

Town of Newton Grove North Carolina

Zoning Ordinance

PREPARED BY
NORTH CAROLINA DEPARTMENT OF COMMERCE
DIVISION OF COMMUNITY ASSISTANCE
March 1996
Schedule of Amendments Attached

AN ORDINANCE PROVIDING FOR THE ZONING OF THE TOWN OF NEWTON GROVE, NORTH CAROLINA

SECTION 1. LEGAL PROVISIONS

1.1 PURPOSE

In order to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote public health, safety and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the efficient and adequate provisions of transportation, sewerage, schools, parks, and other public requirements; to conserve the value of buildings; and encourage the most appropriate use of land throughout the planning and development regulation district (corporate area and extra-territorial jurisdiction) , there is hereby adopted and established an official zoning ordinance of the Town of Newton Grove.

1.2 AUTHORITY

This zoning ordinance is adopted pursuant to the authority vested in the Town of Newton Grove by its charter and the General Statutes of North Carolina, particularly Chapter 160A & 160D [Local Planning and Development Regulation].

1.3 JURISDICTION

The provisions of this Ordinance shall apply within the corporate limits of the Town of Newton Grove, North Carolina, and within its extraterritorial jurisdiction as now or hereafter referred to as the Town's planning and development regulation district and as shown on the official zoning map on file in the Town Hall.

1.4 MINIMUM REGULATIONS

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul 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.

1.5 VALIDITY

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by the courts, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Commissioners hereby declares that it has passed this Ordinance 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.

1.6 PERMIT CHOICE

Permit Choice. Per G.S. 160D-108(b), if this ordinance is amended between the time a development permit application was submitted and a development permit decision is made or if this ordinance is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

1.7 BONA FIDE FARM EXEMPTION

The provisions of this ordinance shall not apply to bona fide farms. This ordinance does not exercise controls over crop lands, timber land, pasture lands, idle or other farm lands, nor over any farm house, barn, poultry house, other farm building including tenant or other houses for persons working on said farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this chapter without the need for regulation. Per G.S. § 160D-903, residences which are not occupied by the owner, lessee, or operator and other non-farm uses shall be subject to the provisions of this ordinance.

1.6 EFFECTIVE DATE

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

Approved and adopted by the Board of Commissioners this _____ day of _____.

Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

SECTION 2. OFFICIAL ZONING MAP AND ZONING DISTRICTS

2.1 ZONING MAP

For the purposes of this Ordinance, the Town of Newton Grove is hereby divided into several conventional zoning districts whose locations and boundaries are shown on the Official Zoning Map for the Town of Newton Grove which is hereby adopted by reference and declared to be a part of this Ordinance.

Per G.S. 160D-105, the Board of Commissioners has adopted a Zoning Map entitled "Official Zoning Map, Town of Newton Grove, NC" which is retained in the office of the Town Clerk. The Official Zoning Map and notations thereon are hereby designated, established, and incorporated as a part of these regulations and shall be as much a part of these regulations as if they were fully described herein. The maps may be in paper or a digital format approved by the town and may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the town clerk in accordance with G.S. 160A-79, shall be admissible into evidence and shall have the same force and effect as would the original map.

Development regulations adopted pursuant to this ordinance 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. When zoning district boundaries are based on these maps, the regulation may provide that the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated State or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection as provided in subsection this section.

2.2 CONVENTIONAL ZONING DISTRICTS

In order that the purpose of this Ordinance may be accomplished, the zoning districts are hereby established within the planning and development regulation jurisdiction described in Section 6, and are hereby given the following designations:

Residential District - R-20 Residential
Agricultural District - RA
Office and Institutional District - O & I
Neighborhood Business District - NBD
Thoroughfare Business District - TBD
Central Business District - CBD Industrial
District - I
Open Space District - OS

2.3 INTERPRETATION OF DISTRICT BOUNDARIES

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

- A. Unless otherwise specifically indicated, where district boundaries are shown on the Zoning Map as approximately parallel or following the center lines of streets, highways, railroad rights-of-way, utility easements, or stream beds, or such lines extended, then such lines shall be construed to be such district boundaries.
- B. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- C. Where a district boundary line divides a lot in single ownership, the requirements for the district in which the greater portion of the lot lies shall be extended to the balance of the lot, provided that such extension shall not include any part of such lot which lies more than fifty (50) feet beyond the district boundary, and further provided that the remaining parcel shall not be less than the minimum required for the district in which it is located.
- D. Where any public street or alley is hereafter officially vacated or abandoned, the regulations applicable to parcels of abutting property shall apply to that portion of such street or alley thereto by virtue of such vacation or abandonment.
- E. In instances where none of the above methods are sufficient to resolve the boundary location by the Administrative Officer, the Board of Adjustment shall be empowered to interpret the intent of the Zoning Map as to the location of district boundaries in case any further uncertainty exists.

SECTION 3. APPLICATION AND ENFORCEMENT

3.1 APPLICATION

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

3.2 ENFORCEMENT

A. ADMINISTRATIVE OFFICER

Per G.S. 160D-404, the Board of Commissioners shall appoint an Administrative Officer to enforce the provisions of this Ordinance. The assistance of such other persons may be provided as the Town Board may direct.

If the Administrative Officer determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this ordinance or other local development regulation or any State law delegated to the town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

Per G.S. 160D-109(c), the Administrative Officer shall not make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the Administrative Officer or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the Administrative Officer or such other staff person as may be designated by this ordinance.

The Administrative Officer shall not be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the Administrative Officer is the owner of the land or building involved. No staff member or other individual or an

employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the town, as determined by the town.

- B. **CERTIFICATE OF ZONING COMPLIANCE AND BUILDING PERMIT REQUIRED**
No land shall be used or occupied (except for agricultural purposes per G.S. 160D-903) and no building hereafter erected, structurally altered, or moved or its use changed until a Certificate of Zoning Compliance shall be issued by the Administrative Officer, except in conformity with the provisions of this Ordinance or except after written order from the Board of Adjustment.

A Building Permit cannot be issued by the Building Inspector unless zoning compliance is certified.

A record of all certificates shall be kept on file in the office of the Administrative Officer and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land involved.

C. **APPLICATION PROCEDURES**

Each application for a Certificate of Zoning Compliance shall be accompanied by two (2) sets of plans drawn to scale, one (1) of which shall be returned to the applicant upon approval. The plan shall show the following:

- (1) The shape and dimensions of the lot on which the proposed building or uses to be erected or conducted;
- (2) The location of 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 loading space and the means of ingress and egress to such space; and
- (6) Any other information which the Administrative Officer may deem necessary for consideration in enforcing the provisions of this Ordinance.
- (7) Required Driveway Permits (if applicable) from the Department of Transportation
- (8) A Sedimentation and Erosion Control Plan as submitted to the North Carolina Department of Environmental Quality for all land disturbing activity over one (1) acre

A fee, set by the Board of Commissioners, shall be charged for the processing of such application. The adopted fee schedule shall be posted in the Town Clerk's Office.

D. TEMPORARY CERTIFICATE

The Administrative Officer may issue a temporary Certificate of Zoning Compliance for rallies, carnivals, religious revivals, and similar uses. Such certificates shall be issued for a fixed period of time, but not to exceed ninety (90) days, shall be subject to such limitations as the Administrative Officer may impose to protect the character of the district affected, and may be considered for reapplication. A fee set by the Town Board shall be charged for the processing of such application. The adopted fee schedule shall be posted in the Town Clerk's Office.

E. RIGHT OF APPEAL

If the Certificate of Zoning Compliance is denied, the applicant may appeal the action of the Administrative Officer to the Board of Adjustment [referred to as an Administrative Appeal per G.S. 160D-405]; and that from the decision of the Board of Adjustment, recourse shall be had to superior court as provided by law. An appeal to the Board of Adjustment shall be made within thirty (30) days of the order, requirement, decision, or determination made by the Administrative Officer.

The Board of Adjustment may reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination with reference to the appeal through an evidentiary hearing and quasi-judicial decision.

The Administrative Officer who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the decision appealed from is taken. The Administrative Officer 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. PENALTY

Any person, firm, or corporation who violates the provisions of this Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined not exceeding fifty (\$50) dollars and/or imprisoned not exceeding thirty (30) days. Each day of violation shall be considered a separate offense.

G. REMEDIES

In any case any building is created, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this Ordinance, the Administrative Officer, or any other appropriate Town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation.

H. COMPLAINTS REGARDING VIOLATIONS

When a violation of this Ordinance occurs or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the cause and basis thereof and shall be filed with the Administrative Official. He shall record properly such complaint, investigate within ten (10) days, and take action thereon as provided in these regulations.

I. STOP WORK ORDER AND CANCELLATION OF PERMITS

Per G.S. 160D-404, whenever any work or activity subject to regulation pursuant to this ordinance or other applicable local development regulation or any State law delegated to the town for enforcement purposes in lieu of the State is undertaken in substantial violation of any State or local law, or in a manner that endangers life or property, staff may order the specific part of the work or activity that is in violation or presents such a hazard to be immediately stopped. The order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefor, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the town that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1112 and G.S. 160D-1208, a stop work order may be appealed pursuant to G.S. 160D-405. No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.

J. CERTIFICATE OF OCCUPANCY

No land shall be used or occupied, except for agricultural purposes, and no building hereafter structurally altered, erected, or moved shall be used or occupied until a certificate of occupancy shall have been issued by the Administrative Officer stating that the building and/or the proposed use thereof complies with the provisions of this Ordinance and any other appropriate regulatory codes. A like certificate shall be issued for the purpose of maintaining, renewing, changing, or extending a nonconforming use. A certificate of occupancy, either for the whole or part of a building, shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alterations of such a building, or part, shall have been completed in conformity with the provisions of this Ordinance and any other appropriate regulatory codes. A record of all certificates shall be kept on file in the office of the Administrative Officer and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building erected. No permit for excavation for, or erection of, a building, shall be issued until after a statement of its intended use has been filed by the applicant.

SECTION 4. NONCONFORMING USES

4.1 CONTINUANCE OF NONCONFORMING BUILDINGS

The nonconforming use of a building existing at the time of the passage of this Ordinance shall not be affected by this Ordinance, although if such use does not conform to the provisions of this Ordinance, such use may be extended throughout the building provided no structural alterations except those required by law or ordinance or ordered by an authorized officer to secure the safety of the building are made therein but no such use shall be extended to occupy and land outside such building. If such nonconforming building is removed or the nonconforming use of such building is discontinued for a continuous period of more than one hundred and eighty (180) days, every future use of such premises shall be in conformity with the provisions of this Ordinance. (Manufactured Home Parks existing at the time of the passage of this Ordinance shall not be treated as nonconforming uses; see Section 8.)

4.2 CONTINUANCE OF NONCONFORMING USES OF LAND

The lawful use of "land" existing at the time of the passage of this Ordinance, although such use does not conform to the provisions of this Ordinance, shall not be affected by this Ordinance provided, however, that no such nonconforming use be extended to occupy a greater area of land than that occupied by such use at the time of the passage of this Ordinance. If such nonconforming use is discontinued for a continuous period of more than one hundred and eighty (180) days, any future use of said land shall be in conformity with the provision of this Ordinance.

4.3 CHANGE OF USE

A nonconforming use shall not be changed to any but a use listed as permitted for the conventional zoning district in which such a nonconforming use is located. Uses not designated as permitted shall be prohibited by this Ordinance in the areas delineated by the Official Zoning Map of the Town.

4.4 RECONSTRUCTION PROHIBITED

Nothing in this Ordinance shall be construed to prevent the restoration of a building destroyed to the extent of not more than sixty (60) percent of its assessed value at the time of destruction by fire, explosion, or other casualty, if such construction is begun within one hundred and eighty (180) days of the date of such damage. Owner occupied residences which are nonconforming uses may be rebuilt regardless of the extent of the destruction.

4.5 NORMAL MAINTENANCE AND REPAIR OF NONCONFORMING USES Normal maintenance and repair in a building occupied by a nonconforming use is permitted provided it does not increase the bulk of the structure nor extend the nonconforming use.

SECTION 5. GENERAL PROVISIONS

5.1 REQUIRED YARDS NOT TO BE USED BY ANOTHER BUILDING

The minimum yards or other open spaces required by this Ordinance for each and every building hereafter erected, moved, or structurally altered shall not be encroached upon or considered as meeting the yard or open space requirements of any other building.

5.2 RELATIONSHIP OF BUILDING TO LOTS

Every building hereafter erected, moved, or structurally altered shall be located on a lot and in no case shall there be more than one principal building and its customary accessory buildings on the lot except in the case of designed complex of institutional, residential, commercial, industrial buildings in an appropriate zoning district, i.e., school campus, cluster housing, shopping center, research park, etc.

5.3 STREET ACCESS

No building shall be erected on a lot which does not abut a public street for a distance of at least twenty-five (25) feet provided, that in a designed shopping center in a commercial district, or a planned project in a residential district a building may be erected adjoining a parking area or other dedicated open space, used in common with other lots.

5.4 REDUCTION OF LOT AND YARD AREAS PROHIBITED

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

5.5 STANDARDS FOR EFFLUENT AND EMISSIONS

All effluents and emissions into the air or surface or ground water from new development permitted by this Ordinance must be in conformity with applicable state, county, or town Health and Environmental Quality regulations.

5.6 NEWLY INCORPORATED AREAS

All territory which may hereafter be included within the planning and development regulation jurisdiction of the Town of Newton Grove shall be zoned by the Board of Commissioners at the time of such incorporation per G.S. 160D.

5.7 LOT OF RECORD

A. AT THE ADOPTION OF THE ORDINANCE

Where the owner of a lot at the time of the adoption of this Ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, such lot may be used as a building site in the district in which it is located; provided, that the lot width and lot area are not more than twenty (20) percent below the minimum specified in this Ordinance. In any case where the lot area and lot width are more than twenty (20) percent below the minimum specified in

this Ordinance or other dimensional requirements cannot be met, the Board of Adjustment may approve, through the variance process, such dimensions as shall conform as closely as possible to the required dimensions.

