries forward by re-enactment, some of the Watershed Protection Ordinance of Chatham County, North Carolina (adopted through Interlocal Agreement by the Goldston Town Board on December 16<sup>th</sup> 2019 as amended), and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the Watershed Protection Ordinance of Chatham County which are not re-enacted herein are hereby repealed within the jurisdiction of the Town of Goldston. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance provisions heretofore in effect, which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this ordinance, but shall be prosecuted to their finality the same as if this ordinance had not been adopted; and any and all violations of the existing Watershed Protection Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may heretofore have been instituted or prosecuted.

### **8.1.5 – Criminal Penalties**

Any person violating any provision of this Chapter shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with N.C.G.S. 14-4. The maximum fine for each offense shall be \$500.00. Each day that the violation continues shall constitute a separate offense.

### **8.1.6 – Remedies**

- A. If any subdivision, development and/or land use is found to be in violation of this Chapter, the Town of Goldston Governing Board may, in addition to all other remedies available either in law or in equity, institute a civil penalty, action or proceedings to restrain, correct, or abate the violation; to prevent occupancy of the building, structure, or land; or to prevent any illegal act, conduct, business, or use in or about the premises. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with North Carolina G.S. 143-215.6(a). Civil penalties shall be assessed in the amount of \$50.00 per day for the first violation. If the same violation occurs on the same property within six (6) years after the initial violation is remedied, a civil penalty in the amount of \$100.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the second occurrence of the violation is remedied, a civil penalty in the amount of \$200.00 per day shall automatically apply. If the same violation occurs on the same property within six (6) years after the third or any subsequent occurrence of the violation is remedied, a civil penalty in the amount of \$500.00 per day shall automatically apply. For the purposes of assessing civil penalties, each day such violation continues shall be considered a separate and distinct offense.
- B. If the Watershed Administrator finds that any of the provisions of this Chapter are being violated, he shall notify in writing the owner or person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He



shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this Chapter to ensure compliance with or to prevent violation of its provisions. If a ruling of the Watershed Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board.

### **8.1.7 – Severability**

Should any section or provision of this Chapter be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Chapter as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

### **8.1.8 – Effective Date**

This Chapter shall take effect and be in force on and after the date of adoption of this Unified Development Ordinance.

### **8.1.9 – General Definitions**

The following definitions apply to Chapter 8 of this Unified Development Ordinance. If there are any conflicts between these definitions and those found in Section 1.2.2, then the definitions found in this section will carry precedence for use in this Chapter.

**Access Trails** – Pedestrian trails constructed of pervious or impervious surfaces and related structures to access a surface water, including boardwalks, steps, rails, and signage.

**Accessory Dwelling Unit** – An accessory dwelling unit that is smaller than the principal residential dwelling. The accessory dwelling unit is situated on the same lot as the principal residence and may be located within the principal residence or in a separate building with a separate access. The accessory dwelling unit is restricted to 1,500 square feet of heated living space. The use is to conform to the character of the existing structures and neighborhood. A mobile home is classified as a primary residence, not an accessory dwelling unit.

**Agricultural Activities** – Includes the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

- (i) Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts.
- (ii) Dairy animals and dairy products.
- (iii) Poultry and poultry products.
- (iv) Livestock, including beef cattle, sheep, swine, horses, ponies, mules, and goats.
- (v) Bees and apiary products.
- (vi) Fur producing animals.

**Agricultural Use** – The use of waters for stock watering, irrigation, and other farm purposes.

**Airport Facilities** – All properties, facilities, buildings, structures, and activities that satisfy or otherwise fall within the scope of one or more of the definitions or uses of the words or phrases ‘air navigation facility’, ‘airport’, or ‘airport protection privileges’ under G.S. 63-1; the definition of ‘aeronautical facilities’ in G.S. 63-79(1); the phrase ‘airport facilities’ as used in G.S. 159-48(b)(1); the phrase ‘aeronautical facilities’ as defined in G.S. 159-81 and G.S. 159-97; and the phrase ‘airport facilities and improvements’ as used in Article V, Section 13, of the North Carolina Constitution, which shall include, without limitation, any and all of the following: airports, airport maintenance facilities, clear zones, drainage ditches, fields, hangars, landing lighting, airport and airport-related offices, parking facilities, related navigational and signal systems, runways, stormwater outfalls, terminals, terminal shops, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights-of-way; restricted landing areas; any structures, mechanisms, lights, beacons, marks, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area; easements through, or interests in, air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to ensure safe approaches to the landing areas of airports and restricted landing areas, and the safe and efficient operation thereof and any combination of any or all of such facilities. Notwithstanding the foregoing, the following shall not be included in the definition of ‘airport facilities’:

- (i) Satellite parking facilities;
- (ii) Retail and commercial development outside of the terminal area, such as rental car facilities, and;
- (iii) Other secondary development, such as hotels, industrial facilities, free-standing offices and other similar buildings, so long as these facilities are not directly associated with the operation of the airport, and are not operated by a unit of government or special governmental entity such as an airport authority, in which case they are included in the definition of ‘airport facilities’.

**Animal Unit** – A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

**Bankfull Discharge** – The flow of water which fills a stable alluvial channel to the elevation of the active floodplain. This discharge is morphologically significant because it identifies the bankfull elevation. On average, bankfull discharge occurs every 1.5 years in frequency.

**Bankfull Elevation** – The elevation where flooding occurs on an active floodplain. This elevation may or may not be the top of bank.

**Best Management Practices** – Effective and practical structural or nonstructural methods which prevent or reduce the movement of sediment, nutrients, pesticides, and other pollutants from the land to surface or ground water, or which otherwise protect water quality from potential adverse effects of development, silvicultural, agricultural and other land disturbance activities. These

practices are developed as industry standards to achieve a balance between water quality and natural habitat protection and the economic benefits and desired use of the land.

**Building** – Any structure having a roof supported by columns or by walls, and intended for shelter, housing, or enclosure of persons, animals or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport, or other such open structure, with or without a roof, shall not be deemed to make them one building.

**Built-upon Area** – Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious).

**Channel** – A natural water-carrying trough eroded vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.

**Clerk to the Watershed Review Board** – The Watershed Administrator or other person appointed by the Town.

**Cluster Development** – The grouping of buildings in order to conserve land and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

**Composting Facility** – A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

**Critical Area** – The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one mile from the normal pool elevation of the reservoir in which the intake is located or to the ridgeline of the watershed (whichever comes first); or one mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one mile.

**Development** – Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil. See definition of Land Disturbing Activity.

**Diffuse Flow** – Non-concentrated, low-velocity flow of storm water runoff that is spread out of distributed evenly along the same elevation. Diffuse flow prevents or reduces scour and erosion and provides for increased ground contact for infiltration and pollutant removal.

**Discharging Landfill** – A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

**Ditch or Canal** – An excavated (man-made) channel that is typically dug through inter-stream divide areas. A ditch or canal may exhibit hydrological or biological characteristics similar to perennial or intermittent streams. For the purposes of this Chapter, a ditch or canal is not considered to be an ephemeral, intermittent or perennial stream.

**Dwelling Unit** – A building, or portion thereof, providing complete and permanent living facilities for one family.

**Ephemeral (storm water) Stream** – A physically visible feature in the form of a natural channel that conveys water only in direct response to precipitation during or shortly after precipitation events. For the purposes of this Chapter, an ephemeral (storm water) stream is a well-defined channel which scores a minimum of 10 points on the most recent version of the NCDWQ Stream Identification Form, to distinguish it from an intermittent or perennial stream (see most recent version of *Identification Methods for the Origins of Intermittent and Perennial Streams*, NCDWQ). An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with continuous or intermittent conveyance of water.

**Existing Development** – Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria:

- (i) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- (ii) Having an outstanding valid building permit as authorized by 160D-102, or
- (iii) Having expended substantial resources (time, labor, money) and having an approved site specific or phased development plan as authorized by 160D-102

**Existing Lot (Lot of Record)** – A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

**Family Subdivision** – Family subdivision means one or more divisions of a tract of land: (a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives of direct lineage, or to the surviving spouse, if any, of any deceased lineal descendant, as a gift or for nominal consideration, but only if no more than one parcel from such tract is conveyed by the grantor to any one relative or such relative's surviving spouse; or (b) to divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or will. This provision shall apply only where the grantor or decedent already owned the land so divided upon the effective date of this ordinance.