B. AFTER ADOPTION OF THE ORDINANCE

A lot created after the effective date of this Ordinance shall meet the minimum, area width and yard requirements established by this Ordinance. However, the owner of such a lot or yard that does not meet the minimum requirements may use the Board of Adjustment procedures and requirements to petition below the minimum requirements. The Board of Adjustment will evaluate whether to grant the lot and yard variance in accordance with Section 11.

GENERAL PROVISIONS

5.8 ADJOINING AND VACANT LOTS OF RECORD

If two (2) or more adjoining and vacant lots of record are in a single ownership at any time after the adoption of this Ordinance and such lots individually have less frontage or area than the minimum requirements of the district in which such a single lot or several lots are located, the lands involved shall be considered to be an undivided parcel for the purposes of this Ordinance, and no portion of said parcel shall be used which does not meet lot width and area requirements established by this Ordinance, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Ordinance.

5.9 CURB CUTS GIVING ACCESS TO PUBLIC RIGHTS-OF-WAY

Construction of curb cuts for purposes of ingress or egress to property abutting a public right-of-way shall be approved by the public authority in the Town which has jurisdiction over the maintenance of public streets and the North Carolina Department of Transportation where said curbs affect access to State Highways. Provision for all access work done on highway right-of-way is subject to approval by the Department of Transportation.

5.10 HEIGHT LIMIT EXCEPTIONS

The height limitations contained in the schedule of district regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, mechanical equipment penthouses, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

5.11 ACCESSORY BUILDINGS

No accessory building shall be located in any required front or side yard but may be located to within five (5) feet of any rear property line or of a side property line when located behind the principal structure. (Amended 8/1999)

5.12 MANUFACTURED HOMES AS TEMPORARY USES

Manufactured homes may be allowed as temporary quarters in any district at the discretion of the Administrative Officer. Examples of permitted temporary quarters are construction offices and temporary disaster relief quarters for any type of use. Permits for 60-day periods of use must be obtained from the Administrative Officer, who can renew the permits for additional 60-day periods at his discretion. Appeal of the Administrative Officer's decisions [referred to as an Administrative Appeal per G.S. 160D-405] are to the Board of Adjustment.

5.13 TRAVEL TRAILERS AS TEMPORARY USES

The Administrative Officer may issue a temporary permit [not to exceed seven (7) days] allowing travel trailers to locate on lots provided that sanitary facilities are provided. Temporary permits may be renewed as long as the total stay for such trailers does not exceed twenty-one (21) consecutive days.

VESTED RIGHTS

The purpose of this section is to implement provisions of G.S. 160D-108 which establishes a statutory vested right upon the approval of a site specific vesting plan.

- A. Vested Right. A person claiming a statutory or common law vested right may submit information to substantiate that claim to the administrative officer designated by this ordinance, who shall make an initial determination as to the existence of the vested right. The decision of the Administrative 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.
- B. Vested Right – Sight Specific Vesting Plan. Per G.S. 160D-108.1, if a site-specific vesting plan is based on an approval required by this ordinance, 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. The Town 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 Board of Commissioners 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 this ordinance.

SECTION 6. CONVENTIONAL ZONING DISTRICT REGULATIONS

6.1 RESIDENTIAL DISTRICT (R-20)

The residential district is established to accommodate single-family and planned residential developments at minimum urban densities in areas where urban services are available, to stabilize existing residential areas by limiting conflicting uses from occurring in such residential areas; to prevent unduly dense development in areas not receiving urban services; and to enhance the prospects for future residential development in an orderly manner.

A. TABLE OF USES

Section 6.10 - Table of Uses lists the permitted by right and special uses allowed in the Residential (R-20) district.

B. DIMENSIONAL REQUIREMENTS

Single-family dwelling

Lot

Width	Minimum 100 feet
Area	Minimum 20,000 square feet (without publicsewer and water) Minimum 15,000 square feet (with public seweror water)

Yards		
	Front	Minimum 30 feet
	Rear	Minimum 25 feet
	Side	Minimum 15
	feetCorner Side	Minimum 25 feet
Building Height		Maximum 35 feet

Two-family dwelling (Special use, see Section 10)

Lot		
	Width	Minimum 150 feet
	Area	Minimum 30,000 square feet (without public sewer and water)
		Minimum 20,000 square feet (with public sewer or water)
Yards		Same as for a single-family dwelling
Building Height		Same as for a single-family dwelling

Multi-family dwellings (special use; see Section 10)

Lot		
	Width	Minimum 150 feet
	Area	Minimum 5,000 square feet per dwelling unit
Yards		
	Front	Minimum 30 feet
	Rear	Minimum 40 feet
	Side	Minimum 18 feet
Building Height		Maximum 40 feet
Lot Coverage		Maximum 40 percent of lot area

Other uses permitted in zone

Lot

Width Minimum 150 feet

Area Minimum 20,000 square feet

Yards

Front Minimum 30 feet

Rear Minimum 18 feet

Building Height Maximum 35 feet

C. Lot Coverage Maximum 50 percent of lot area **PARKING**

Off-street parking shall be provided according to the provisions set forth in Section 7 of this Ordinance.

6.2 RESIDENTIAL – AGRICULTURE DISTRICT (RA)

This district is composed of quiet, low density residential development and of open areas used as farm land and woodland. The regulations of this district are intended (1) to insure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at sufficiently low densities to insure a healthful environment and (2) to protect agricultural and residential areas from an influx of incompatible uses which would render such areas undesirable for farms and future development.

A. TABLE OF USES

Section 6.10 - Table of Uses lists the permitted by right and special uses allowed in the Residential (R-20) district.

B. DIMENSIONAL REQUIREMENTS

The following regulations limiting the bulk and arrangements of buildings shall govern all permitted and special uses in this district:

Lot

Width Minimum 150 feet

Area Minimum 30,000 square feet

Yards

Front Minimum 30 feet

Rear Minimum 35 feet

Side Minimum 15 feet

Building Height Maximum 35 feet

Lot Coverage The total ground area covered by the principal building and all accessory buildings shall not exceed 20 percent of the total lot area.

C. PARKING

Off-street parking shall be provided according to the provisions set forth in Section 7 of this Ordinance.

6.3 OFFICE AND INSTITUTIONAL DISTRICT (O & I)

The Office and Institutional District is established primarily for office and institutional uses which have limited contact with the general public and which cause no offensive noises, odors, smoke, fumes, or other objectionable conditions. This district is usually adjacent to residential districts.

A. TABLE OF USES

Section 6.10 – Table of Uses lists the permitted by right and special uses allowed in the Office and Institutional (OI) district.

B. DIMENSIONAL REQUIREMENTS

The following regulations limiting the bulk and arrangements of buildings shall govern all permitted and special uses in this district:

Lot

Width	Minimum 100 feet (for 20,000-square-foot lots) Minimum 80 feet (for 10,000 square-foot lots)
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Area	Minimum 20,000 square feet (without public sewer and water) Minimum 10,000 square feet (with public or community sewer or water)
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Yards

Front	Minimum 30 feet
Rear	Minimum 25 feet
Side	Minimum 15 feet
Corner Side	Minimum 25 feet

Building Height	Maximum 35 feet
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Lot Coverage	Maximum 80 percent of lot area including all impervious surfaces provided that site design includes stormwater control measures.
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C. REQUIRED BUFFER

Required buffer screen language is in Section 10.3.E.

- D. **PARKING**
Off-street parking shall be provided according to the provisions set forth in Section 7 of this Ordinance.
- E. **SIGNS**
All signs shall conform to the provisions set forth in Section 9 of this ordinance.

6.4 NEIGHBORHOOD BUSINESS DISTRICT (NBD)

The NBD Neighborhood Business District is established to provide goods and services for the frequent needs of neighborhood residents and to assure that operation of neighborhood business is not detrimental to adjacent residential uses.

- A. **TABLE OF USES**
Section 6.10 – Table of Uses lists the permitted by right and special uses allowed in the Neighborhood Business (NB) district.

- B. **REQUIRED BUFFERING**

Required buffer screen language is in Section 10.3.E.

- C. **OFF-STREET PARKING AND LOADING**

Off-street parking shall be provided according to the provisions set forth in Section 7 of this Ordinance.

- D. **DIMENSIONAL REQUIREMENTS**

	Lot	
	Width	Minimum 100 feet
Area	Minimum 6,000 square feet	
	Yards	
	Front	Minimum 20 feet
	Side	Minimum 18 feet adjacent to residential districts. In cases where a side yard is provided but not required or where the side yard abuts a public right-of-way, it shall be at least 10 feet in width.
	Rear	Minimum 20 feet
	Building Height	Maximum 35 feet

- E. **SIGNS**

All signs shall conform to the provisions set forth in Section 9 of this Ordinance.

6.5 THOROUGHFARE BUSINESS DISTRICT (TBD)

The principal use of land in this district shall be for the wholesaling and retailing of durable goods and services and for planned shopping areas located adjacent to major thoroughfares leading into and around the developed areas. This district is also designed to encourage the provision of services to travelers.

A. DIMENSIONAL REQUIREMENTS

Lot
Width 100 feet

Area 20,000 square feet (30,000 feet where not provided with public sewer and water)

Yards

Front Minimum 50 feet. A strip at least 15 feet wide adjoining the street shall be devoted to sidewalks, grass, and plants and necessary entrances and exits of driveways. Off-street parking shall not be permitted in this minimum required front yard area.

Side Minimum 15 feet adjacent to residential districts. In cases where a side yard is provided but not required or where the side yard abuts a public right-of-way, it shall be at least 10 feet in width.

Rear Minimum 25 feet

Building Height Maximum 35 feet

B. TABLE OF USES

Section 6.10 – Table of Uses lists the permitted by right and conditional uses allowed in the Thoroughfare Business (TB) district.

C. REQUIRED BUFFERS

Required buffer screen language is in Section 10.3.E.

D. OFF-STREET PARKING

Off-street parking shall be provided according to the provisions set forth in Section 7 of this Ordinance.

E. SIGNS

All signs shall conform to the provisions set forth in Section 9 of this Ordinance.

G

6.6 CENTRAL BUSINESS DISTRICT (CBD)

The principal use of land in this district shall be for concentrated business development. Regulations are intended to encourage the construction of and the continued use of the land for downtown commercial and service areas; and to prohibit heavier commercial and industrial uses which would substantially interfere with the orderly growth of the district to meet the needs of increased populations in the market area.

A. TABLE OF USES

Section 6.10 – Table of Uses lists the permitted by right and special uses allowed in the Central Business (CB) district.

B. DIMENSIONAL REQUIREMENTS

No front yards are required.

Minimum required depth of rear yard - 10 feet.

No side yards are required except on lots that are adjacent to residentially zoned lots. These lots shall have a minimum of twenty (20) foot side yards. In instances where a side yard is provided although not required, it shall be at least ten (10) feet in width.

No building shall exceed forty (40) feet in height.

C. OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided according to the provisions set forth in Section 7 of this Ordinance, with the following exceptions:

1. Hotels, motels, and similar uses shall meet the parking requirements of Section 7.1.E.
2. Banks and other establishments with drive-in windows shall file a circulation plan providing adequate off-street waiting lanes for drive-in customers.
3. The Administrative Officer may provide an administrative modification for the parking requirements when an alternative parking plan is provided.

D. SIGNS

All signs shall conform to the provisions set forth in Section 9 of this Ordinance.

6.7 INDUSTRIAL DISTRICT (I)

This district includes warehousing, mixed industrial, and industrial- heavy commercial type uses. The purpose is to promote and protect both existing industrial activities and potential sites where urban services are available and which are considered suitable for continued or future industrial use; to prohibit uses or land which would substantially interfere with the continuation of uses permitted in the district; and to promote the operation of industrial facilities in a relatively clean and quiet manner.

A. TABLE OF USES

Section 6.10 – Table of Uses lists the permitted by right and special uses allowed in the Industrial (I) district.

B. DIMENSIONAL REQUIREMENTS

Lot

Width	Minimum 100 feet
Area	Minimum 1 acre

Yards

Front	Minimum 50 feet A strip at least 15 feet wide shall be devoted to sidewalks, plantings, and necessary driveways. Off-street parking shall not be permitted in front yard area.
Side	Minimum 20 feet
Rear	Minimum 25feet

Building Height	Maximum building height, 40 feet, unless the depth of front yard and total width of side yards required be increased 5 feet for each 10 feet or fraction thereof of building height in excess of 40 feet.
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Lot Coverage	Total ground area covered by the principal building and all accessory buildings shall not exceed fifty (50) percent of the total lot area.
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C. REQUIRED BUFFERS

Required buffer screen language is in Sections 10.3.E.

D. OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided according to the provisions set forth in Section 7 of this Ordinance.

E. SIGNS

All signs shall conform to the provisions set forth in Section 9 of this Ordinance.

F. DEVELOPMENT STANDARDS

No building or land shall be used and no building shall be hereafter erected or structurally altered for the purpose of conducting any of the uses listed in this section within any of the various districts as established by this chapter, unless plans for the abatement of noise, odor, smoke, ignitable corrosive, toxicity, or other nuisance or menace to the public welfare which may be created by such activity are submitted to the town board after recommendation from the planning board. These plans shall include a statement of the level of noise, odor, smoke, or other emissions which is to be emitted from such installation, using a recognized standard of measurement. If the board finds after public hearing as required for amendments to this chapter that the use will not be detrimental to the public health, safety, and welfare, they may issue a special use permit to allow the use in the industrial district. If at any time any of the following uses exceeds the level of emission as stated in the application for a special use permit, the use shall be discontinued until such time as the stated level is reached:

1. Explosives.
2. Gases.
3. Flammable and Combustible Liquids.
4. Flammable Solids.
5. Oxidizing Substances, Organic Peroxides.
6. Toxic Substances and Infectious Substances.
7. Radioactive Materials.
8. Corrosives.
9. Miscellaneous Hazardous Materials.

6.8 OPEN SPACE DISTRICT (0-S)

The open space district is established as a district in which the primary use of the land is predominantly reserved for the conservation and enhancement of natural resources, flood control, public recreation, community facility sites, natural or man-made bodies of water, forests, and other similar open space uses. In promoting the general purposes of this Ordinance, the specific intent of this subsection is:

1. To encourage the preservation of, and continued use of, the land for conservation purposes.
2. To prohibit residential, commercial, and industrial use of the land, and to prohibit any other use which would substantially interfere with the preservation of this district.
3. To encourage the discontinuance of uses that would not be permitted as uses in the district.