**Forest Management Plan** – As defined in N.C.G.S. 153A-452(2).

**Forest Plantation** – An area of planted trees that may be conifers (pines) or hardwoods. On a plantation, the intended crop trees are planted rather than naturally regenerated from seed on the site, coppice (sprouting), or seed that is blown or carried into the site.

**Greenway/Hiking Trails** – Pedestrian trails constructed of pervious or impervious surfaces and related structures including but not limited to boardwalks, steps, rails, and signage, and that generally run parallel to the shoreline.

**Hazardous Waste** – Any material as defined by 15A NCAC Section 13A.0106 *Identification and Listing of Hazardous Wastes*, Part 261, or any substance listed as such in: SARA Section 302, Extremely Hazardous Substances, CERCLA Hazardous Substances, or Section 311 or CWA (oil and hazardous substances) or a RECRA Hazardous Waste that appears on one of the four hazardous waste lists (F-List, K-List, P-List, or U-List) or exhibits at least one of the four characteristics (ignitability, corrosivity, reactivity, or toxicity).

**Home Occupations** – Any use conducted on residential premises and carried on by the occupants thereof, which use is incidental and secondary to the use of the premises for residential purposes and does not change the character thereof.

**Industrial Development** – Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any hazardous material for the purpose of manufacturing, assembling, finishing, cleaning, or developing any product or commodity.

**Impervious Surface** – See Built-upon Area.

**Intermittent Stream** – A well defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by storm water runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water. For the purposes of this chapter, an intermittent stream will have a minimum score of “19” on the most recent version of the NCDWQ Stream Identification Form.

**Landfill** – A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A, Article 9 of the N.C. General Statutes. For the purpose of this chapter, this term does not include composting facilities.

**Lot** – A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same. A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to an approved use, together with the customary accessories and open spaces belonging to the same, is a “lot” under this chapter irrespective of whether the parcel has multiple zoning classifications.

**Major Utility** – All utility facilities other than minor utilities. Includes public utilities serving regional areas and public utility service and storage yards. Examples include, but are not limited to,

electrical substations and wastewater treatment plants. This definition excludes public utility transmission lines.

**Major Variance** – A variance that results in any one or more of the following:

- (i) the complete waiver of a management requirement;
- (ii) the relaxation, by a factor of more than ten (10) percent, of any management requirement that takes the form of a numerical standard;

**Minor Utility** – Any above-ground structures or facilities owned by a governmental entity, a nonprofit organization or corporation used in connection with the transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Minor utilities are necessary to support development within the immediate vicinity and involve only minor structures. Examples include, but are not limited to, pump stations, community well houses and above ground utility cabinets. Excepted from this definition are Major Utilities.

**Minor Variance** – A variance that does not qualify as a Major Variance.

**Natural** – When used in reference to streams and channels, means those streams and channels formed by the existing surface topography of the earth prior to changes made by man.

**Non-residential Development** – All development other than residential development, agriculture, and silviculture.

**Normal Pool Elevation** – The natural or design elevation of a perennial water body.

**Perennial Stream** – A well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries storm water runoff. A perennial stream exhibits the typical biological, hydrological and physical characteristics commonly associated with continuous conveyance of water. For the purposes of this chapter, a perennial stream will have a minimum score of “30” on the most recent version of the NCDWR Stream Identification Form.

**Perennial Water Body** – A pond or lake that is part of a natural drainageway and is fed by either an intermittent or perennial stream or directly discharges into either an intermittent or perennial stream.

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

**Residential Development** – Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

**Riparian Buffer** – A natural or vegetated area that provides a protective distance between a stream, perennial water body or wetland and an adjacent land area which may be converted to

some other use. The riparian buffer shall be measured horizontally on a line perpendicular from the top of bank or from the normal pool elevation of a perennial water body or wetland.

**Shoreline Stabilization** – The in-place stabilization of an eroding shoreline. Stabilization techniques which include “soft” methods or natural materials (such as root wads, or rock vanes) may be considered as part of a restoration design. However, stabilization techniques that consist primarily of “hard” engineering, such as concrete lined channels, riprap, or gabions, while providing bank stabilization, shall not be considered stream restoration.

**Single Family Residential** – Any development where: (1) no building contains more than one dwelling unit, (2) every dwelling unit is on a separate lot, and (3) where no lot contains more than one dwelling unit.

**Silvicultural Activities** – Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality.

**Stream** – A body of concentrated flowing water in a natural low area or natural channel on the land surface.

**Street (Road)** – A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

**Structure** – Anything constructed or erected, including but not limited to buildings, which requires location on the land or attachment to something having permanent location on the land.

**Subdivider** – Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

**Subdivision** – All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all division of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition:

- (i) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of this chapter;
- (ii) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;
- (iii) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (iv) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this ordinance;
- (v) The division of a tract into plots or lots used as a cemetery.

**Temporary Road** – A road constructed temporarily for equipment access to build or replace hydraulic conveyance structures such as bridges, culverts, pipes or water dependent structures, or to maintain public traffic during construction.

**Top of Bank** – For the purposes of this chapter, the point on a stream’s cross-section defined by the bankfull elevation or the highest point in elevation immediately adjacent to the stream channel, whichever is greater.

**Toxic Substance** – Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

**Trail Management Plan** – A bound document providing details and descriptions of trail design, materials, alignment, management procedures, responsible party and schedule of maintenance activities to ensure adequate trail operations and maintenance in perpetuity. The plan will include, at a minimum, the following:

- (i) Existing site conditions (including the status of the protected area)
- (ii) Needs and purpose (including intended use)
- (iii) Trail location based on site survey
- (iv) Design details
- (v) Justification
- (vi) Responsible entity for design, implementation, maintenance and access control
- (vii) Short and long term impacts (e.g. future trail relocations) should be identified
- (viii) Proposed mitigation due to impacts related to water quality and drainage

**Tree** – A deciduous or coniferous tree that is at least five (5) inches in diameter or greater measured at fifty-four (54) inches in height from the ground.

**Variance** – A permission to develop or use property granted by the Watershed Review Board relaxing or waiving a requirement of this chapter.

**Water Dependent Structure** – Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

**Watershed** – The entire land area contributing surface drainage to a specific point (e.g. the water supply intake), or alternatively, the geographic region within which water drains to a particular river, stream or body of water.

**Watershed Administrator** – An official or designated person responsible for administration and enforcement of this Chapter.



**Watershed Review Board** – The Town of Goldston Town Board shall designate this review board.

**Wetlands** – “Waters” as defined by N.C.G.S. 143-212(6) are areas that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands do generally include swamps, marshes, bogs, seeps, springs, and similar areas. Wetlands classified as waters of the State are restricted to waters of the United States as defined by 33 CFR 328.3 and 40 CFR 230.3.

### **8.1.10 – Word Interpretation**

For the purposes of this Chapter, certain words shall be interpreted as follows:

- A. Words in the present tense include the future tense.
- B. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.
- C. The word “person” includes a firm, association, corporation, trust, and company as well as an individual.
- D. The word “structure” shall include the word “building.”
- E. The word “lot” shall include the words “plot,” “parcel,” or “tract.”
- F. The word “shall” is always mandatory and not merely directory.
- G. The word “will” is always mandatory and not merely directory.

## **8.2 – Subdivision Regulations**

### **8.2.1 – General Provisions**

- A. No subdivision plat of land within the jurisdiction of this Ordinance shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Chapter. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would be in conflict with this Chapter.

## **8.3 – Development Regulations**

### **8.3.1 – Establishment of Watershed Area**

The purpose of this Section is to list and describe the watershed areas herein adopted. The areas of the Town of Goldston within the jurisdiction of this Chapter as specified in Section 8.1.2 are hereby established as watershed areas. For purposes of this Chapter, the Town is hereby divided into the following areas:

- A. WS-IV-PA (Protected Area):  
This land is the area that is within 10 miles and draining to the Goldston-Gulf water intake on the Deep River.
- B. Local Watershed Area:  
This land is all the area of the Town of Goldston outside (A) above.