A. PERMITTED USES

- B. The permitted uses for the Open Space (OS) district are shown in Section 6.10 – Table of Uses. They also include: buffers, roads, cemeteries, soil conservations districts, streets, watersheds, highways, and railroad tracks. **DIMENSIONAL REQUIREMENTS**

There shall be no minimum lot areas, widths, or yards required due to the exceptional physical characteristics of this zoned district.

6.9 USE STANDARDS

The following use standards are to be used with Section 6.10 Table of Uses.

Accessory use and structure

Any use or structure customarily incidental to a principal use or structure or to a conditional use for which a permit has been issued.

Accessory building to residential use, provided that no accessory building shall be rented or occupied for gain and provided that no accessory building shall be constructed upon a lot until the construction of the main building has commenced. For residential lot less than 40,000 square feet, two (2) accessory uses shall be allowed; for residential lots 40,000 square feet or more, three (3) accessory uses are allowed; for every additional 20,000 square feet (over 40,000), one (1) additional accessory building shall be allowed.

Automobile, vehicle wrecking and salvage yard

This facility and similar types of used material industry when conducted within a structure or on a lot enclosed by a solid fence at least six (6) feet in height, provided that the Town Board finds that such a wrecking yard will not have an injurious effect on the public interest or welfare.

Construction trailer - temporary

A manufactured home or unit or trailer that is used as a temporary office or commercial establishment while permanent quarters are being constructed. Should construction not begin within (6) months of the establishment of the temporary use, such use must be discontinued. However, the Board of Zoning Adjustment may extend the temporary zoning compliance permit for an additional six (6) months if the Board receives adequate assurances that construction of the permanent building will commence within the extended time period.

Industrial shop, repair and trade

Shop such as carpentry, electrical, plumbing, heating and ventilating, upholstery, decorating, paint, and sign shops. Provided that all materials are stored and operations shall take place within an enclosed building.

Telecommunication Facilities

A. Defined

Telecommunication facilities are towers and antennas that are greater than 60 feet in height; or the facilities have the following characteristics: a set of equipment and network components exclusive of the underlying wireless support structure or tower; may include antennas, transmitters, receivers, base stations, power supplies, and cabling; and associated equipment necessary to provide wireless data and telecommunication services to a discrete geographic location.

B. Zoning Districts Allowed

A telecommunication facility is permitted with a Conditional Use Permit in the following zoning districts: Residential Agricultural (RA); Office Institutional (OI); Thoroughfare Business (TB); and Industrial (I) as shown in Section 6.10 Table of Uses.

C. Permit Application

The submitted Special Use Permit application shall contain the following information.

1. Identification of the intended user(s) of the tower.
2. A site plan showing the site of the proposed tower and all existing structures within 500 feet thereof drawn to scale, including descriptions of the color and nature of exterior material.

3. A landscape plan drawn to the same scale as the site plan showing existing and proposed trees, shrubs, ground cover, and other landscape materials.
4. Documentation by the applicant that no suitable existing facilities within the coverage area are available to the applicant.
5. Documentation provided by a registered engineer that the tower has sufficient structural integrity to accommodate more than one user.
6. A statement indicating the owner's intent to allow shared use of the tower and how many other users can be accommodated.
7. Documentation from applicable State or Federal agencies indicating requirements that affect the appearance of the proposed tower, such as lighting and coloring.
8. A statement shall be submitted indicating that the proposed facility and its equipment will comply with all Federal, State, and local emission requirements.

D. Cessation of Use

It shall be the responsibility of the applicant and landowner to remove the tower and all associated components within 12 months of the cessation of use.

E. Setbacks

When located on property adjacent to a residential zoning district, minimum setbacks from the base of the tower to the property line shall be equal to the height of the tower at its highest point. When located on property adjacent to non-residential zoning districts, minimum setbacks from the base of the tower to the property line shall be 20% of the tower height, or the minimum required setback, whichever is greater.

F. Security Fencing

Security fencing shall be provided around the tower base or around the perimeter of the site. Vegetation for use as a buffer shall be located on the outside of the fence.

G. Visual Characteristics and Lighting

The color of the tower shall be a natural tone, except to the extent required by law, so as to minimize its visual impact. No commercial advertisements may be located on the tower. The tower will not be artificially lighted unless required by the FAA, FCC, or

6.9.1 Accessory Use and Structure

Any use or structure customarily incidental to a principal use or structure or to a special use for which a permit has been issued.

No accessory structures or use shall be allowed on any lot where a principal structure does not exist.

Accessory structures and uses shall not involve operations or structures not in keeping with the character of the primary use or the principal structure served.

An accessory structure/use shall be located in the same zoning district as the principal use.

Structures such as storage sheds, garden sheds and similar structures shall be considered accessory buildings, even though they may be capable of being lifted or disassembled and removed from the property.

No tent, mobile home, camper, travel trailer, nor any other temporary, portable or removable trailer, container, vehicle or structure of any kind shall be considered an accessory structure, whether or not the wheels, axles and/or tongue have or has been removed and whether or not the container, structure or vehicle as described herein has been placed on a foundation, except as hereinafter described.

Residential use, accessory structures may occupy up to ten (10) percent of the gross lot area, must be built a minimum of ten (10) feet from any lot line or other structure(s). Except for attached garages, all accessory structures shall be built to the rear of the principal structure. In no case shall the total aggregate square footage of residential accessory structure(s) on a given lot exceed the square footage of the principal structure.

Non-residential use, accessory structure may occupy up to fifteen (15) percent of the gross lot area, must be built a minimum of ten (10) feet from any lot line or other structure or separated the distance prescribed for fire protection, whichever is greater. Non-residential accessory structures are allowed in the side yard and the rear yard of a non-residential lot. The total aggregate square footage of non-residential accessory structures on a given lot shall not exceed the square footage of the principal structure, unless permitted by a special use permit.

Residential lots shall not have in excess of two (2) accessory structure except for granny pods not exceeding 300 square feet or a swimming pool or a pool house not exceeding 150 square feet are permitted.

Non-Residential lots shall not have in excess of three (3) accessory structures unless permitted by special use permit.

No accessory structure shall be placed between the roadway right of way on which the primary structure fronts and the front building line of the principal structure.

Accessory structures numbers limitation and size limitation on a given property are exempt if the property is identified as having farm tax identification number. The setbacks for farm property shall be the same as other accessory structures.

Accessory structures shall be in accordance the Section 10 Storm Water Management. *(we must create the Storm Water Management Section 10 to make this statement binding....presently it is questionable whether or not Newton Grove has an enforceable storm water ordinance....the easiest thing to do is to require that the any construction comply with the state's stormwater control ordinance....*

other Federal or State agency. Where such agencies allow a choice between painting the tower or installing strobe lighting, painting shall be the preferred choice.

H. Fall Zone Buffer

A facility located on the ground or top of a tower accessory structure are required to incorporate a fall zone buffer which is a land buffer around a tower base to provide for containment of the tower to the site in the event that it falls.

I. Co-Location Encouraged

To further encourage co-location, additional users and associated equipment that do not add to the tower’s height may be added without additional approval. However, additional building code regulations may apply.

Water and sewer treatment plant

All structures except fences shall be set back from all property lines by at least one foot for every foot of structure height. All such structures shall be architecturally in keeping with surrounding development.

Wholesale storage, distribution and sales of petroleum

This facility shall not have above-ground storage tank closer than fifty (50) feet to any property line. This use shall conform with state, county, and town regulation governing the storage of combustible fuel.

6.10 TABLE OF USES

Section 6.10 Table of Uses

See Section 6 District Regulations for Information.

RA = Residential – Agricultural OI = Office and Institutional TB = Thoroughfare Business I = Industrial

R-20 = Residential

NB = Neighborhood Business

CB = Central Business

OS = Open Space

“p” = Permitted by right; “s” = Special use permit; “d” = Development standards.

List of Uses	RA	R-20	OI	NB	TB	CB	I	OS
Agriculture and Farming Uses								
Agriculture (including orchards, pasturage, and field crop, but not including commercial production of swine, poultry, or poultry product)	p	p					p	
Nature preserve, cemetery, open space land, commons, parking, crop field, park, trail, pasture, tree farm, horse path, public building. <i>Note: golf course is listed in recreational use</i>								p
Residential Uses								
Manufactured Home, Class “B” (Singlewide)	p							
Manufactured Home, Class “A” (Doublewide)	p	s						
Manufactured home park (see Section 8 standards)	s, d							
Dwelling, single family	p	p						
Dwelling, two family (<u>duplex</u>)	s	s						
Dwelling, multifamily (served by public water and sewer)	s	s						
Boarding house	s		s	s				
Family Care Home (NCGS 160D-907)	p	p						
Temporary Health Care Structure (NCGS 160D-915)	p	p						
Education, Government and Institution Uses								
Cemetery	s	s						
Library			p	p	p	p		
Office for government and service			p	p	p	p		
Public building providing office or service, with no outside storage or maintenance yard permitted			s	s	p	p	p	

Section 6.10 Table of Uses

See Section 6 District Regulations for Information.

RA = Residential – Agricultural OI = Office and Institutional
 R-20 = Residential NB = Neighborhood Business
 “p” = Permitted by right; “s” = Special use permit.

TB = Thoroughfare Business I = Industrial
 CB = Central Business OS = Open Space

List of Uses	RA	R-20	OI	NB	TB	CB	I	OS
Religious use, including church and other place of worship; religious education building and parish house	p	p	p	p	s	p		
School, college, library, public institution	s	s	p	p	p	p		
Recreational Uses								
Club facility, meeting hall, lodge, and athletic facility	s	s	p					
Golf course	s	s						s
Social use, such as social hall, lodge, fraternal organization, club and similar activity				s	p	p		
Public park and recreation facility (indoor and outdoor)	p	p	p	p	p	p		p
Recreation, private non-profit (outdoor)	s	S						
Recreation use, such as bowling alley, miniature golf course, driving range and similar recreation			p	p	p	p		
Commercial Uses								
Animal hospital, kennel					s			
Bank			p	p	p	p		
Bed and breakfast inn	s	s	p	p				
Clinic, medical and dental			p	p	p	p		
Day care center, nursery	s	s	p	p				
Florist				p	p	p		

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List of Uses	RA	R-20	OI	NB	TB	CB	I	OS
Food and beverage store, general and specialty				p	p	p		
Funeral home, mortuary			p	p	p	p		
Hospital, nursing home, rehabilitation clinic, rest home, medical and dental clinic			s	s	p	p		
Hotel, motel					p	p		
Laundry, dry cleaner				p	p	p		
Laundromat, coin operated				p	p	p		
Office: business, professional, government and organizational purpose			p	p	p	p		
Eating establishment, restaurant				s	p	p		
Drug store				p	p	p		
Farm supply store	s			p	p	p	p	
Shop: repair, trade, carpentry, electrical, plumbing, heating and air conditioning, upholstery, decorating, paint, and signs				p	p	p	p	
Retail and service store				p	p	p		
Barber and beauty shop				p	p	p		
Service station and other auto oriented commercial establishment				s	p	p	p	
Shopping center				s	p	p		

Gift shop				p	p	p		

Section 6.10 Table of Uses

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List of Uses	RA	R-20	OI	NB	TB	CB	I	OS
Auto and vehicle sales and service					p			
Theater, movie				s	p	p		
Industrial Uses								
Automobile, vehicle wrecking and salvage yard (see standards Sections 6.7D and 6.9)							s, d	
Fertilizer manufacture and sale (see standards Section 6.7D)							s, d	
Wholesale storage, distribution and sale of petroleum. (see standards Sections 6.7D and 6.9)							s, d	
Industry conforming to requirements (Section 6.7D)							s, d	
Manufacture, assembly, process industry: (indoor only). See requirements (Section 6.7D)				s,d	s,d	s,d	s,d	
Manufacture, assembly, process industry: (outside activity allowed only). See requirements (Section 6.7D)							s,d	
Industrial shops, repair and trade (see standards Section 6.9) <i>Move wording to Section 6.9</i>					p, d	p, d	p, d	
Wholesale establishment not including salvage and used parts sales							p	

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List of Uses	RA	R-20	OI	NB	TB	CB	I	OS
Transportation, Warehouse and Utility Uses								
Parking lot	p	p	p	p	p	p	p	p
Utility line, pump station, related facility	p	p	p	p	p	p	p	p
Solar array medium facility					s, d		s, d	
Solar array large facility							s, d	
Storage, including mini storage, self storage: indoor storage only					p	p	p	
Storage, including mini storage, self storage, indoor and outdoor storage–							p	
Telecommunication facilities (See standards Section 6.9)	s		s		s		s	
Wholesale, warehouse, and transfer activity							p	
Water and sewer treatment plant (See standards Section 6.9)							s, d	
Accessory and Temporary Uses								
Accessory use and structure (for residential standards see Section 6.9)	p, d	p, d	p	p	p	p	p	p
Storage, including mini storage, self storage: indoor and outdoor storage–							p	
Telecommunication facilities (See standards Section 6.9)	s		s		s		s	

Section 6.10 Table of Uses

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List of Uses	RA	R-20	OI	NB	TB	CB	I	OS
Circus, carnival, fair							s	
Home occupation	p	p						
Construction trailer - temporary (See standards Section 6.9)	s, d	s, d	s, d	s, d	s, d	s, d	s, d	s, d
Solar array accessory use	p, d	p, d	p, d	p, d	p, d	p, d	p, d	p ¹ , d
Taxi stand						p		

1. Shall only be permitted as part of a public building.

SECTION 7. OFF-STREET PARKING AND LOADING

7.1 OFF-STREET PARKING REQUIREMENTS

Off-Street automobile parking or storage space shall be provided on the same lot as the principal use except in the Central Business District and as provided in Section 7.1 C below at the time or 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, in the amount specified by this section. Such parking space may be provided in a covered parking structure or properly graded open space.

A. CERTIFICATION OF MINIMUM PARKING REQUIREMENTS

Each application for a zoning permit submitted to the Zoning Administrator as provided for in this Ordinance shall include information as to the location and dimensions of off-street parking and loading space and the means of exit and entrance to such space. This information shall be in sufficient detail to enable the Zoning Administrator to determine whether or not the requirements of this section are being met and to provide an administrative modification to waive parking requirements for the CBD only.

B. JOINT USE OF REQUIRED PARKING SPACE

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

C. REMOTE PARKING SPACE

If the off-street parking space required by this Ordinance cannot be reasonably provided on the same lot on which the principal use is located, such space shall be provided on any lot a substantial portion of which is within five hundred (500) feet of the main entrance of such principal use,

provided such land is in the same ownership as the principal use or leased on a long-term basis for the specific purpose to serve as parking space for the aforesaid principal use.

D. IMPROVEMENT AND LOCATION STANDARDS

1. All off-street parking, including entrances, exits, and maneuvering and parking areas shall:

(a)

Have the access drive(s) paved from

the existing street paving to a point at least fifteen (15) feet beyond the public right-of-way, except that residential uses requiring less than five spaces shall be exempt from this paving requirement.

(b) Be permanently maintained by the owners.

(c) To the extent practical, adjoining parking lots serving non-residential buildings shall be interconnected.

2. In addition all parking lots that are used regularly at least five days per week, except as provided below, shall be paved up to the required paved driveway. This paving requirement shall not apply to:

(a) Parking lots used only by churches, private clubs, or similar organizations on an irregular schedule, and

(b) Parking lots for residential uses where less than five spaces are required.

3. A strip of land at least five (5) feet wide adjoining any street line or any property zoned for residential uses shall be reserved as open space, guarded with wheel bumpers and planted with shrubbery..

E. OFF-STREET PARKING REQUIREMENTS

Off-street parking space shall be provided with vehicular access to a street or alley; such use shall not thereafter be encroached upon or altered.; and shall be equal in number to at least the minimum requirements for the specific uses set forth below: .

Use Classification

Parking Space Requirement

Auditorium or Theatre One (1) space for each four (4) seats in the largest assembly area.

Banks	One (1) parking space for each two hundred square feet of gross floor space plus one (1) space for each two (2) employees.
Bowling Alley	Three (3) spaces per alley plus requirements for any other use associated with the establishment such as a restaurant, etc.
Church	One (1) space for each four (4) seats in the main chapel.
Club or Lodge	One (1) space for each two hundred (200) square feet of gross floor space.
Golf Courses	Four (4) spaces for each hole plus requirements for any other use associated with the golf course (restaurant, etc.).
Home Occupation	In addition to residence requirements one (1) parking space per five hundred (500) square feet of floor space devoted to the home occupation use.
Hospital	One (1) parking space for each two (2) beds plus one (1) space for each two (2) employees (nurses, attendants, etc.) plus one (1) space for each staff or visiting doctor.
Nursing Home	One (1) parking space for each two (2) beds plus one (1) space for each two (2) employees (nurses, attendants, etc.) plus one (1) space for each staff or visiting doctor.
Hotel	One (1) space for each room to be rented plus one additional space for each two (2) employees.
Industrial or Manufacturing Establishment or Warehouse	One (1) space for each two (2) employees on shift of greatest employment, one (1) parking space for each managerial personnel, one (1) visitor parking space for each ten (10) managerial personnel and one (1) space for each vehicle used directly in the conduct of the business.

Kindergarten or Nursery	One (1) space for each employee and four (4) spaces for off-street drop-off and pick-up.
Library	One (1) space for each three (3) seats provided for patron use.
Medical and Dental Offices	Four (4) spaces for each physician or dentist practicing at the clinic, plus one (1) space for each employee.
Mortuary or Funeral Home	One (1) space for each four (4) seats in the assembly room or chapel.
Motel, Motor Court or Tourist Home	One (1) space for each unit plus one (1) space for each two (2) employees plus requirements for any other use associated with the establishment.
Offices, Business and Public	One (1) space for each two hundred (200) square feet of floor area.
Offices, Professional	One (1) parking space for each employee plus three (3) spaces for each professional member of the staff.
Restaurant, Cafe, Tavern or Other Place Serving Food or Drink	One (1) space for each three (3) seats plus one (1) space for each two (2) employees.
Restaurant, Drive-In	One (1) space for each three (3) seats plus a minimum of fifteen (15) spaces for drive-in service plus one (1) space for each two (2) employees.
Rooming and Boarding Houses	One (1) space for each two (2) guest rooms, plus one (1) additional space for the owners.

Retail Uses Not Otherwise Listed	One (1) parking space for space for each one hundred (100) each one hundred (100) square feet of gross floor area.
School, Elementary And Junior High	One (1) space for each classroom and administrative office plus administrative office plus adequate facilities for school bus parking and convenient loading and unloading of students.
Service Station	Five (5) spaces for each lubrication rack and one (1) space for each two (2) employees.
Shopping Center	One (1) parking space for every one hundred fifty (150) square feet of overall floor area.
Multi-Family Residence	One and one-half (1 1/2) spaces for each dwelling unit.
Single Family Residence and Duplex	Two (2) spaces for each dwelling unit.
Stadium	One (1) space for each eight (8) seats.

Special situations which are not covered by the above shall be handled by the Administrative officer. In such cases the Administrative Officer shall make the final determination as to the number of spaces to be required, but shall in all cases give due consideration to the needs and space available, and shall classify the proposed use in one of the categories listed above.

7.2 OFF-STREET LOADING

A. OFF-STREET LOADING AND UNLOADING SPACE REQUIREMENTS Every building or structure used for business, trade, or industry hereafter erected, shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have adequate access to an alley or in the absence of an alley, a public street. For the purposes of this section, an off-street loading space shall have minimum dimensions of twelve (12) feet by fifty (50) feet exclusive of adequate access drives and maneuvering space, and overhead clearance of fifteen (15) feet in height above the alley or street grade. A loading space requirement may be modified or waived by the Board of Adjustment on application in the case of a bank, auditorium, theatre, assembly hall, or other building of similar limited space requirement.

B. NUMBER OF REQUIRED OFF-STREET LOADING SPACES

<u>SQUARE FEET OF GROSS FLOOR AREA</u>	<u>REQUIRED NUMBER OF SPACES</u>
0 - 25,000	1
25,000 - 40,000	2
40,000 - 100,000	3
100,000 - 160,000	4
160,000 - 240,000	5
240,000 - 320,000	6
320,000 - 400,000	7
Each 90,000 above 400,000	1

SECTION 8. MANUFACTURED HOME PARKS

Although Manufactured Home Parks are allowed with the approval of a special use permit in the RA district, they are not allowed as either a permitted or special use in the other zoning districts within the town limits of Newton Grove. In-town manufactured home parks are not considered prior existing non-conforming uses as discussed in Section 4.

Existing mobile home parks will be allowed to continue operation only by complying with the following:

8.1 PERMITS

1. It shall be unlawful for any person to maintain or operate a manufactured home park within the planning and development regulation jurisdiction of this ordinance unless such person shall first obtain from the Board of Commissioners a Manufactured Home Park Operating Permit as described below.
2. The Manufactured Home Park Operating Permit shall be issued and subsequently renewed if the Town finds that all the provisions of this ordinance are being met.
3. No Manufactured Home Park Operating Permit shall be issued for any manufactured home park until the compliance plan has been approved by the Town Board.
4. A Temporary Manufactured Home Park Operating Permit shall be issued by the Administrative Officer permitting an existing park to be maintained and operated while the compliance plan is being prepared.
5. No person shall make any additions to a manufactured home park that alters the number of sites for manufactured homes within the park without the express permission of the Board of Commissioners. In addition, no person shall make any alteration to a park that affects the facilities required therein until he first secures a Business License authorizing such alteration.

8.2 PROCEDURE

1. Once a Temporary Manufactured Home Park Operating Permit has been issued, a park owner will have a six-month period to develop and submit a park compliance plan to the Board of Commissioners.
2. The Park Compliance Plan shall show how the park presently complies or will, within a three-year period, comply with all standards listed in 8.3 of this section.
3. Once the Park Compliance Plan is approved by the Board of Commissioners, the park owner will be issued a Manufactured Home Park Operating Permit, which is valid for three years. Six months prior to its expiration, the park owner will receive notice that the Manufactured Home Park Operating Permit must be renewed.

4. If no compliance plan is submitted, the park owner shall be considered to have chosen not to comply with the standards set forth in 8.3 of this section, and will be considered to have chosen the alternative of ceasing operation upon the expiration of his Temporary Manufactured Home Park Operating Permit.
5. The Board of Commissioners may waive an operating standard if the Board determines it infeasible for the operator.

8.3 OPERATING STANDARDS

The following standards must be met in order to obtain a Manufactured Home Park Operating Permit or Special Use Permit, renewable every three years:

1. Standards. No manufactured home shall be placed in a Manufactured Home Park unless it meets the standards of either Class A Manufactured Home or Class B Manufactured Home as defined in Section 13 of this Ordinance. No visible damage is acceptable such as missing siding or broken doors and windows. The administrator will inspect units for adequate physical condition and aesthetic characteristics. Every mobile home park owner or operator shall provide the administrative officer a register containing year manufactured, model, license/serial number of each manufactured home and a marked lot number on the space for which it is located. *(Amended 2009)*
2. Area. The area of the manufactured home park shall be a minimum of five manufactured home spaces available at first occupancy.
3. Density. The maximum number of units allowed per acre of land shall be the same as the minimum area per unit required for multi-family dwellings subject to yard, and other setback requirements. When not served by public water and sewer, the minimum size manufactured home space shall be 7,500 square feet.
4. Utilities. The manufactured home park and all occupied units located in it must be connected to the municipal water and sewerage systems or other systems approved by the Sampson County Health Department or the North Carolina Division of Health Services and the North Carolina Division of Environmental Management.
5. Yards and Setbacks. All manufactured units and permanent structures must meet yard and setback requirements for principal structures in the district.
6. Other Permitted Uses. Service buildings, recreation buildings, and other areas or structures providing laundry, sanitation and managerial facilities are permitted and shall serve the needs of the residents of only the park in which they are located. No such facility shall have direct access to a

public street but shall be served by the privately maintained roadway..

7. Access and Parking. Paved or gravel, privately maintained roadways must be provided for access to individual units and other facilities located within the park. No manufactured home shall have direct access to a public street. Maintenance of all internal streets, signage, and all drainage facilities shall be the responsibility of the owner of the manufactured home park. Such street shall be maintained in a manner to be free from pot holes, breaks in the pavement, rough surfaces, ponding of water during rainy periods, excessive washing of drainage ditches, and other associated problems which would impede or cause hazards to motor vehicles.
8. Screening and Landscaping. The manufactured home park shall have a screening strip of plant material five (5) feet wide minimum adjacent to and within the park boundary extending along the entire perimeter of the park. This requirement may be exempted along any boundary which is naturally screened by evergreen plant materials or topography. Screening strips shall not be a portion of any manufactured home space, street, or private drive. Evergreen shrubs shall be four (4) feet or more in height at the time of planting. The park shall be completely screened at a height of four (4) to six (6) feet from the view of adjacent properties. Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed and well maintained by the park owner to prevent the over-growth of plant material and or other conditions that could create unsafe or unhealthy conditions for park residents or adjoining property owners.
9. One Manufactured Home Per Space. One Manufactured Home Per Space. No more than one (1) manufactured home may be parked on any manufactured home space. No accessory structures or structural additions to the manufactured home are allowable with the exception of front patio as outlined in Section 8.4 (5).
10. Maintenance. The grounds of a manufactured home park shall be kept free of trash, litter and debris. Grounds, buildings and storage areas shall be properly maintained to prevent infestation by rodents, vermin and insects. All grounds shall have proper drainage to prevent the accumulation of water. It shall be the responsibility of the manufactured home park owner to maintain the manufactured home park in accordance with the provisions outlined within this ordinance. Inoperable vehicles, equipment, appliances and similar objects outdoors shall not remain in a manufactured home park for a period longer than thirty (30) days.

8.4 MANUFACTURED HOME SPACE REQUIREMENTS

1. Access. Each space shall have access to an interior roadway with a width of at least 18 feet. No space shall have direct access to a public street.
2. Clearance. Each space shall be designed so that at least 30 feet clearance will be maintained between units and other structures within the park.
3. Setbacks. Manufactured home units shall be located so that at a 25-foot setback is maintained from the centerline of the private interior roadway.
4. Minimum Size. A manufactured home space shall consist of a minimum of seventy-five hundred (7,500) square feet and shall have a width of at least forty-five feet at the location of the manufactured home stand.
5. Patio. Each manufactured home space shall contain a patio of at least two hundred forty (240) square feet and have a minimum width of seven (7) feet. It must be constructed of concrete, brick, flagstone or other such hard surface material. A hard surface walkway, two (2) feet wide minimum, leading from the road or off-street parking space to the patio shall be provided.
6. Parking. Parking spaces sufficient to accommodate at least two (2) automobiles shall be constructed within each manufactured home space and they shall be graveled or covered with four (4) inches of crushed stone.
7. Grading. Each manufactured home space shall be graded and graded areas grassed to prevent erosion and provide adequate storm drainage away from the manufactured home.
8. Utilities. Each space shall have hook-up facilities for water, sewer, electricity, and telephone services. All occupied manufactured home units shall have and use sanitary facilities within the manufactured home unit.
9. Accessory Structure. An accessory structure such as a shed to a manufactured home shall be located only on the site space and may not be located in an require yard setbacks. The structure shall be kept in good repair.
10. Marked Corners. Each manufactured home site shall have the front and rear corners clearly, permanently marked so that visual establishment of the boundaries of each site can be made.
11. Site Identification. Each manufactured home site shall be identified by a permanent number which shall not be changed. The appropriate number of each manufactured home site must be permanent and visibly displayed on each site once the site is occupied. Each number shall be place on a

concrete, wood, metal, or any permanent post and conspicuously located on the site.

12. Recreation Open Space. For new manufactured home park development a minimum of 5% of the total land area of the park shall be devoted to accessible common open space intended for recreational use. These areas are to be separate from the manufactured home lot areas, and shall be grouped and of character suitable for active and passive recreation and shall be reasonably located for safe and convenient access to residents. No manufactured home may be placed on any open common open space or recreation are within the park.