### 8.3.2 – Watershed Areas Described

#### A. WS-IV Watershed Areas – Protected Area (WS-IV-PA)

##### (1) Uses Allowed:

- a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot vegetative buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along all perennial waters indicated on the most recent versions of the U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Animal operations greater than 100 animal units shall employ Best Management Practices by July 1, 1994 recommended by the Soil and Water Conservation Commission.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.6101-.0209).
- c. Residential development.
- d. Non-residential development.

##### (2) Density and Built-upon Limits:

- b. Single Family Residential – development shall not exceed one (1) dwelling unit per acre, as defined on a project-by-project basis. No residential lot shall be less than 40,000 square feet if served by public water and sewer, or 65,340 square feet if served by individual wells or individual wastewater disposal systems.
- c. All Other Residential and Non-residential – development shall not exceed twenty-four percent (24%) built-upon area on a project-by-project basis. For projects without a curb and gutter street system, development shall not exceed thirty-six percent (36%) built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include acreage in the tract on which the project is to be developed. No residential or non-residential lot shall be less than 40,000 square feet.
- d. Lots to be created for the express purpose of minor utilities are exempted from the Required Minimum Lot Area. Any noise producing equipment or generators must be stored within a structure, or must be setback a minimum fifty (50) feet from any public right-of-way or property line.

##### (3) Prohibited Uses:

- b. The storage of toxic and hazardous materials unless a spill containment plan is approved and implemented.

#### B. Local Watershed Area (LWA)

(1) Allowed Uses: All uses that are allowed within the zoning designation of the parcel (see Section 2.8).

(2) Density and Built-upon Limits: Limitations on density of development are based on the zoning designation of the parcel (see Section 2.8).

(3) Prohibited Uses: The list of prohibited uses is defined by the zoning category of the parcel as listed in Section 2.8.

### 8.3.3 – Cluster Development

Cluster development is generally not permitted in the Town of Goldston, except limited cases within the R-MF district as defined in Sections 2.8.4(B)(2) and 2.8.4(B)(12). The following additional conditions apply to cluster development:

- A. Built-upon area or stormwater control requirements of the project shall not exceed that allowed by this ordinance for the watershed area in which the project is located.
- B. All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.
- C. The remainder of the tract shall remain in a vegetated or natural state. Where the development has an incorporated property owners association, the title of the open space area shall be conveyed to the association for management. Where a property association is not incorporated, a maintenance agreement shall be filed with the property deeds.
- D. The development is located on a parcel with a zoning designation that permits cluster development.

### 8.3.4 – Riparian Buffers Required

- A. Buffers Required – As provided in this Chapter, a permanently protected “riparian buffer” shall be required for development adjacent to perennial, intermittent and ephemeral streams, perennial water bodies, and wetlands. Field location and classification of streams to locate perennial and intermittent streams will be conducted in accordance with subsection (B) using the most current NC Division of Water Resources methodologies and may be indicated on the latest USGS 1:24,000 scale (7.5 minute) quadrangle map, the NRCS Soil Survey for Chatham County, NC, or a map approved by the Geographic Information Coordinating Council and by the N.C. Environmental Management Commission. These maps may be used in combination as a screening tool only and do not represent the actual extent and location of surface waters and streams in the Town of Goldston. Field location and classification of ephemeral streams and wetlands will be conducted in accordance with subsection (B) and using methodologies described in this Chapter.
- B. Field Delineations – Field delineations of wetlands shall continue to be conducted using the 1987 U.S. Army Corps of Engineers methodologies<sup>25</sup> and supplements for each development project. For the purposes of this chapter, all perennial water body and stream classifications must be conducted by a qualified professional who has successfully completed the Division of Water Resources Surface Water Identification Training Certification course, its successor, or other equivalent training curriculum approved by the Division of Water Resources. The specific origination point of a perennial or intermittent stream shall be established using the latest version of the Division publication *Methodology for Identification of Intermittent and Perennial Streams and Their Origins*, available from the NC Division of Water Resources or its successor. All wetland delineations must be

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<sup>25</sup> Currently, the applicable version is known as: *Environmental Laboratory (1987) Corps of Engineers Wetlands Delineation Manual*, Technical Report Y-87-1, and supplements, U.S. Army Engineer Waterways Experiment Station, Vicksburg, MS.

conducted by a qualified professional who has at least two years of demonstrated experience in conducting wetlands delineations in North Carolina under the Clean Water Act Sections 401 and 404 provisions. All field determinations of perennial water bodies, wetlands, and streams shall be subject to review and approval by the Town, which review may include an on-site review.

Surface waters that appear on the maps used to determine surface water classifications shall not be subject to the requirements of this Section 8.3.4 if a site evaluation reveals any of the following cases:

- (1) Man-made ponds and lakes that are not part of a natural drainage way that is classified in accordance with 15A NCAC 2B .0100, including ponds and lakes created for animal watering, irrigation, or other agricultural uses. (A pond or lake is part of a natural drainage way when it is fed by an intermittent or perennial stream or when it has a direct discharge point to an intermittent or perennial stream.)
- (2) The absence on the ground of a corresponding intermittent or perennial stream, lake, reservoir or pond.
- (3) Ditches or other man-made water conveyances, other than modified natural streams.

Any disputes over on-site determinations made in accordance with this section shall be referred to the Watershed Review Board in writing. Appeals from a decision of the Watershed Review Board shall be in accordance with Section 8.5.8 of this ordinance.

#### C. Exemptions to Riparian Buffer Requirements

The exemption criteria set forth below in this Section 8.3.4 (C) may be applied to all riparian buffers.

- (1) Existing lots, including tracts or parcels that were considered exempt from the definition of subdivision, and existing development as set forth in Section 8.1.3 and Section 8.3.8 of this Ordinance. For the purposes of this Chapter, the existing lots, including tracts or parcels that were considered exempt from the definition of subdivision, and existing developments are required to meet the riparian buffer requirements set forth in the Watershed Protection Ordinance for Chatham County, NC in effect from January 1, 1994 up to the date immediately prior to the adoption of these amendments.
- (2) Tracts or parcels that are exempt from the definition of subdivision as listed below, provided that they are required to meet the riparian buffer requirements set forth in the Watershed Protection Ordinance for Chatham County, NC in effect from January 1, 1994 up to the date immediately prior to the adoption of these amendments:
  - a. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots meet or exceed the standards of the subdivision regulations;
  - b. The public acquisition by purchase of strips of land for the widening or opening of streets;
  - c. The division of a tract into plots or lots used as a cemetery.
- (3) Existing Agricultural Activities – see definition in Section 8.1.9.

(4) Existing Silvicultural Activities – see definition in Section 8.1.9.

D. Buffers by Surface Waters Classification

- (1) Perennial Streams – The riparian buffer shall be one hundred (100) feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides of perennial streams, or shall be the full horizontal extent of the Area of Special Flood Hazard as most recently mapped by the North Carolina Floodplain Mapping Program, NC Division of Emergency Management, whichever is the greater horizontal distance.
- (2) Intermittent Streams – The riparian buffer shall be fifty (50) feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides of intermittent streams.
- (3) Ephemeral Streams – The riparian buffer shall be thirty (30) feet landward, measured horizontally on a line perpendicular from top of bank; this distance shall be measured on all sides along all ephemeral streams.
- (4) Wetlands – The riparian buffer shall be fifty (50) feet landward, measured horizontally on a line perpendicular from the delineated boundary, surrounding all features classified as wetlands and linear wetlands.
- (5) Perennial Water Bodies – The riparian buffer shall be fifty (50) feet landward, measured horizontally on a line perpendicular from the delineated boundary.

E. Identification Procedures

- (1) The origins, endpoints and boundaries of classified streams and water bodies shall be clearly marked with flagging and accurately located on a map. All delineated streams, water bodies and boundaries shall be submitted to the town for review and approval. If adjacent property access is necessary to render a classification, permission from the relevant property owner(s) is required. Otherwise, classifications will be based on the observable features within the property in question.
- (2) Before any land disturbance activities may begin, and in addition to any erosion control notification, the riparian buffer boundaries shall be clearly flagged in the field and approved by town staff or their designee. Tree protection fencing or other approved protective measures shall be installed along the approved flagging lines.