8.5 ADDITIONAL REQUIREMENTS

Each manufactured home shall be underpinned with materials and in a manner approved by the administrative officer within 30 days of the dwelling being brought to the site.

Manufactured home parks are permitted as a special use only, and may be developed following approval of an application for a special use permit in the Residential Agriculture District (RA).

The transfer of title of a manufactured home site or sites either by sale or by any other manner shall be prohibited within a manufactured home park as long as the park is in operation.

8.6 APPLICATION PROCEDURE FOR SPECIAL USE PERMIT FOR A MANUFACTURED HOME PARK

- A. Preliminary Plan: A preliminary plan drawn to a scale of not less than 1" = 200' nor more than 1" = 50' may be submitted to the Town Board prior to application for a permit. The sketch plan should include among other things:
 - (a) location of drives and parking areas;
 - (b) location of manufactured home spaces;
 - (c) location and sizes of service buildings and other service area;

- (d) topography and contours in areas where major grading will occur; and
- (e) location, type and size of water supply and sewage systems.
- (f) Common open space recreational areas.

The applicant may discuss the proposed manufactured home park plan with the Administrative Officer to determine compliance with this ordinance prior to proceeding to the Special Use Permit process.

- B. Final Plan: Applications to the Board of Commissioners for a special use permit to construct, alter, or enlarge a manufactured home park shall be accompanied by a plan for the park, prepared by a registered professional engineer or architect, drawn to a scale of not less than 1" = 200' nor more than 1" = 50'. Three copies shall be submitted. The plan shall show the following:
- (a) location and sizes of manufactured home spaces;
 - (b) drives, parking areas, walks, and access to a public street;
 - (c) the name of the manufactured home park, the name(s) and the addresses of the owner(s), the developer if applicable and the designer and/or surveyor of the park.
 - (d) date, scale, and approximate North arrow;
 - (e) location and uses of any proposed buildings and building lines;
 - (f) proposed storm drainage plan for the entire manufactured home park;
 - (g) location and dimensions of all recreation areas, open spaces and parks.
 - (h) When public water or public sewer is not available, a written statement from the County Health Department shall be submitted with the manufactured home park plan indicating that the manufactured home park has adequate land area and suitable topography and soils to accommodate the proposed methods of water supply and sewage disposal.
 - (i) Where a park is to be developed in sections, the plan shall show what part which is to be developed initially. No permit shall be issued for the initial establishment of any section of a manufactured home park with less than 5 spaces.
 - (j) Garbage collection.

8.7 OPERATING PERMIT

When the administrative officer is satisfied that construction has been completed in accordance with the terms of the special use and/or compliance plan granted by the Board of Commissioners, a special use permit/manufactured home park operating permit shall be issued.

The manufactured home park shall be maintained in compliance with the terms of the special use/compliance plan. In the event of violation of the special use/compliance plan, the Special Use Permit/Manufactured Home Operating Permit may be revoked for a specific section of a manufactured home park which is in violation or for the manufactured home park in its entirety if necessary.

8.8 ANNUAL INSPECTIONS OF MANUFACTURED HOME PARKS

The Sampson County Health Department (as well as any other government agency that may be required) and Newton Grove Administrative Officer may conduct as many inspections of mobile home parks as deemed necessary to insure the maintenance of applicable standards. The operators of mobile home parks in Newton Grove shall once a year pay an annual inspection fee as posted in the Town Clerk's Office and the Special Use Permit/Manufactured Home Park Operating Permit may be revoked if the fee is not paid.

SECTION 9. SOLAR ARRAY

9.1 SOLAR ARRAY ACCESSORY USE

A. Solar Array Accessory Use – Defined

The solar array accessory use shall be no more than half the footprint of the primary structure on the lot, but no more than one acre.

B. Intent of Solar Array Accessory Use

Any photovoltaic, concentrated solar thermal, or solar hot water devices that are accessory to and incorporated into the development of an authorized use of the property, and which are designed for the purpose of reducing or meeting on-site energy needs.

C. Where Allowed - Solar Array Accessory Use - Table of Uses

A solar array accessory use is permitted by right in all the Town zoning districts (Section 6.10, Table of Uses) with the following development standards in Sections 9.1.D to 9.1.F.

D. General Standards - Solar Array Accessory Use

Residential and non-residential land uses shall be allowed to develop onsite solar arrays as an accessory use subject to submittal of a site plan and demonstrate compliance with all the following in this Section 9.1.D to 9.1.F.

- 1.** Nothing detailed herein shall be construed as the Town mandating or requiring property owners adjacent, or in close proximity, to a parcel where a solar array is being erected to manage, remove, or otherwise alter foliage to guarantee solar access to a proposed array.
- 2.** Device(s) shall provide power for the principal use of the property on which it is located and shall not be installed and or used solely for income generation purposes where power is sold either to a utility provider or other similar third party entity.

This provision shall be in no way construed as limiting the ability of the property owner to: transfer or sell excessive power generated onsite back to the utility provider or other third party entity; or receive credit from a local utility provider for the power generated onsite as a means to offset utility bills.

- 3.** The property owner shall provide the Town with written authorization from the local utility company acknowledging and approving the utility connection.
- 4.** The site plan shall denote the location of any batteries or similar storage devices onsite.

5. Solar panels shall be designed and oriented on the property such that concentrated solar radiation or glare shall not be directed onto nearby properties or road right-of-way, or otherwise create a safety hazard.
6. All mechanical equipment associated with and necessary for the operation of the array shall be shielded to avoid damage. This shielding may take the form of a small enclosed structure properly vented to allow for air flow or a fence.
7. A solar array shall not be located within the required setback areas of the underlying zoning district.
8. Before commencement of earth disturbing activities, the property owner must acknowledge that he/she is the responsible party for owning and ensuring the perpetual maintenance of the solar array.
9. In cases where a solar array has not been in operation for a period of 6 months due to a malfunction or other defect the property owner shall repair the system within 30 days of notice from the Town in accordance the zoning ordinance.
10. In cases where the array has been deemed unsafe it shall be repaired or immediately removed.

E. Standards for Building Mounted Devices - Solar Array Accessory Use

1. An array may be mounted on the roof of a principal or an accessory structure located on the property.
2. The array shall be viewed as an extension of the roof structure and as a result, shall not exceed the maximum building height for the underlying zoning district where the property is located.
3. As part of the building permit review process, structural engineering shall be provided demonstrating the roof can support the weight of the proposed array.
4. Roof mounted systems shall not exceed the maximum height for the applicable zoning district.

F. Standards for Ground Mounted Devices - Solar Array Accessory Use

1. The ground mounted system shall not exceed a maximum height of 15 feet from finished grade.
2. Arrays shall observe the setback requirements of the underlying zoning district where the property is located.

3. An array in the R-20 district shall only be permitted within the side and rear portions of a property.
4. Arrays shall not be located in septic system areas as identified by the County environmental health department.
5. Ground mechanical equipment on residential property is to be screened with a landscaped maintained opaque hedge within three years of planting and or a fence.
6. If a ground mounted array is removed, any earth disturbance shall be graded and reseeded within 60 days.

9.2 SOLAR ARRAY = MEDIUM AND LARGE FACILITIES

9.2 Solar Array – Medium and Large Facilities

A. Solar Array Medium Facility – Defined

A ground mounted system less than or equal to 10 acres.

B. Solar Array Large Facility – Defined

A ground mounted system greater than 10 acres.

C. Intent of Medium and Large Solar Array Facility

A solar facility located on a developed or undeveloped parcel of property producing power that converts sunlight into electricity, whether by photo-voltaics, concentrating solar thermal devices, or various experimental solar technologies, with the purpose of supplying power to existing land use(s) as well as the wholesale or retail sale of generated electricity

D. Where Allowed - Solar Array Medium and Large Facility - Table of Uses

A solar array medium facility is permitted in the Thoroughfare Business (TB) and Industrial (I) zoning districts, and a solar array large facility is permitted in the Industrial (I) zoning district (Section 6.10, Table of Uses) with the following development standards in Sections 9.2.E to 9.2.G. A conditional use permit is required for a solar array medium or large facility.

E. Submittal Requirements - Solar Array Medium and Large Facility

In addition to the information required by a conditional use permit, the following shall be submitted as part of the application in this Section 9.2.E.

1. A site plan showing all existing structures on the property, any proposed buildings or structures that are necessary to support the proposed array, existing and proposed storage areas, parking and access areas, topography at a contour interval of five feet, and any officially designated floodplains.
2. An assessment of the power needs for all structures on the property and the anticipated power generated by the proposed array.
3. The proposed arrays distance from all structures located on the property.
4. Plans and elevations for all proposed structures and arrays as well as descriptions and nature of all exterior materials.
5. The portion(s) of the solar array medium or large facility that is (are) adjacent to residential property (R-20 and RA zoning districts) and town, county, or state roads shall be screened to a height of the solar array with a maintained opaque landscaped hedge within three years of planting. For example, if the solar array is 12 feet high it must be screened to this height. Existing vegetation may be used to satisfy the landscaping requirements. Typical plants that may be used include evergreen trees and shrubs. For every one hundred linear feet a minimum of 4 trees and 45 shrubs shall be installed to provide continuous coverage. Section 10 and Appendix 1 provides additional landscaping and information regarding vegetative plantings. Additional buffer screening as deemed reasonable and appropriate as part of the Conditional Use Permit by the Planning Board and Town Commissioners may be required.
6. Each owner, operator, or maintainer of a solar array medium or large facility shall use good plant vegetation husbandry techniques, including but not limited to property pruning, fertilizer and mulching. This is so that the vegetation will reach maturity as soon as practical and will have opaque foliage (in conformance with Section 2.E.5 above). Dead or diseased vegetation shall be removed and must be replanted at the next appropriate planting time. It is the responsibility of the owner to maintain the opaque hedge.
7. The portion(s) of the solar array medium or large facility that is (are) adjacent to buildings or parking lots on adjacent property in the Thoroughfare Business (TB) and Industrial (I) RA zoning districts shall have an opaque buffer that is a minimum of 8 feet high within three years of planting. For every one hundred linear feet a minimum of 3 trees and 20 evergreen shrubs (5 feet apart) shall be installed to provide continuous coverage. Additional buffer screening as deemed reasonable and appropriate as part of the Conditional Use Permit by the Planning Board and Town Commissioners may be required.
8. A soils report denoting the types of soil on the property including detail on the compaction necessary to support the proposed development.
9. All improved areas of the solar array medium or large facility shall be at least 100 feet from a public road and 50 feet from a side and rear property line. Improved areas shall be at least 300 feet from any residence on adjoining property, schools, or churches.

10. Any glare generated by the facility must be mitigated or directed away from an adjoining property or adjacent road when it creates a nuisance or safety hazard.
11. A solar array medium or large facility shall be completely fenced. The fence shall be a continuous barrier extending from the surface of the ground to a uniform height of not less than six (6) feet from the ground at any given point constructed of metal, wood, or stone. The perimeter fence shall be designed to restrict unauthorized access. The fencing shall be located inside the required vegetation buffer (Section 9.2.E).
12. A surety bond by the facility owner and landowner shall be submitted to the Town. The amount shall be in determined and be in accordance with an approved Town fee schedule.

F. Standards of Evaluation - Solar Array Medium and Large Facility

1. All on-site utility and transmission lines shall to the extent feasible be placed underground.
2. The height of proposed arrays and support structures shall not exceed the height requirements of the underlying zoning district where the property is located.
3. Individual array solar panels shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties as well as adjacent street rights-of-way.
4. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations. Applicable safety signage shall be posted on the property including a contact number in case of emergency.
5. All mechanical equipment including any structure for batteries or storage cells, shall be completely enclosed by a minimum six (6) foot high fence with a self-locking gate and screened with an opaque landscaped hedge and or fence.
6. The applicant shall submit proof of liability insurance covering bodily injury and property damage demonstrating a minimum coverage limit of \$500,000.00 per occurrence.

G. Decommissioning - Solar Array Medium and Large Facility

1. The applicant agrees to the following conditions in this Section 9.2.G in case the utility is to be abandoned.
2. The solar array owner and property owner shall complete and submit by US Post Office registered mail to the Town the Solar Array Facility Decommissioning Plan. The form to use is available from the Town. The submitted form shall be notarized.

3. The solar array owner and property owner of the facility is required to notify the zoning administrator in writing 60 days prior to planned the cessation or abandonment of the facility for any reason. This notice shall provide the exact date when the use of the facility will cease.
4. Documentation shall be provided by the solar array owner and property owner indicating that the public utility purchasing the power has been made aware of the decision.
5. The facility shall be removed by the solar array owner and property owner within 12 months from the date the applicant ceases use of the facility.
6. Once the infrastructure is removed the solar array owner and property owner shall obtain the necessary county or state erosion control permits to re-stabilize the property.
7. The solar array owner and property owner shall provide financial security in the form and amount acceptable to the Town to secure the expense of dismantling and removing the structure.

The Town requires a surety-performance bond or certified check meeting terms and amounts determined by the Planning Board to ensure decommission and removal of hazardous material is expeditiously completed at no cost to the Town.

This is to ensure full completion of decommissioning requirements regarding mitigation and abatement of public nuisances, health hazards from debris, and hazardous material, whether by natural or man-made causes.

Upon removal of the solar facility the Town through the quasi-judicial process shall revoke the conditional use permit.

SECTION 10. LANDSCAPING AND BUFFER SCREENING

10.1 INTENT AND APPLICABILITY

The landscaping regulations apply to both public and private property. The purpose and intent of these regulations is to establish minimum standards for preservation of existing and the planting of new trees and shrubbery for the following.

- Better control soil erosion.
- Reduce the hazards of flooding.
- Stabilize ground water tables.
- Absorb carbon dioxide.
- Provide shade for cooling.
- Screen noise, dust, and glare.
- Enhance property values.

- Provide architectural interest and human scale.
- Preserve and enhance the natural environment.
- Maintain and or improve aesthetic values.

The standards in this Section 10 shall apply to all new development in the Town except for the development of single family and duplex dwellings. The standards in this Section 10 also apply to redevelopment where 5 or more new parking spaces are installed. The applicant shall address the standards of this Section 10 with a site landscaping plan with the applicable information to the zoning ordinance administrator including tree preservation, landscaping, and or buffer screening.

10.2 TREE PRESERVATION

A. Preservation of Existing Vegetation

Existing vegetation shall be preserved whenever feasible. When selecting which trees to preserve, the following shall be considered: existing and proposed grading; age, condition and type of tree; and location of site improvements and utility connections. In the critical root zone of the trees to be preserved the following activity is prohibited: trenching, placing backfill, driving or parking equipment, dumping of trash, spilling oil, paint or other materials detrimental to plant health.

B. Preservation of Existing Vegetation During Construction

Protective barricades shall be placed around all trees designated to be saved, prior to the start of development activities or grading. These barricades shall consist of 2" x 4" posts with 1" x 4" rails or orange safety fence. Protective barricades shall remain in place until development activities are complete. The area within the protective barricade shall remain free of all building materials, stockpiled soil or other construction debris. Construction traffic, storage of vehicles and materials, and grading shall not take place within the protective areas of the existing trees. Barricades shall be erected at a recommended minimum distance from the base of protected trees according to the following standards:

1. For trees 10" or less diameter at breast height (DBH): Protective barricades shall be placed a minimum distance of 10' from the base of each protected tree, or outside the drip line, whichever is greater.
2. For trees greater than 10" DBH: Protective barricades shall be placed at a minimum distance equal to 10' from the base of a protected tree plus an additional 1' for each additional 1" DBH greater than 10" DBH, or outside the drip line, whichever is greater.

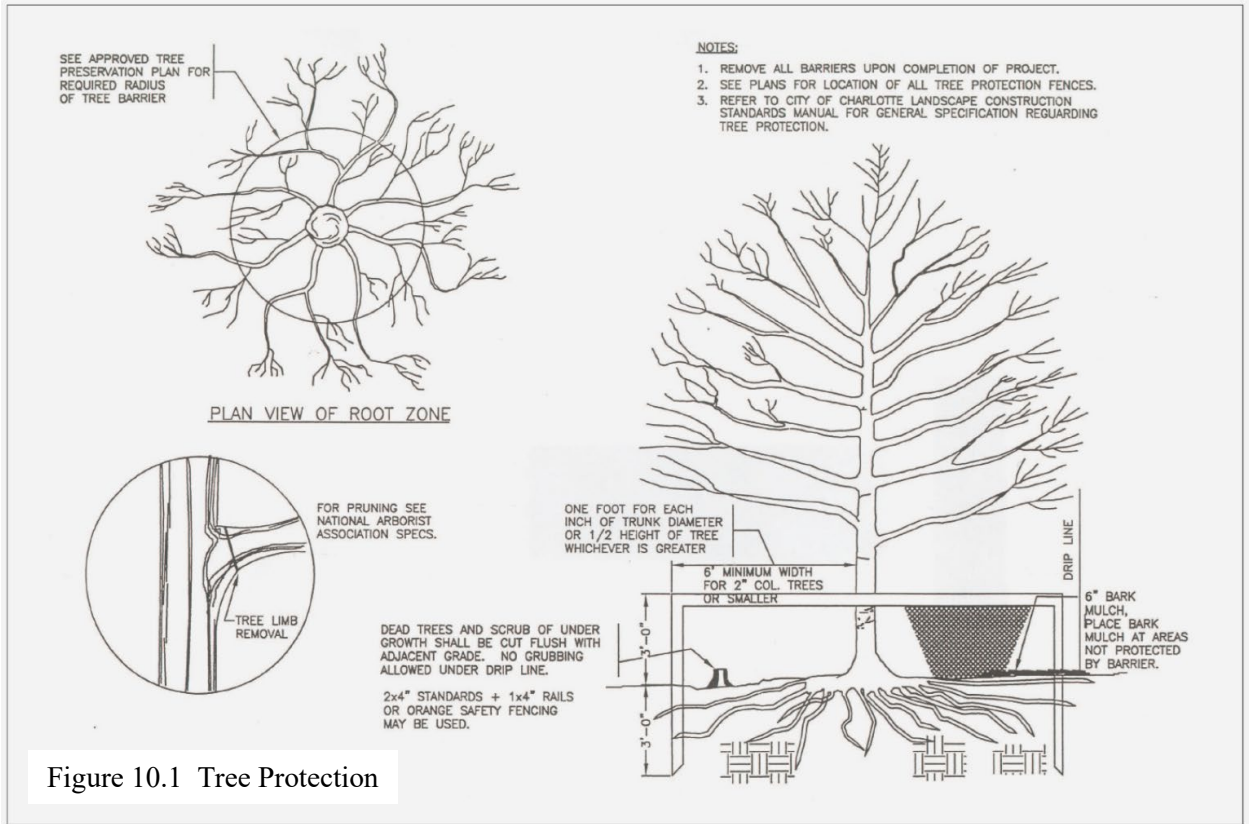


Figure 10.1 Tree Protection

Construction access to a site should occur where an existing or proposed entrance or exit is located. Land disturbance within a tree drip line is strongly discouraged except for driveway access points, sidewalks, and curb and gutter. Where grading within a tree drip line cannot be avoided, cut and fill shall be limited to 1/4 to 1/3 of the area within the drip line. Tree roots must be pruned with clean cuts at the edge of the disturbed area. No fill shall be placed within the drip line of a tree without venting to allow air and water to reach the roots. Trees and undergrowth in designated open space in an approved landscape plan shall remain undisturbed, except for permitted pathways.

10.3 LANDSCAPING

A. Requirements for Landscaping at Streets

Trees shall be planted wherever a new street right-of-way is constructed, or where new construction occurs along an existing street right-of-way. Trees shall consist of one large maturing tree per 40 linear feet, minimum. Existing trees may be applied toward the requirements. See the Appendix 1 for a suggested tree list and information.

B. Requirements for Landscaping Parking Lots

All new or expanded impervious surfaces in existing parking lots with 5 or more spaces shall comply with this section of the ordinance. All areas not specifically required for parking or circulation should be landscaped.

Parking lots are to be treated as enclosed rooms for cars. For small lots (36 spaces or less), landscaping shall be required at the perimeter; for large lots (more than 36 spaces), landscaping shall be at the perimeter and the interior. In large lots, the landscaping shall be placed to break the lot into parking modules of not more than thirty-six spaces.

C. Parking Lots- Perimeter Landscaping

1. Perimeter landscape area shall be a minimum of 8' in width adjacent to all parking spaces and travel areas. Screening within this area shall be provided by installing a continuous row or staggered row of medium evergreen shrubs planted 5' on center.
2. Landscaping along a right-of-way shall consist of a row of small shrubs.
3. Trees and shrubs shall meet planting specifications provided in Section 10.3.H.
4. Large maturing canopy trees shall be planted not more than 40' on center from each other.
5. Existing vegetation located in the perimeter landscape area may be applied toward the requirements.
6. Parking lots behind buildings that are connected the length of the parking area need not have perimeter landscaping between the two lots. If the two lots are connected by a drive only, the requirement will be for 5' of landscaping at each lot.

D. Parking Lots - Interior Landscaping

1. Landscape islands within parking lots shall be located so as to define and direct vehicular movement. Landscape islands shall have a minimum width of 8'.
2. Large maturing trees shall be planted within the interior landscape islands of parking lots so that any part of each parking space is 60' or less from a tree. Trees shall be planted in landscape islands with a minimum of 200 square feet of pervious space per tree.

E. Requirements for a Landscape Buffer Screen

1. A landscape buffer screen is required in situations where a new building or development is expected to create an incompatible relationship with existing buildings or districts, such as commercial and or industrial buildings adjacent to residential uses. Screens are required to protect against noise, lighting and other disruptive effects. Screens also protect the character of residential areas and conserve property values.
2. Where there is site development use in the OI, NB, TB, or I zoning district (Section 6) that abuts the RA or R-20 residential zoning district, there shall be provided and maintained along

the property line a continuous opaque vegetative buffer, on the OI, NB, TB, or I property. The buffer screen shall be a compact evergreen hedge that is a minimum of 8' in height. Trees may be planted and fencing installed as part of the hedge. It is the property owner's responsibility to ensure that the hedge is opaque and meets the minimum height requirement within 3 years of planting, and that it is maintained in perpetuity.

3. A recommendation for a landscape buffer screen is that a combination of trees and shrubs be planted. It is recommended that a minimum of 6 trees and 40 shrubs for each 100 linear feet to provide continuous coverage. See Appendix 1 for the suggested landscaping and screening plant list.
4. It is recommended that where there is site natural vegetation that it be incorporated into the buffer screen. Where possible the vegetation should be left undisturbed with avoidance of limb cutting and undergrowth removal.

F. Creek and Stream Buffers

Where there is a creek or stream on the site the following vegetation buffering is recommended. The first 25' of vegetation closest to the creek or stream bank should be left undisturbed. In the 25' to 50' distance away from the creek or stream bank the existing trees should be left undisturbed but undergrowth may be cleared.

G. Landscaping and Fences

It is recommended that where fencing is used on site that landscaping be placed in front of the fence facing a street or adjacent property.

H. Planting Standards for Trees and Shrubs

1. All new plant material shall be of good quality, installed in a sound, workmanlike manner and meet the standards set forth in the American Standard for Nursery Stock by the American Association of Nurserymen. Appendix 1, lists suggested landscaping and screening plants to choose from.
2. All trees shall be properly guyed or staked and mulched (3- 4" layer) in accordance with accepted practices in the landscape industry, to prevent winds from loosening the roots.

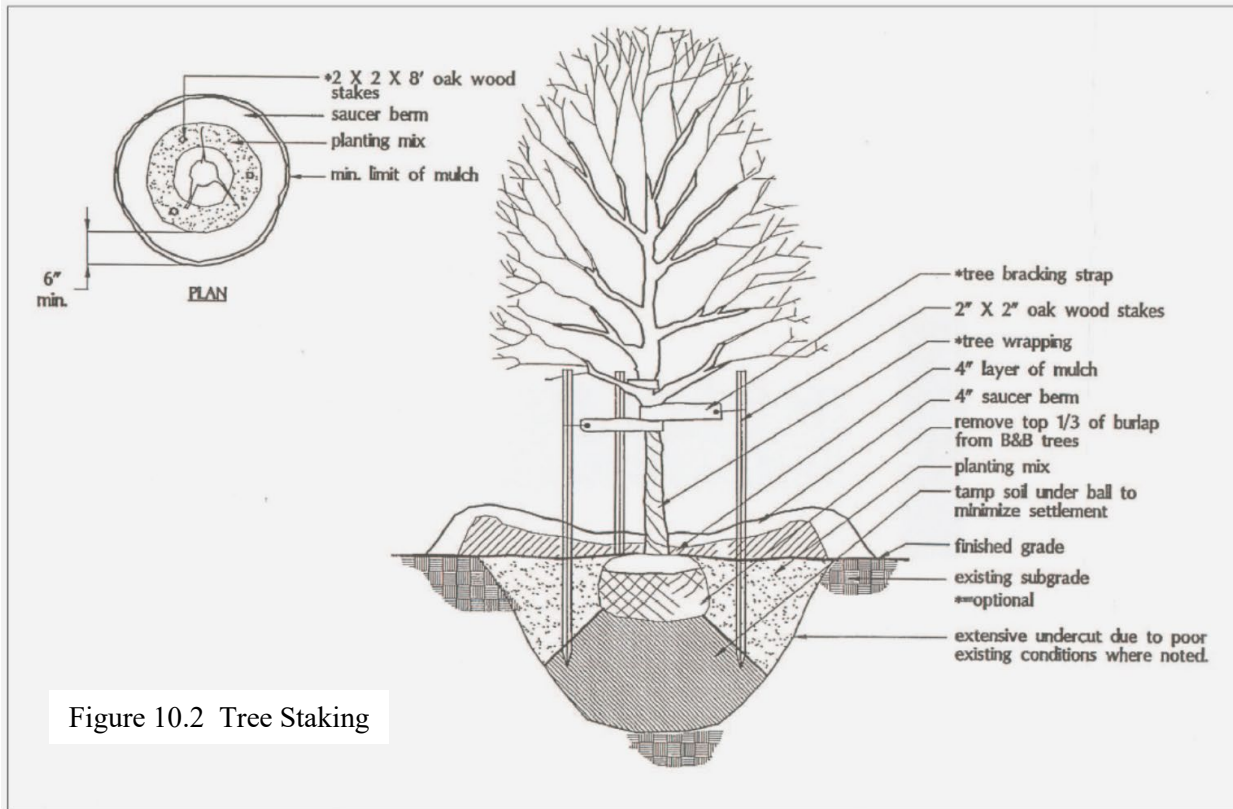


Figure 10.2 Tree Staking

3. Where large maturing trees are required and overhead utility lines exist, small maturing trees planted 1 per 30 lineal feet shall be substituted with the approval of the zoning administrator.
4. The property owner is responsible for the continued proper maintenance of all landscaping materials and shall keep them in a proper, neat and orderly appearance, free from refuse and debris. All dead or unhealthy plant material shall be replaced within 180 days to maintain the quality of the landscaping. In no instance will the Town be responsible for the maintenance of any vegetation. This is unless such vegetation is located within the public right of way of a Town maintained street, or is located on Town owned property.
5. Where new landscape materials are to be installed use of native plant materials is encouraged.
6. At installation, large maturing trees shall not be less than 10' in height with a minimum 2-1/2" caliper. Small maturing trees shall be a minimum of 1-1/4" caliper and have a minimum height of 8'. Installation and construction practices shall be utilized which preserve and replace existing topsoil or amend the soil to reduce compaction.
7. At installation, evergreen trees shall not be less than 8' in height with a minimum 2" caliper.
8. At installation, small shrubs shall be a minimum 2' in height and medium or large shrubs a minimum 3'.