F. Allowed Structures and Uses in Riparian Buffer

The following structures and uses are allowed in the riparian buffer:

- (1) Water dependent structures as defined in Section 8.1.9.
- (2) Signs and lighting as necessary for public health, safety and welfare purposes.
- (3) Drainage and forestry maintenance associated with agricultural and silvicultural activities, provided the applicable Best Management Practices are followed<sup>26</sup>.
- (4) Stream crossings (roads, driveways, trails) that are perpendicular to the stream flow. Stream crossings shall be designed to minimize the amount of stream channel bed and

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<sup>26</sup> Food Security Act of 1985; Food, Agriculture, Conservation and Trade Act of 1990; and *Forest Practice Guidelines Related to Water Quality* (15 NCAC 11.0101-.0209)

bank disturbance and shall comply with all applicable Best Management Practices and permit requirements. Stream crossing design alternatives that are preferred include: arches, span bridges and submerged culverts<sup>27</sup>. The following shall apply for stream crossings:

- a. Bents or other support structures for bridges are not allowed within the bankfull area of perennial streams.
  - b. For public road crossings, the crossing design shall be according to the alternative that best meets the intent of this Chapter and as required by permit<sup>28</sup>.
  - c. Culverts or arches are allowed for crossing perennial, intermittent and ephemeral streams. Culverts and arches must be sized and designed in accordance to standard design practices, including allowing for safe passage for wildlife and floodplain flows.
  - d. Fill required for crossings must not restrict flows up to a 25-year, 24-hour storm event, based on hydrologic and hydraulic models. Additional culverts within the “floodplain” and at bankfull elevation may be required to ensure these flows are not restricted.
  - e. All stream crossings within a riparian buffer require an informal consultation meeting with town staff or their designee for private roads and town/NCDOT representatives for public roads, prior to first plat submittal. See Section 3.5.2.
  - f. Concentrated discharge of road or driveway runoff into riparian buffers is not allowed. Diffuse flow into riparian buffers are allowed using Best Management Practices<sup>29</sup>.
- (5) Utilities crossings (water, sanitary sewer, electric, communication lines, easements, manholes, and appurtenances) are allowed in the riparian buffer only where no practicable alternative exists. Where stream crossings are necessary, the preferred methodology for crossings are (1) by attaching to bridges as permitted by NCDOT or private bridge owner; or (2) by directional boring under the riparian buffer and associated stream, water body, wetland, or (3) in combination with road crossings, culvert-type design within the road right-of-way. Culvert-type crossings shall not cause any restriction of stream channel flows up to the 25-year 24-hour design storm. Sewage treatment crossings of ephemeral streams may be trenched in accordance with the applicable laws and rules for sewage treatment disposal systems only for on-site sewage treatment systems.
- (6) Electric, petroleum and gas pipeline construction and maintenance activities within the prescribed easement area.
- (7) Stream and riparian buffer restoration and associated maintenance activities.

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<sup>27</sup> See CSI Mitigation Measure No. 7 contained in the *Guidance Memorandum to Address and Mitigate Secondary and Cumulative Impacts to Aquatic and Terrestrial Wildlife Resources and Water Quality*, NC Wildlife Resources Commission (August 2002).

<sup>28</sup> *Subdivision Roads Minimum Construction Standards*, N.C. Division of Highways, Board of Transportation (January 2010). Subsequent amendments to this Construction Manual shall apply.

<sup>29</sup> Stormwater Best Management Practices Manual, NC Division of Water Quality (July 2007)

- (8) All trails, provided that Best Management Practices and an approved Trail Management Plan are employed for recreational purposes, such as pedestrian, mountain biking, general recreation and equestrian uses. Land disturbance associated with these activities is limited to outer or landward fifty (50) feet for perennial, thirty (30) feet for intermittent, and twenty (20) feet for ephemeral streams, measured from top of bank.
- (9) Where permitted by state or federal law for public health and safety purposes, wastewater treatment and disposal components, including surface and subsurface wastewater disposal areas. However, any buffer areas disturbed or impacted by these components must meet the erosion and sedimentation control design practices described in the North Carolina Erosion and Sedimentation Control Planning and Design Manual, June 1, 2006 or most current edition.
- (10) Maintenance activities associated with the uses listed above are allowed.

G. Prohibited Structures and Uses in Riparian Buffer

- (1) Utilities (i.e. gas, electric, communications, water lines, wells, sanitary sewer, lift stations, etc.) except where stream and buffer crossings are required.
- (2) Receiving, collection, storage or distribution areas for hazardous waste and hazardous materials.
- (3) Sanitary landfills and landfills as defined in this Chapter. Mulching or chipping of inert, organic plant materials is allowed for forestry or maintenance activities.
- (4) Constructed storm water features.
- (5) Discharge of concentrated storm water runoff or drainage from culverts, ditches, and other conveyances.
- (6) Entry by motor powered vehicles, except for the purpose of maintaining existing utility corridors (or new power line or gas corridors) and providing emergency services.
- (7) Excavation, land clearing, grading or fill material that is not allowed by permit.
- (8) Stream or buffer maintenance activities unless otherwise allowed by permit.

H. Buffer Vegetation Requirements

From and after the date of adoption of this ordinance, any of the above riparian buffers shall minimally remain in their existing vegetated condition. Other than for silvicultural or allowable forest management activities using Best Management Practices, clear cutting or forest thinning activities (less than a density of 100 stems per acre that are greater than 5 inches diameter at 54 inches in height) is prohibited. If this activity occurs, the required buffer widths for the associated stream type must be doubled in width (excluding floodplain widths if applicable). If required, this density evaluation shall be completed by a forester, biologist, or environmental scientist and submitted to the Town for review. The riparian buffer shall otherwise remain in its existing forested condition, or if not forested, the following is required:

- (1) Natural regeneration of forest vegetation, or

- (2) Planting of trees, shrubs, or ground cover plants provided that Best Management Practices are used. Plantings shall consist of species native to Chatham County<sup>30</sup>.
- (3) Invasive species listed by the North Carolina Botanical Garden may be physically removed from the buffer and is an allowed maintenance activity<sup>31</sup>.

I. Determination of “No Practical Alternative” or “Variances”

- (1) Persons who wish to undertake uses designated as “allowed” under subsection (F)(5) above shall submit a request for a “no practical alternatives” determination by the Watershed Review Board or its delegated authority. The applicant shall certify that the criteria identified in subsections (a), (b), and (c) below are met. The Watershed Review Board or its delegated authority shall review the entire project and make a finding of fact as to whether a “no practical alternatives” determination is met. The Watershed Review Board or its delegated authority shall grant an “Authorization Statement” upon a “no practical alternatives” determination. The procedure for issuing an Authorization Statement shall be based upon meeting all of the following criteria:
  - a. The basic project purpose cannot be accomplished in a manner that would cause less land disturbance, preserve aquatic life and habitat, and protect water quality;
  - b. The use cannot be reduced in size or density, reconfigured or redesigned to cause less land disturbance, preserve aquatic life and habitat, and protect water quality; and
  - c. Best Management Practices are used to cause less land disturbance, preserve aquatic life and habitat, and protect water quality.
- (2) The applicant shall also submit at least the following information in support of their assertion of “no practical alternatives”:
  - a. The name, address and phone number of the applicant;
  - b. The nature of the activity to be conducted by the applicant;
  - c. The location of the activity, including the jurisdiction;
  - d. A map of sufficient detail to accurately delineate the boundaries of the land to be utilized in carrying out the activity, the location and dimensions of any disturbance in riparian buffers associated with the activity, and the extent of riparian buffers on the land;
  - e. An explanation of why this plan for the activity cannot be practically accomplished, reduced or reconfigured to better minimize disturbance to the riparian buffer, preserve aquatic life and habitat, and protect water quality; and
  - f. Plans for any best management practices proposed to be used to control the impacts associated with the activity.
- (3) Within 90 days of a submission that addresses subsection (I)(2) for a request to undertake a use designated as “allowed” under subsection (F)(5) above, the Watershed Review Board or its delegated authority shall review the entire project and make a

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<sup>30</sup> Weakley, Alan S.; *Flora of the Carolinas, Virginia, and Georgia, and Surrounding Areas*, (UNC Herbarium, NC Botanical Garden, 2007)