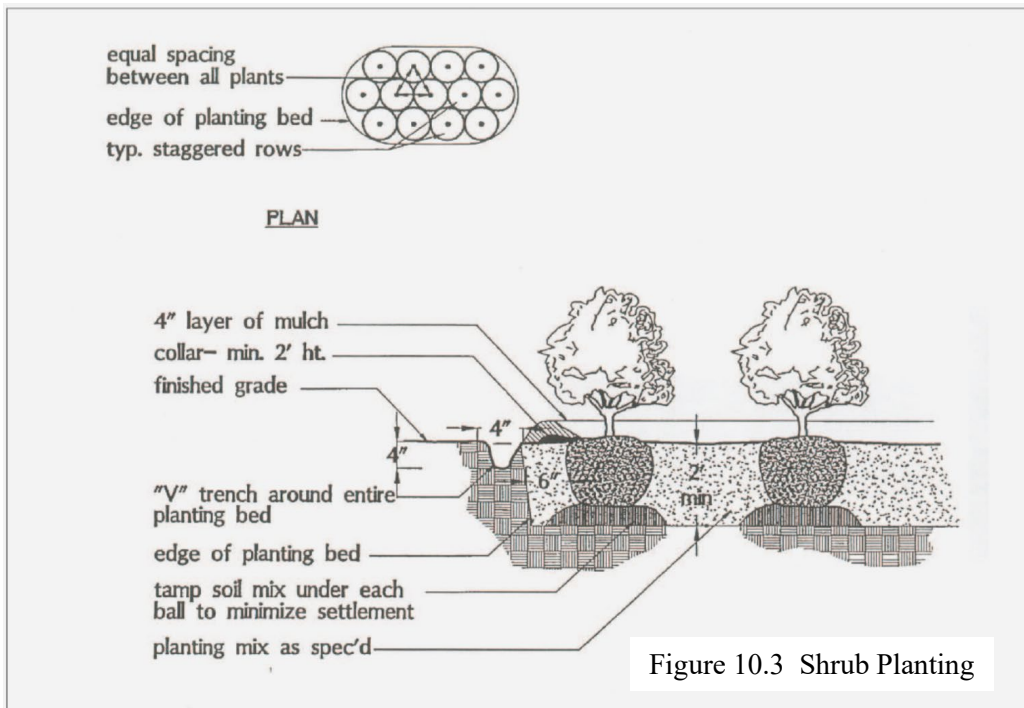


Figure 10.3 Shrub Planting

9. Installation and construction practices shall be utilized which preserve existing topsoil or amend the soil to reduce compaction.
10. No plants shall be planted within the sight distance triangle at an intersection, or driveway access points unless an unobstructed view between 30" and 72" in height is maintained.
11. Existing vegetation may be applied toward the requirements of this ordinance.
12. Chain link and similar fencing materials, if used, shall be landscaped on their exterior side with evergreen shrubs minimum 3' in height and 6 feet on center at installation.

I. Screening Dumpsters

Dumpsters shall be set on a concrete bed and shall be hidden by an opaque fence. Wooden shadow box fences are recommended. Trash containers such as dumpsters shall not be located adjacent to residential property.

10.4 ALTERNATIVE METHODS OF COMPLIANCE

Alternate landscaping plan, plant materials, or planting methods may be used where unreasonable or impractical situations would result from application of landscaping requirements, or where necessary to protect existing vegetation. Such situations may result from the site being: affected by creeks, streams, topography, or other physical conditions; or from lot configuration, utility easements, unified development

design, or unusual site conditions. The zoning administrator may approve an alternate plan that proposes different plant materials or methods provided that quality, effectiveness durability, and performance are equivalent to that required by this ordinance.

The performance of an alternate landscaping plan shall be evaluated by the zoning administrator to determine if the alternate plan meets the intent and purpose of this ordinance. This determination shall take into account the land use classification of adjacent property, number of plantings, species, arrangement and coverage, location of plantings on the lots, and the level of screening height, spread, and canopy of the planting at maturity.

10.5 REVISIONS TO APPROVED LANDSCAPE PLANS

Due to seasonal planting problems and, or a lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to planting plans may be approved by the zoning administrator if:

- There is no reduction in the quantity of plant material.
- There is no significant change in size or location of plant materials.
- The new plants are of the same general category (i.e., shade tree, ornamental tree, evergreen, or shrub) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

10.6 INSPECTION OF SITES

Town staff, and authorized representatives of the Town may periodically inspect a site subject to the provisions of this ordinance. If, through inspection, it is determined that a person has failed to comply or is no longer in compliance with the provisions of this ordinance, a notice to comply shall be served upon that person by registered mail with return receipt or other means by the Town. The notice shall set forth that which will be necessary to comply with the ordinance.

The Town shall have the power to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance and for this purpose may enter at reasonable times upon the property, public or private, for the purpose of inspecting the site subject to the provisions of this ordinance. No person shall refuse entry or access to any staff or authorized representative, of the Town who requests entry for the purpose of inspection, and who presents appropriate credentials. Nor shall any person obstruct, hamper, or interfere with the representative while in the process of carrying out official duties.

A certificate of occupancy for the development shall not be issued unless the landscaping required under this Section 10 is installed in accordance with these standards and in accordance with the approved site landscaping plan, or preliminary plat. The zoning administrator shall inspect the site one year after the issuance of a permanent certificate of occupancy in order to ensure compliance with the approved site plan and to ensure that the landscaping is properly maintained.

10.7 REPLACEMENT OF DISTURBED AND DAMAGED VEGETATION

The disturbance of any landscaped area or vegetation required by this Section 10 shall constitute a violation of the site landscaping plan. All disturbed landscaped areas and vegetation shall be replanted to meet the standards of this section and the approved site landscaping plan. Trees or vegetation that are installed and die within two years of construction completion, shall be removed and replaced with new vegetation of original installation size.

In all cases where existing vegetation is damaged or removed, the type and amount of replacement vegetation required shall be of the type and amount that is necessary to provide the type of landscaping required in Section 10 and this zoning ordinance. This is for example areas identified on the site landscape plan such as perimeter landscaping, interior landscaping, and or buffer screen.

The Town zoning administrator may require a replanting plan for approval. The zoning administrator may elect to present the replanting plan to the Planning Board for final approval.

10.8 INSPECTIONS

A permanent certificate of occupancy for the development shall not be issued unless the landscaping required under this Section 10 is installed in accordance with these standards and in accordance with the approved site landscaping plan or subdivision plat. The Town zoning administrator shall inspect the site one-year after the issuance of a permanent certificate of occupancy in order to ensure compliance with the approved site plan and to ensure that the landscape is properly maintained.

SECTION 11. SIGNS

It is the purpose of this section to permit signs of a commercial, industrial, and residential nature and to regulate the size and placement of signs which are visible from any public way. These regulations shall apply to all districts. No exterior sign may be erected, painted, repainted, posted, reported, placed, replaced or hung in any district, except in compliance with these regulations.

11.1 GENERAL PROVISIONS

- A. Permit Required. With the exception of those signs specifically authorized in 11.3 below, no sign may be erected without a permit from the Administrative Officer.
- B. Permit Application. Application for permits shall be submitted on forms obtainable at the Office of the Administrative Officer. Each application

shall be accompanied by plan which shall:

- (1) indicate the proposed site by identifying the property by ownership, location and use;
- (2) show the location of the sign on the lot in relation to property lines and building, zoning district boundaries, right-of-way lines, and existing signs; and
- (3) show size, character, complete structural specifications and methods of anchoring and support.

If conditions warrant, the Administrative Officer may require such additional information as will enable him to determine if such sign is to be erected in conformance with this Ordinance.

- C. Structural Requirements. Structural Requirements for signs shall be those requirements found in the North Carolina State Building Code.
- D. Sign Area Computation. Sign area shall be computed by the smallest square, triangle, rectangle, circle or combination thereof which will encompass the entire sign, including lattice work, wall work, frame or supports incidental to its decoration. In computing the area, only one (1) side of a double face sign structure shall be considered.
- E. Fees.
 - (1) No permit shall be issued until the exact dimensions and area of the sign have been filed with the Administrative Officer and the fees posted in the Town Clerk's office paid accordingly.
 - (2) Exempt from this fee requirement shall be those signs specified in 11.3below.
- F. Maintenance. All signs, together with all their supports and braces, shall be kept in a state of good repair and in a neat and clean condition. No sign shall be continued which becomes, in the opinion of the Administrative Officer, structurally unsafe and endangers the safety of the public or property. The Administrative Officer may order the removal of any sign that is not maintained in accordance with the provisions of this section. Such removal shall be at the expense of the owner or lessee and shall occur within ten days after written notification thereof by the

G. Location Restrictions.

- (1) No sign shall be permitted on any public right-of-way except as specifically authorized herein.
- (2) No sign shall be attached to or painted on any telephone pole, telegraph pole, power pole, or other man-made object not intended to support a sign, nor on any tree, rock or other natural object except as specifically authorized herein.
- (3) Signs shall not obstruct any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress for any building, structure, or lot.

H. Setback and Height Requirements.

- (1) Except as otherwise provided herein, signs are required to observe the same yard setback and height regulations as other principal structures or buildings. Sign height regulations are shown in the following Sections 11.3 to 11.5.
- (2) If the lot on which a ground sign is to be located is zoned other than residential, but is immediately adjacent to a lot zoned for residential use, then a distance of at least fifty (50) feet shall intervene between the closest part of such sign and the adjacent lot line of the property in the residential district. Provided further, that all out-door advertising signs shall conform to Section 11.5.

Non-Conforming Signs.

1. Subject to the remaining restrictions of this Section 11.2.I, nonconforming signs that were otherwise lawful on the effective date of this Zoning Ordinance may be continued until they are required to be removed.
2. No person may engage in any activity that causes an increase in the extent of a nonconforming sign. No nonconforming sign may be enlarged or altered in such a manner as to aggravate the nonconforming condition, nor may illumination be added to any nonconforming sign.
3. A nonconforming sign may not be moved or replaced except to bring the sign into complete conformity with this Ordinance.
4. If a nonconforming sign is destroyed by natural causes, it may not thereafter be repaired, reconstructed, or replaced except in conformity with all of the provisions of this Ordinance, and the remnants of the former sign structure shall be cleared from the land. For purposes of this Section 11.2.I, a nonconforming sign is "destroyed" if damage to an extent that the cost of repairing the sign to its former stature or replacing it with an equivalent sign equals or exceeds the value (tax value if listed for tax purposes) of the sign so damaged.
5. The message of a nonconforming sign may be changed so long as this does not create

any new nonconformity.

6. Subject provisions of this Section 11.2.I, nonconforming signs may be repaired and renovated so long as the cost of such work does not exceed, within any 12-month period, 50 percent of the value (tax value if listed for tax purposes) of such sign.
7. A nonconforming sign shall be considered abandoned and shall be removed within 30 days after such abandonment by the sign property owner where the sign is located, with a business, service, commodity, accommodation, attraction or other enterprise that is no longer operating or being offered or conducted.

11.2 SIGNS NOT REQUIRING A PERMIT FROM THE ADMINISTRATIVE OFFICER

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

- A. Directional and information signs erected and maintained by public agencies and governmental bodies.
- B. Quasi-public signs, not to exceed four (4) square feet in area. Such signs shall only be used for the purpose of stating or calling attention to:
 - (1) the name or location of the city, hospital, community center, school, church, synagogue, or other place of worship;
 - (2) the name of a place of meeting or an official or civic body such as the Chamber of Commerce, service club, or fraternal organization.
 - (3) an event of public interest such as public hearing, rezoning, announcement, general election, church or public meeting; local or county fair; and other similar community activities and campaigns;
 - (4) soil conservation, 4-H and similar projects; and zoning and subdivision jurisdiction boundaries.
- C. Professional and Home Occupations Signs:
 - (1) one sign per lot not to exceed two (2) square feet attached to the principal structure.
 - (2) one sign per lot not to exceed two (2) square feet located at least ten (10) feet from the street line and side property lines. Where side yards are required, no such sign shall be permitted in the required side yards.
 - (3) no such signs shall be illuminated in the residential district.
- D. Temporary Subdivision Sign. Subdivision development signs, not over sixty-four (64) square feet in area which direct attention to the opening of a new subdivision may be erected on the site of such new subdivision. Only indirect illumination with white light will be permitted. Such sign shall be removed when seventy-five (75) percent of the subdivision is developed.
- E. Bulletin Board. One bulletin board for each school or other public building and for each church, synagogue or place of worship, provided that it be located on the same premises and shall not exceed twenty-four (24) square feet. Such bulletin board may be free standing or attached. In residentially zoned districts, illumination of bulletin boards shall be white, non- flashing lights.
- F. Temporary Signs.
 - (1) Real Estate - One (1) temporary real estate sign not exceeding four

(4) square feet in area may be place on a property that is for sale, lease, rent, or barter; however, when the property on which said sign is placed fronts on more than one (1) street, one (1) sign shall

be allowed on each street frontage. Such signs shall not be illuminated.

- (2) Other Temporary Advertising Signs - Temporary advertising signs shall be permitted providing that such signs shall not exceed six (6) square feet in area in residential districts and shall be spaced no closer than 100 feet apart.
- (3) One (1) temporary construction sign may be erected on the site during the period of construction or reconstruction to announce the name of the owner and/or developer, the name of the structure and its use or occupants to be, contractor, subcontractor, architect, and engineer; however, when the property on which said sign is placed fronts on more than one (1) street, one (1) sign shall be allowed on each street frontage. Such signs shall be removed when the building has been approved for occupancy by the Administrative Officer. Maximum size of construction signs in the residential zone shall be twenty-four (24) square feet; in all other zones, seventy-two (72) square feet.
- (4) Fence wraps displaying signage when affixed to perimeter fencing at a construction site per G.S. 160D-908.
- (5) Political signs during the time period under G.S. 163-227.2 shall be permitted without a permit in the right-of-way of the State highway system per G.S. 136-32.

Setback Requirements for Signs Not Requiring a Building Permit: Signs which do not require a permit from the Administrative Officer shall be set back at least ten

(10) feet from any public right-of-way line or property line and shall be setback at least twenty-five (25) feet from any road intersection.

11.3 SUBDIVISION AND MANUFACTURED HOME PARK SIGNS

One permanent subdivision sign per major entrance is permitted. Exception: if a subdivision name sign is incorporated into gateposts, brick walls, or similar structures making the entrance, the name may appear on both sides of the entrance as a substitute for other subdivision identification signs.