<sup>31</sup> *Plants to Avoid in the Southeastern United States* compiled by Allison Schwartz and Johnny Randall, Spring 1999; *Controlling Invasive Plants*, NC Botanical Gardens (UNC Press, 2002).



finding of fact as to whether the criteria in subsection (I)(1) have been met. A finding of “no practical alternatives” shall result in issuance of an Authorization Statement. Failure to act within the applicable 90 day timeframe as specified above in this subsection (I)(3) shall be construed as a finding of “no practical alternatives” and an Authorization Statement shall be issued to the applicant unless one of the following occurs:

- a. The applicant agrees, in writing, to a longer period;
  - b. The Watershed Review Board or delegated authority determines that the applicant has failed to furnish requested information necessary to the Watershed Review Board’s or delegated authority’s decision;
  - c. The final decision is to be made pursuant to a public hearing; or
  - d. The applicant refuses access to its records or premises for the purpose of gathering information necessary to the Watershed Review Board’s or delegated authority’s decision.
- (4) The Watershed Review Board or delegated authority may attach conditions to the Authorization Statement that support the purpose, spirit, and intent of this Ordinance.
- (5) An appeal of a determination made by the Watershed Review Board regarding an Authorization Statement pertaining to a request to undertake a use designated as “allowed” under subsection (F)(5) above shall be to Superior Court as provided in Section 8.5.8. In the event such determination regarding subsection (F)(5) is made by the Watershed Review Board’s delegated authority, an appeal of the delegated authority’s determination shall be to the Watershed Review Board in accordance with the process specified in Section 8.5.2.
- (6) Persons who believe they are entitled to seek relief from a requirement of Section 8.3.4 of this Ordinance may apply for a variance. The process, procedure and requirements for obtaining a variance are found in Section 8.5.7 of this Chapter.

### **8.3.5 – Density Averaging**

A local government implementing a water supply watershed program shall allow an applicant to average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:

- (1) The properties are within the same water supply watershed. If one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.
- (2) Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.
- (3) Vegetated buffers on both properties meet the minimum statewide water supply watershed protection requirements.
- (4) Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

- (5) Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainage ways.
- (6) The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the local government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deed and shall be irrevocable.
- (7) Development permitted under density averaging and meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.
- (8) A special use permit or other such permit or certificate shall be obtained from the local Watershed Review Board or Board of Adjustment to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have record of how the watershed regulations were applied to the properties.

### **8.3.6 – Rules Governing the Interpretation of Watershed Area Boundaries**

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

- A. Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
- B. Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the Town as evidence that one or more properties along these boundaries do not lie within the watershed area.
- C. Where the watershed area boundaries lie at a scaled distance of more than twenty-five (25) feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the Watershed Map.
- D. Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
- E. Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to location of such boundaries. This decision may be appealed to the Watershed Review Board.

### **8.3.7 – Application of Regulations**

- A. No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.
- B. No area required for the purpose of complying with the provisions of this chapter shall be included in the area required for another building.
- C. Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in Section 8.3.7.
- D. If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

### **8.3.8 – Existing Development**

Any existing development as defined in this chapter may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this chapter. However, the built-upon area of the existing development is not required to be included in the density calculations.

- A. Vacant Lots – This category consists of vacant lots for which plats or deeds have been recorded in the office of the Register of Deeds of Chatham County. Lots may be used for any of the uses allowed in the watershed area in which it is located, provided the following:
  - (1) Where the lot area is below the minimum specified in this chapter, the Watershed Administrator is authorized to issue a Watershed Protection Permit.
  - (2) Notwithstanding the foregoing, whenever two or more contiguous residential vacant lots of record are in single ownership at any time after the adoption of this ordinance and such lots individually have less area than the minimum requirements for residential purposes for the watershed area in which such lots are located, as established by the N.C. Environmental Management Commission, such lots shall be combined to create one or more lots that meet the standards of this ordinance, or, if this is impossible, reduce to the extent possible the nonconformity of the lots.
- B. Occupied Lots – This category consists of lots, occupied for residential purposes at the time of the adoption of this ordinance. These lots may continue to be used provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after the adoption of this ordinance, and such lots individually or together have less area than the minimum requirements for residential purposes for the watershed area in which they are located as established by the N.C. Environmental Management Commission. Such lots shall be combined to create lots which meet the minimum size requirements or which minimize the degree of nonconformity.
- C. Uses of Land – This category consists of uses existing at the time of adoption of this ordinance where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:
  - (1) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
  - (2) Such use of land shall be changed only to an allowed use.

- (3) When such use ceases for a period of at least one year, it shall not be reestablished.
- D. Reconstruction of Buildings or Built-upon Areas – There are no restrictions on single family residential development. Any other existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed provided:
- (1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
  - (2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

### **8.3.9 – Watershed Protection Permit**

- A. No building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this chapter.
- B. Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Watershed Administrator.
- C. Prior to issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this chapter.
- D. A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

### **8.3.10 – Building Permit Required**

No permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

### **8.3.11 – Watershed Protection Occupancy Permit**

- A. The Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this ordinance have been met prior to the occupancy or use of a building hereafter erected, altered or moved and/or prior to the change of use of any building or land. The Watershed Protection Occupancy Permit may coincide with the final Building Inspections Permit.
- B. A Watershed Protection Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) days after the erection or structural alterations of the building.

- C. When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Protection Occupancy Permit certifying that all requirements of this chapter have been met coincident with the Watershed Protection Permit.
- D. If the Watershed Protection Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for the denial.
- E. No building or structure which has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a Watershed Protection Occupancy Permit.

## **8.4 – Public Health Regulations**

### **8.4.1 – Public Health, in general**

No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

### **8.4.2 – Abatement**

- A. The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
- B. The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations.
- C. Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

## **8.5 – Administration, Enforcement and Appeals**

### **8.5.1 – Watershed Administrator and Duties Thereof**

The Town shall appoint a Watershed Administrator, who shall be duly sworn in. It shall be the duty of the Watershed Administrator to administer and enforce the provisions of this chapter as follows:

- A. The Watershed Administrator shall issue Watershed Protection Permits and Watershed Protection Occupancy Permits as prescribed herein. A record of all permits shall be kept on file and shall be available for public inspection during regular office hours of the Administrator.
- B. The Watershed Administrator shall serve as clerk to the Watershed Review Board unless another person is appointed by the Town.

- C. The Watershed Administrator shall keep records of all amendments to this chapter of the Unified Development Ordinance and shall provide copies of all amendments upon adoption to the Supervisor of the Water Supply Watershed Protection Program in the NC Division of Water Quality.
- D. Reserved for Future Use
- E. The Watershed Administrator is granted the authority to administer and enforce the provisions of this chapter, exercising in the fulfillment of this responsibility the full police power of the Town. The Watershed Administrator, or his duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him by this ordinance.
- F. The Watershed Administrator shall keep a record of variances to the local Water Supply Watershed Protection Regulations. This record shall be submitted to the Supervisor of the Water Supply Watershed Protection Program in the NC Division of Water Quality on an annual basis and shall provide a description of each project receiving a variance and the reasons for granting the variance.

### **8.5.2 – Appeal from the Watershed Administrator**

Any order, requirement, decision or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

- A. An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty (30) days from the date of the order, interpretation, decision or determination is made. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken.
- B. An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown.
- C. The Board shall fix a reasonable time for hearing the appeal and give notice thereof to the parties and shall decide the same within a reasonable time. At the hearing, any party may appear in person, by agent or by attorney.

### **8.5.3 – Changes and Amendments to the Watershed Protection Regulations**

- A. The Town Governing Board may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

- B. No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal to the Chairman of the Watershed Review Board, the town Governing Board may proceed as though a favorable report had been received.
- C. Under no circumstances shall the Town Board adopt such amendments, supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Environmental Quality.

#### **8.5.4 – Public Notice and Hearing Required**

Before adopting or amending this chapter of the Unified Development Ordinance, the Town Governing Board shall hold a public hearing on the proposed changes. A notice of the public hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) nor more than twenty-five (25) days before the date fixed for the hearing.

#### **8.5.5 – Establishment of Watershed Review Board**

There shall be and hereby is created the Watershed Review Board consisting of a minimum of five (5) members appointed by the Town Governing Board. The Town of Goldston Board of Commissioners shall serve as the Watershed Review Board until such time as other members shall be appointed.

Appoint County Planning Director or his designee as Watershed Administrator and as Zoning Enforcement Officer /Town Planning Director

#### **8.5.6 – Rules of Conduct for Watershed Review Board Members**

Members of the Board may be removed by the Town Governing Board for cause, including violation of the rules stated below:

- A. Faithful attendance at meetings of the Board and conscientious performance of the duties required of members of the Board shall be considered a prerequisite to continuing membership on the Board.
- B. No Board member shall take part in the hearing, consideration, or determination of any case in which he is personally or financially interested. A Board member shall have a “financial interest” in a case when a decision in the case will: (1) cause him or his spouse to experience a direct financial benefit or loss, or (2) will cause a business in which he or his spouse owns a 10 percent or greater interest, or is involved in a decision making role, to experience a direct financial benefit or loss. A Board member shall have a “personal interest” in a case when it involves a member of his immediate family (i.e. parent, spouse, or child).
- C. No Board member shall discuss any case with any parties thereto prior to the public hearing on that case; provided, however, that members may receive and/or seek information

pertaining to the case from the Watershed Administrator or any other member of the Board, its secretary or clerk prior to the hearing.

- D. Members of the Board shall not express individual opinions on the proper judgment of any case prior to its determination on that case.
- E. Members of the Board shall give notice to the chairman at least forty-eight (48) hours prior to the hearing of any potential conflict of interest which he has in a particular case before the Board.
- F. No Board member shall vote on any matter that decides an application or appeal unless he had attended the public hearing on that application or appeal.

#### **8.5.7 – Powers and Duties of the Watershed Review Board**

- A. Administrative Review – The Watershed Review Board shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of the provisions of this chapter.
- B. Variances – The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this chapter as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this chapter’s regulations will result in practical difficulties or unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. In addition, the Town shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.
  - (1) Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:
    - a. A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; and surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of person who prepared the plan, date of the original drawing, and an accurate record of any later revisions and general vicinity map.
    - b. A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.
    - c. The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.
  - (2) Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:



- a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
    - i. If the applicant complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, the property. Merely providing that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting a variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of the property.
    - ii. The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.
    - iii. The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
    - iv. The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the ordinance, or who purchases the property after the effective date of the ordinance, and then comes to the Board for relief.
    - v. The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
  - b. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
  - c. In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- (3) In granting the variance, the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purpose of this chapter's regulations. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.
- (4) The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
- (5) A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Protection Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.
- (6) If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary

record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:

- a. The variance application;
  - b. The hearing notices;
  - c. The evidence presented;
  - d. Motions, offers of proof, objections to evidence, and rulings on them;
  - e. Proposed findings and exceptions;
  - f. The proposed decision, including all conditions proposed to be added to the permit.
- (7) The preliminary record shall be sent to the Environmental Management Commission for its review as follows:
- a. If the commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed variance is granted, and (2) the variance, if granted, will not result in a serious threat to the water supply, then the commission shall approve the variance as proposed or approve the proposed variance with conditions and stipulations. The commission shall prepare a Commission Decision and send it to the Watershed Review Board. If the commission approves the variance as proposed, the Board shall prepare a final decision granting the proposed variance. If the commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.
  - b. If the commission concludes from the preliminary record that the variance qualifies as a major variance and that (1) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (2) the variance, if granted, will result in a serious threat to the water supply, then the commission shall deny approval of the variance as proposed. The commission shall prepare a Commission Decision and send it to the Watershed Review Board. The Board shall prepare a final decision denying the variance as proposed.
- C. Subdivision Approval – See Section 8.2.
  - D. Public Health – See Section 8.4.
  - E. Approval of all development greater than the low density option (for future inclusion)

### **8.5.8 – Appeals from the Watershed Review Board**

Except as otherwise provided in Section 8.3.4(I)(5), an appeal of a Watershed Review Board decision must be filed with the Superior Court within 30 days from the date of the decision, and such decision of the Board is subject to review by the Superior Court by proceedings in the manner of certiorari.

## **CHAPTER 9: FLOOD DAMAGE PREVENTION**

### **9.1. STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

#### **9.1.1. STATUTORY AUTHORIZATION**

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143, and Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Commissioners of the Town of Goldston, North Carolina does ordain as follows:

#### **9.1.2. FINDINGS OF FACT**

(1) The flood prone areas of the Town of Goldston are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood prone areas by uses vulnerable to floods or other hazards.

#### **9.1.3 STATEMENT OF PURPOSE**

It is the purpose of this ordinance to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

#### **9.1.4. OBJECTIVES**

The objectives of this ordinance are:

- (1) to protect human life and health;

- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business losses and interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges that are located in flood prone areas;
- (6) to minimize damage to private and public property due to flooding;
- (7) to make flood insurance available to the community through the National Flood Insurance Program;
- (8) to maintain the natural and beneficial functions of floodplains;
- (9) to help maintain a stable tax base by providing for the sound use and development of flood prone areas; and,
- (10) To ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

## 9.2. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**Accessory Structure (Appurtenant Structure)** - means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

**Addition (to an existing building)** - means an extension or increase in the floor area or height of a building or structure.

**Alteration of a watercourse** - means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

**Appeal** - A request from a review of the local administrator's interpretation of any provision of this ordinance.

**Area of shallow flooding** - A designated A0 Zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet where a clearly defined channel

does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**Area of Special Flood Hazard** - see "Special Flood Hazard Area (SFHA)"

**Basement** - Any area of the building having its floor subgrade (below ground level) on all sides.

**Base flood** - The flood having a one (1) percent chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE)** - A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

**Best available data** - Information provided by the U.S. Army Corps of Engineers, other government agencies, or other competence sources such as a registered surveyor or engineer, which is prepared using standard accepted practices.

**Building** - see "Structure."

**Chemical Storage Facility** - A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

**Design Flood** - See "Regulatory Flood Protection Elevation."

**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, or storage of equipment or materials.

**Development Activity** - Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

**Digital Flood Insurance Rate Map (DFIRM)** - The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

**Disposal** - As defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including ground waters.

**Elevated building** - A non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**Encroachment** - The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**Existing building and existing structure** - Any building and/or structure for which the “start of construction” commenced before the initial date of this ordinance.

**Existing manufactured home park or manufactured home subdivision** - A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial date of this ordinance.

**Flood or flooding** - A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters; and,
- (2) the unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Boundary and Floodway Map (FBFM)** - An official map of a community, issued by the Federal Emergency Management Agency, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

**Flood Hazard Boundary Map (FHBM)** - An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

**Flood Insurance** - The insurance coverage provided under the National Flood Insurance Program.

**Flood Insurance Rate Map (FIRM)** - An official map of a community, issued by the Federal Emergency Management Agency on which both the Special Flood Hazard Area and the risk premium zones applicable to the community are delineated (*see also* “DFIRM”).

**Flood Insurance Study** - An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

**Flood Prone Area** - see “Floodplain”

**Floodplain** - Any land area susceptible to being inundated by water from any source.

**Floodplain Administrator** - The individual appointed to administer and enforce the floodplain management regulations.

**Floodplain Development Permit** - Any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

**Floodplain Management** - The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

**Floodplain Management Regulations** - This ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

**Flood proofing** - Any combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

**Flood-resistant material** - Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

**Floodway** - The channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**Floodway encroachment analysis** - An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

**Flood Zone** - A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**Freeboard** - The height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization on the watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

**Functionally dependent facility** - A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

**Hazardous Waste Facility** - As defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

**Highest Adjacent Grade (HAG)** - The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

**Historic Structure** - Any structure that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or (d) certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

**Letter of Map Change (LOMC)** - An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

**Light Duty Truck** - Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.



**Lowest Adjacent Grade (LAG)** - The lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

**Lowest Floor** - The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

**Manufactured home** - A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

**Manufactured home park or subdivision** - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market Value** - The building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

**NAVD 1988** – North American Vertical Datum of 1988

**New construction** - Structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage Prevention Ordinance and includes any subsequent improvements to such structures.

**Non-Conversion Agreement** - A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

**Non-conforming Lot of Record** - A lot existing at the effective date of this ordinance or any amendment to it (and not created for the purpose of evading the restrictions of this ordinance) that cannot meet the minimum requirements as prescribed herein.

**Non-Encroachment Area** - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

**Post-FIRM** - Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

**Pre-FIRM** - Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

**Principally Above Ground** - At least 51% of the actual cash value of the structure is above ground.

**Public Safety and/or Nuisance** - Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

**Recreational vehicle** - A vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and, (d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, (e) is fully licensed and ready for highway use.

For the purpose of this ordinance, "Tiny Homes/Houses" and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

**Reference Level** - The top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, or A99."

**Regulatory Flood Protection Elevation** - The "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus three (3) feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least five (5) feet above the highest adjacent grade.

**Remedy a violation** - To bring the structure or other development into compliance with State or community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**Riverine** - Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Salvage Yard** - Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

**Solid Waste Disposal Facility** - As defined in NCGS 130A-290(a)(35), any facility involved in the disposal of solid waste.

**Solid Waste Disposal Site** - As defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

**Special Flood Hazard Area (SFHA)** - The land in the floodplain subject to a one (1%) percent or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

**Start of construction** - The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, installation of piles,

construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**Structure** - For floodplain management purposes, a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

**Substantial damage** - Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement".

**Substantial improvement** - Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) any correction of existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or, (2) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Article 4 Section E of this ordinance.

**Technical Bulletin and Technical Fact Sheet** - A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

**Temperature Controlled** - Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

**Variance** - A grant of relief to a person from the requirements of this ordinance.

**Violation** - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

**Water Surface Elevation (WSE)** - The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**Watercourse** - A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

### **9.3. GENERAL PROVISIONS.**

#### **9.3.1. LANDS TO WHICH THIS ORDINANCE APPLIES.**

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction of the Town of Goldston.

#### **9.3.2. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated July 19<sup>th</sup>, 2022, for Chatham County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and any revision thereto.

#### **9.3.3. ESTABLISHMENT OF DEVELOPMENT PERMIT.**

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with Article 3, Section B of this ordinance.

#### **9.3.4. COMPLIANCE.**

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

#### **9.3.5. ABROGATION AND GREATER RESTRICTIONS.**

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

#### **9.3.6. INTERPRETATION.**

In the interpretation and application of this ordinance all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and, (3) deemed neither to limit nor repeal any other powers granted under State statutes.

#### **9.3.7. WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of

Goldston or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

### **9.3.8. PENALTIES FOR VIOLATION.**

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58.. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Goldston from taking such other lawful action as is necessary to prevent or remedy any violation.

## **9.4. ADMINISTRATION.**

### **9.4.1 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.**

The Mayor or designee is hereby appointed to administer and implement the provisions of this ordinance.

### **9.4.2. FLOODPLAIN DEVELOPMENT APPLICATION, PERMIT AND CERTIFICATION REQUIREMENTS.**

(1) **Application Requirements.** Application for a Floodplain Development Permit shall be made to the floodplain administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the floodplain administrator to apply for a floodplain development permit:

- (a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
  - (i) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
  - (ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Article 3, Section B, or a statement that the entire lot is within the Special Flood Hazard Area;
  - (iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Article 3, Section B;
  - (iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Article 3, Section B;
  - (v) the Base Flood Elevation (BFE) where provided as set forth in Article 3, Section B; Article 5, Section A and B ; or Article 5, Section D;

- (vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development;
  - (vii) certification of the plot plan by a registered land surveyor or professional engineer.
- (b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- (i) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
  - (ii) Elevation in relation to NAVD 1988 to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and
  - (iii) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or flood proofed;
- (c) If flood proofing, a Flood proofing Certificate (*FEMA Form 81-65*) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood proofing measures.
- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
  - (ii) Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B (4)(d), when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;
- (e) Usage details of any enclosed areas below the regulatory flood protection elevation.
- (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;
- (g) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)
- (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Article 5, Sections B (6 & 7) of this ordinance are met.
- (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both

upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

- (a) A complete description of all the development to be permitted under the floodplain development permit. (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- (b) The Special Flood Hazard Area determination for the proposed development per available data specified in Article 3, Section B.
- (c) The regulatory flood protection elevation required for the reference level and all attendant utilities.
- (d) The regulatory flood protection elevation required for the protection of all public utilities.
- (e) All certification submittal requirements with timelines.
- (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Article 5, Section F have been met,
- (g) The flood openings requirements, if in Zones A, AO, AE or A1-30.
- (h) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(3) **Certification Requirements.**

- (a) Elevation Certificates
  - (i) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
  - (ii) A final as-built Elevation Certificate (FEMA Form086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built

construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Flood proofing Certificate

**(i)** If non-residential flood proofing is used to meet the regulatory flood protection elevation requirements, a Flood proofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

**(ii)** A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

(c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required per Article 5, Section B (3).

(d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/flood proofing certification requirements specified in items (a) and (b) of this subsection:

(i) Recreational Vehicles meeting requirements of Article 5, Section B (6)(a);



- (ii) Temporary Structures meeting requirements of Article 5, Section B (7); and
  - (iii) Accessory Structures less than 150 square feet meeting requirements of Article 5, Section B (8).
- (4) Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

#### **9.4.3. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR.**

Duties of the local administrator shall include, but not be limited to:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- (2) Advise permittee that additional Federal or State permits may be required (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) and require that copies of such permits be provided and maintained on file with the development permit.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency.

- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.
- (5) Prevent encroachments within floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new or substantially improved structures, in accordance with Article 4, Section B (3).
- (7) Obtain the actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures have been flood proofed, in accordance with Article 4, Section B (3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with Article 4, Section B (3).
- (9) When flood proofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with Article 4, Section B (3) and Article 5, Section B (2).
- (10) Where interpretation is needed as to the exact location of boundaries of the areas of Special Flood Hazard Areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (11) When Base Flood Elevation (BFE) data has not been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Article 5, Section D (2)(b), in order to administer the provisions of this ordinance.
- (12) When Base Flood Elevation (BFE) data is provided but no floodway nor non-encroachment area data has been provided in accordance with Article 3, Section B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.
- (13) When the lowest ground elevation of a parcel or structure in a Special Flood Hazard Area is above the Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.
- (14) Permanently maintain all records pertaining to the administration of this ordinance and make these records available for public inspection.
- (15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on

any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

- (16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (17) Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (18) Make periodic inspections throughout all special flood hazard areas within the jurisdiction of the community. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (19) Follow through with corrective procedures of Article 4, Section D.
- (20) Review, provide input, and make recommendations for variance requests.
- (21) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with Article 3, Section B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

#### **9.4.4. CORRECTIVE PROCEDURES.**

- (1) **Violations to be Corrected:** When the local administrator finds violations of applicable State and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) **Actions in Event of Failure to Take Corrective Action:** If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
  - (a) that the building or property is in violation of the Flood Damage Prevention Ordinance;

- (b) that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and,
  - (c) that following the hearing, the local administrator may issue such order to alter, vacate, or demolish the building; or to remove fill as appears appropriate.
- (3) **Order to Take Corrective Action:** If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days. Where the administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.
- (4) **Appeal:** Any owner who has received an order to take corrective action may appeal from the order to the local elected governing body by giving notice of appeal in writing to the floodplain administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) **Failure to Comply with Order:** If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished in the discretion of the court.

#### 9.4.5. VARIANCE PROCEDURES.

- (1) The Town of Goldston Board of Commissioners as established by the Town of Goldston, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board or any taxpayer may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.
- (3) Variances may be issued for:
  - (a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.
  - (b) functionally dependent facilities if determined to meet the definition as stated in Article 2 of this ordinance, provided provisions of Article 4, Section E (9)(b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages.

- (c) any other type of development provided it meets the requirements stated in this section.
- (4) In passing upon such applications, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
- (a) the danger that materials may be swept onto other lands to the injury of others;
  - (b) the danger to life and property due to flooding or erosion damage;
  - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) the importance of the services provided by the proposed facility to the community;
  - (e) the necessity to the facility of a waterfront location as defined under Article 2 of this ordinance as a functionally dependent facility, where applicable;
  - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) the compatibility of the proposed use with existing and anticipated development;
  - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and,
  - (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.
- (9) Conditions for Variances:
  - (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
  - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (d) Variances shall only be issued prior to development permit approval.
  - (e) Variances shall only be issued upon:
    - (i) a showing of good and sufficient cause;
    - (ii) a determination that failure to grant the variance would result in exceptional hardship; and,
    - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance shall not be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas.

## **9.5. PROVISIONS FOR FLOOD HAZARD REDUCTION.**

### **9.5.1. GENERAL STANDARDS.**

In all Special Flood Hazards Areas the following provisions are required:

- (1) All new residential and non-residential construction and new structures shall be located outside the Special Flood Hazard Area. except as otherwise provided in this ordinance
- (2) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure;
- (3) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. These include, but are not limited to,

HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, appliances (washers, dryers, refrigerators, freezers, etc.), hot water heaters, and electric outlets/switches.

- (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
  - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system. New water supply wells shall be located outside the SFHA plain unless circumstances warrant otherwise, except for new residential construction on non-conforming lots of record as provided in Article 5, Section B (2). New and replacement water supply systems that need to be located in the floodplain must be reviewed and approved by the Floodplain Administrator.
  - (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters. New surface sewage disposal systems and repair areas shall be located outside the SFHA unless circumstances warrant otherwise, except for new residential construction on non-conforming lots of record as provided in Article 5, Section B (2). New and replacement sanitary sewer systems that need to be located in the floodplain must be reviewed and approved by the Floodplain Administrator.
  - (7) On-site waste disposal systems shall be located outside the SFHA unless circumstances warrant otherwise and constructed to avoid impairment to them or contamination from them during flooding. On-site waste disposal systems that need to be located in the floodplain must be reviewed and approved by the Floodplain Administrator.
  - (8) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the regulatory flood protection elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
  - (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or flood proofed to at least the regulatory flood protection elevation and certified according to Article 4, Section B (3) of this ordinance.
  - (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

- (11) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) Public or private roads and bridges serving more than three (3) subdivision lots shall have a travel way a minimum height of three (3) feet above the base flood elevation.
- (14) When a structure is partially located in Special Flood Hazard Area, the entire structure shall meet requirements or new construction and substantial improvements.
- (15) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (16) Pedestrian bridges, boardwalks, greenway trails, walkways, and canoe and boat access points may be permitted according to Article 4, Section B within Special Flood Hazard Areas and shall comply with the applicable standards of Article 5, Section F. Pedestrian bridges and boardwalks shall be prohibited across the Haw River, Rocky River, and Deep River.
- (17) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (18) Fill material shall only be allowed in Special Flood Hazard Areas when reasonably necessary for the elevation of structures in compliance with the standards of this ordinance or remediation of contaminated sites. The amount of fill material shall be the minimum necessary to meet the standards of this ordinance.

### 9.5.2. SPECIFIC STANDARDS.

In all Special Flood Hazard Areas where Base Flood Elevation data has been provided, as set forth in Article 3, Section B, or Article 5, Section B, the following provisions, in addition to Article 5, Section A, are required:

- (1) (a) **Residential Construction.** New residential construction shall be located outside the SFHA, except as provided in Article 5, Section B (1)(b). Substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than regulatory flood protection elevation, as defined in Article 2 of this ordinance.
- (b) Residential Construction on **Non-conforming Lots of Record.** Where the owner of a non-conforming lot of record does not own sufficient land to enable the owner to conform to the provisions of Article 5, Section B (1)(a), such lot may be used as a building site. Any new residential construction on a non-conforming lot of record shall have the reference level,



including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance.

(2) **Non-Residential Construction.** New non-residential construction shall be located outside of the SFHA. Substantial improvement of any existing commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article 2 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Article 5, Section G (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Article 4, Section B(3), along with the operational plan and the inspection and maintenance plan.

(3) **Manufactured Homes.**

- (a) New manufactured homes shall be placed outside the SFHA. Replacement manufactured homes for manufactured homes located within Special Flood Hazard Areas shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Article 2 of this ordinance
- (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by engineer certification, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- (c) All enclosures or skirting below the lowest floor shall meet the requirements of Article 5, Section B (4)).
- (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the floodplain administrator and the local Emergency Management coordinator.

(4) **Elevated Buildings.** Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

- (a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway

or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

- (b) Shall not be temperature-controlled or conditioned;
- (c) shall be constructed entirely of flood resistant materials below the regulatory flood protection elevation;
- (d) shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
  - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
  - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
  - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
  - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;
  - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) **Additions/Improvements.**

- (a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
  - (i) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
  - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction, as defined in Article 2 of this ordinance.

- (b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.
  - (c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
    - (i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction, as defined in Article 2 of this ordinance.
    - (ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction, as defined in Article 2 of this ordinance.
  - (d) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 1 year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the 1 year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
    - (i) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
    - (ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- (6) **Recreational Vehicles.** Recreational vehicles shall either:
- (a) Temporary Placement
    - (i) Be on site for fewer than 180 consecutive days; or
    - (ii) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)
  - (b) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

- (7) **Temporary Non-Residential Structures.** Prior to the issuance of a development permit for a temporary structure, the applicant must submit to the floodplain administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval;
- (a) a specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one year;
  - (ii) the name, address and phone number of the individual responsible for the removal of the temporary structure;
  - (iii) the time frame prior to the event at which a structure will be removed (i.e. minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);
  - (iv) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and; and
  - (v) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (8) **Accessory Structure.** When accessory structures (sheds, detached garages, etc.) are to be placed within the Special Flood Hazard Area, the following criteria shall be met:
- (a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
  - (b) Accessory structures shall not be temperature controlled;
  - (c) Accessory structures shall be designed to have low flood damage potential;
  - (d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
  - (e) Accessory structures shall be firmly anchored in accordance with Article 5, Section A (2);
  - (f) All service facilities such as electrical shall be installed in accordance with Article 5 Section A (5); and
  - (g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with Article 5, Section B (4)(c).
- An accessory structure shall be limited to a footprint of 150 square feet or less, shall satisfy the criteria outlined above, and not require an elevation or flood-proofing certificate.
- (9) **Tanks.** When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(b) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

**(10) Other Development.**

(a) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Article 5, Section F of this ordinance.

(b) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

(c) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Article 5, Section F of this ordinance.

**9.5.3. RESERVED**

#### **9.5.4. STANDARDS FOR FLOODPLAINS WITHOUT ESTABLISHED BASE FLOOD ELEVATIONS.**

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Article 3, Section B, where no Base Flood Elevations (BFE) data has been provided by FEMA, the following provisions, in addition to Article 5, Sections A and B, shall apply:

- (1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- (2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
  - (a) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Article 5, Sections A and B.
  - (b) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Article 5, Sections B and F.
  - (c) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Article 3, Section B and utilized in implementing this ordinance.
  - (d) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Article 2. All other applicable provisions of Article 5, Section B shall also apply.

#### **9.5.5. STANDARDS FOR RIVERINE FLOODPLAINS WITH BFE BUT WITHOUT ESTABLISHED FLOODWAYS OR NON-ENCROACHMENT AREAS.**

Along rivers and streams where BFE data is provided but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- (1) Standards outlined in Article 5, Sections A and B; and
- (2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development,

when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

#### **9.5.6. FLOODWAYS AND NON-ENCROACHMENT AREAS.**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Article 3, Section B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless it has been demonstrated that:
  - (a) the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the floodplain administrator prior to issuance of floodplain development permit, or
  - (b) a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.
- (2) If Article 5, Section F (1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:
  - (a) the anchoring and the elevation standards of Article 5, Section B (3); and
  - (b) the no encroachment standard of Article 5, Section F (1).

#### **9.5.7. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AO).**

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Article 5, Section A, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of three (3) feet, above the highest adjacent grade; or at least two feet above the highest adjacent grade plus a freeboard of three (3) feet if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be flood proofed to the same level as required in Article 5, Section G (1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable

to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required as per Article 4, Section B (3) and Article 5, Section B (2).

- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

#### **9.5.8. STANDARDS FOR AREAS OF SHALLOW FLOODING (ZONE AH).**

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Article 5, Sections A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

#### **9.6. LEGAL STATUS PROVISIONS**

##### **9.6.1. RESERVED.**

##### **9.6.2. RESERVED.**

##### **9.6.3. SEVERABILITY.**

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.