- A. Total area per entrance is twenty-four (24) square feet. The top of the sign shall not be higher than six (6) feet.
- B. Signs shall be placed on private property no closer than ten (10) feet to any property line.
- C. Illumination is restricted to white indirect lighting.
- D. Content of sign is limited to the name of the subdivision.

11.4 BUSINESS AND INDUSTRIAL SIGNS

Business and industrial signs shall be permitted on the premises in districts in which the principal use is permitted subject to the following limitations:

A. Canopy

A canopy sign total area including sign area, copy area, and logo shall not exceed 10% of the canopy façade area. If a canopy is used in combination with a wall sign the total square footage may not exceed the total allowable wall sign area. The sign must be painted flat on the canopy. The bottom of the canopy shall be a minimum of eight (8) feet above the sidewalk level.

B. Wall

A wall sign is allowed on building facade that faces the right of way and associated establishment parking. A wall sign may consist of sign board, metal letters mounted directly on a wall or painted directly on the wall. A wall sign shall not project more than ten inches from any building wall. The total area of wall sign, including sign area, copy area, and logo, allowed shall be up to 10% of the façade not to exceed 100 square feet whichever is less. For multi-bay tenant buildings, the façade area shall include only that portion of the façade designated for a specific tenant. The wall sign shall be located below the building roofline, parapet, or lower eave line.

C. Lighting

Display lighting for any sign shall be shielded to prevent a direct view of the light source from a residence in a residential district. No intermittent lighting effect may be utilized.

D. Freestanding

Freestanding signs shall have the following restrictions:

1. Setbacks: In order to erect a freestanding sign the single or multiple tenant building shall have a building entrance that is setback at least 20 feet from public right of way.

A freestanding ~~Such~~ signs may not be located closer than five (5) feet to any property line except when located next to an adjoining residentially zoned area where a freestanding sign shall be setback one (1) foot for every foot of height.

2. Area: Maximum area of a freestanding sign shall be the following.

24 square feet sign for parcel with an enclosed building square footage that is less than or equal to 2,000 feet.

28 square feet sign for a parcel with an enclosed building square footage that is greater than 2,000 feet and less than or equal to 10,000 square feet.

32 square feet sign for a parcel with an enclosed building square footage that is greater than 10,000 feet and less than or equal to 20,000 square feet.

36 square feet sign for a parcel with an enclosed building square footage that is greater than 20,000 feet.

3. Number: For one parcel with one business or one building, one freestanding sign per public road-right-of way may be erected.

For one parcel with multiple businesses or buildings, one freestanding sign per public road-right-of way may be erected.

4. Height: The top of the freestanding sign height shall meet the following criteria:

a. A maximum of 6 feet high in R-20, RA and OS zoning districts.

b. A maximum of 7 feet high in OI and NB and I zoning districts.

c. A maximum of 8 feet high in CB, and TB zoning districts.

5. Content and use: The freestanding sign may contain information about more than one business located on the lot.

6. Clearance: A minimum of two (2) feet clearance shall be maintained between the bottom of the freestanding sign board and the ground in the R-20, RA and OS zoning districts; two and a half (2.5) feet clearance in the OI, NB, and I zoning districts; and three (3) feet clearance in CB, and TB zoning districts.

Previous ordinance sign revisions: Outdoor Advertising Signs (Entire Section Deleted – 10/14/97).

Display sign lighting (Revised 1/13/98). Freestanding signs (Amended 8/1999).

E. New Business Opening or Going Out of Business – Feather Signs

Two pole feather signs per commercial business may be placed on site temporarily for a new business or going out of business, but not in the road right of way. The time period allowed for the feather signs is not to exceed 45 days. After this time the feather signs must be removed. A sign permit from the Town is required. The feather signs shall not be used as a permanent sign. For permanent signs a commercial business may apply to the town for a wall sign (Section 11.5 B), and/or a freestanding sign (Section 11.5.D). A feather sign is

defined as sign fabric or material that is attached to single pole. Typically a feather sign has one pole vertically into the air with a flag attached length wise along the pole in the shape of a feather.

11.5 OUTDOOR ADVERTISING SIGNS (OFF-PREMISES – BILLBOARDS)

- A. Billboard signs shall be considered a principal use of property and/or a principal structure; and shall not be considered as an accessory use/structure to residential, commercial, or industrial uses/structures.
- B. Minimum setbacks for billboard signs shall be as follows:
 - 1. There shall be a 1,000-foot setback between outdoor advertising signs. This setback shall be measured in a radius from the sign. A map showing the location of all outdoor advertising signs located within 1,200 feet of the proposed sign shall be submitted with the application.
 - 2. The minimum setback from an interstate or state designated primary highway right-of-way shall be 660 feet. The required front/street setback of the respective zoning district in which the sign is to be located shall be met adjacent to non-interstate or non-state designated primary highway rights-of-way. No off-premise sign shall be located closer than 100 feet to the intersection of two (2) public streets.
 - 3. Billboard signs shall be set back at least 10 feet from side and rear property lines; and set back at least 300 feet from any property zoned for residential use. A map showing the location of all residentially zoned property located within 400 feet of the proposed sign shall be submitted with the application.
 - 4. All setbacks shall be measured from the extreme outermost edge of the sign as projected upon the ground and measured from this ground point to the nearest property line, nearest zoning district, or nearest adjacent off-premise sign.
- C. The maximum total square footage of sign area for billboard signs shall be 400 square feet. The display surface shall be no more than 12 feet in the vertical dimension and no more than 40 feet in the horizontal dimension. Copy extensions of 10 percent or less shall not be included in the calculation of total sign surface area. A single side of a double-face or V-type sign shall be regarded as the total display surface for the purpose of calculating total sign surface area, provided such sides are separated by not more than 20 feet at any point.
- D. The maximum height of a proposed sign, exclusive of copy extensions, shall be 25 feet as measured from the surface elevation of the ground or main roadway surface elevation nearest the sign, whichever is highest. The minimum vertical clear distance between the property grade and the bottom of the trim or other frame support shall not be less than 12 feet.
- E. Display lighting of billboard signs shall be shielded so as to prevent the direction of such light into any structure used primarily for residential purposes. No rotating, revolving or intermittent lighting devices shall be attached to or made a part of, any billboard sign.

- F. All support structures shall be painted in a neutral color to blend with the surrounding area.
- G. The immediate premise on which the billboard sign is located shall be kept free from debris and undergrowth. A landscaping plan shall be submitted for approval with the permit application. Landscaping shall consist of ground cover, shrubs, trees or other permanent vegetation that will effectively screen the sign's base. Immediate premises, as defined herein, is the area surrounding the sign's structural support that is no less than 10 feet in all directions from the base of the sign. This area shall be kept free from debris and undergrowth.
- H. A permit shall be obtained from the North Carolina Department of Transportation prior to the issuance of a Zoning Compliance Permit for all outdoor advertising signs located adjacent to interstate and primary highways.

SECTION 12. SPECIAL USE

12.1 PURPOSE

The development and execution of this ordinance is based on the division of the Town of Newton Grove into zoning districts within which the use of land and buildings and the bulk and location of buildings and structures in relation to the land are substantially uniform. It is recognized, however, that there are some land uses which are basically in keeping with the intent and purposes of the district where special, but which may have an impact on the area around them which can only be determined by review of the specific proposal. These uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects. In order to insure that these uses, in their proposed locations, would be compatible with surrounding development and in keeping with the purposes of the district in which they are located, their establishment shall not be as a matter of right, but only after review and approval of a Special Use Permit preceded by an Evidentiary Public Hearing and quasi-judicial decision by the Board of Commissioners.

12.2 APPLICATION FOR SPECIAL USE

Applications for Special Use Permits, signed by the applicant, shall be addressed to the Board of Commissioners. A fee as posted in the Town Clerk's office shall be paid to the Town of Newton Grove for each application to cover the costs of advertising and administrative costs. Each application shall contain or be accompanied by such legal descriptions, maps, plans and other information so as to completely describe the proposed use and existing conditions.

Notice of evidentiary 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. 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 of commissioners 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.

Members of the Board of Commissioners exercising quasi-judicial functions pursuant to this Section shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

The Board of Commissioners shall approve, approve with conditions or deny the application for Special Use Permit following the evidentiary public hearing. In granting a Special Use Permit the Board of Commissioners shall make written findings that the applicable regulations of the district in which it is located are fulfilled. With due regard to the nature and state of all adjacent structures and uses, the district within which same is located, and official plans for future development, the Board of Commissioners shall also make written findings that the following provisions are fulfilled:

- A. The use requested is listed among the special uses in the zoning district for which application is made; or is similar in character to those listed in that district;
- B. The requested use is essential or desirable to the public convenience or welfare;
- C. The requested use will not impair the integrity or character of the surrounding or adjoining properties, nor be detrimental to the health, morals, or welfare;
- D. The requested use will be in conformity with the Comprehensive Plan;
- E. Adequate utilities, access roads, drainage, sanitation and/or other necessary facilities have been or are being provided;
- F. That adequate measures have been or will be taken to provide ingress and egress designed as to minimize traffic congestion in the public streets; and
- G. That the special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

12.3 CONDITIONS AND GUARANTEES

10.1 Per G.S. 160D-705, prior to the granting of any special use, the Board of Commissioners may stipulate, such conditions and restrictions as agreed upon by the applicant. Reasonable and appropriate conditions and safeguards may be imposed upon the special use permits. Where appropriate, such conditions may

include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the town, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

12.4 GENERAL PROVISIONS IN GRANTING SPECIAL USE PERMITS

A. COMPLIANCE WITH OTHER CODES

Granting of a Special Use Permit does not exempt applicant from complying with all of the requirements of building codes and other ordinances.

B. REVOCATION

In any case where the conditions of a Special Use Permit have not been or are not being complied with, the Administrative Officer shall give the permittee notice per G.S. 160D-403 of intention to revoke such permit prior to a Board of Commissioners review thereof. After conclusion of the review, the Board of Commissioners may revoke such permit.

C. EXPIRATION

In any case where a Special Use Permit has not been exercised within the time limit set by the Board of Commissioners, or within two (2) years then without further notice, the permit shall be null and void. "Exercised" as set forth in this section shall mean that binding contracts for the construction of the main building have been let; or in the absence of contracts that the main building is under construction to a substantial degree; or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewerage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the condition set forth in the permit.

D. DURATION OF SPECIAL USE

Any conditions imposed in a special use authorized and exercised shall be perpetually binding upon the property unless expressly limited by the Special Use Permit or subsequently changed or amended by the Board of Commissioners after an evidentiary public hearing.

SECTION 13. BOARD OF ADJUSTMENT

13.1 CREATING THE BOARD OF ZONING ADJUSTMENT

The Board of Adjustment of the Town of Newton Grove shall consist of seven (7) members.

A. APPOINTMENT OF MEMBERS

Five members shall reside within the town limits and shall be appointed by the Newton Grove Town Board for three (3) terms. In addition, two (2) members who shall reside within the town's extraterritorial jurisdiction shall be appointed by the Sampson County Board of Commissioners to serve three (3) year terms. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board of Adjustment.

Per G.S. 160D-309, All members appointed to the board of adjustment under this Article shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160A-61.

13.2 PROCEEDINGS OF THE BOARD OF ZONING ADJUSTMENT

The Mayor shall appoint a Chairman and Vice-Chairman from the members of the Board of Adjustment who shall serve for one (1) year, at the end of which period they shall be reappointed or serve until their successors are appointed. The Board shall designate one (1) of its members as secretary.

The Board of Adjustment shall adopt rules and by-laws to conduct its affairs and shall establish regular meeting dates. All meetings of the Board of Adjustment shall be open to the public and a public record of all findings and decisions shall be maintained. The concurring vote of four-fifths of the members of the Board shall be necessary to grant a variance. A simple majority vote shall be required to reverse any decision of the Administrative Officer or his representative, or to decide in favor of the applicant on any matter upon which it is required to consider under any ordinance., For the purposes of this section, vacant positions on the board and members who are disqualified from voting due to a conflict of interest 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.

A member of the board of adjustment exercising quasi-judicial functions pursuant to this Section shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship

with an affected person, or a financial interest in the outcome of the matter.

13.3 ADMINISTRATIVE APPEALS TO THE BOARD, HEARING AND NOTICE

B. FILING PROCEDURE

Administrative appeals from the enforcement and interpretation of this Ordinance and requests for other Board of Adjustment action authorized in this Ordinance shall be filed with the Administrative Officer or his representative specifying the grounds thereof. The Administrative Officer shall transmit to the Board of Adjustment all applications and records pertaining to such appeals, and requests.

C. HEARING THE APPEAL

The Board of Adjustment shall schedule a reasonable time for the evidentiary hearing of the appeal, give public notice thereof.

D. STAY OF PROCEEDINGS BY APPEAL

An administrative appeal stays all proceedings in furtherance of the action appealed from unless the Administrative Officer certifies to the Board of Adjustment that by reason of facts stated in the record, a stay would, in his opinion, cause imminent peril to life and property, in which case proceedings shall not be stayed otherwise than by an order from the Sampson County Superior Court.

13.4 FEE

A fee as posted in the Town Clerk's Office shall be paid to the Town of Newton Grove, North Carolina, for each application for a variance or appeal to cover the necessary administrative costs and advertising.

13.5 POWERS AND DUTIES OF THE BOARD OF ADJUSTMENT

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

1. Administrative Appeal. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer in the enforcement of this Ordinance.
2. Variances. Per G.S. 160D-705(d), this section is designed to authorize upon appeal in specific cases such variances from the terms of this Ordinance as will not be contrary to the public interest, where, owing to special conditions a literal enforcement of the provisions of this Ordinance would result in unnecessary hardship. The existence of a nonconforming use of neighboring land, buildings, or structures, in the same district or of permitted or nonconforming uses in other districts shall not constitute a reason for the requested variance. A variance from the terms of this

Ordinance shall not be granted by the Board of Adjustment unless and until the following findings are made:

- (a) Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - (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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
 - (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 is not a self-created hardship; and
 - (d) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.
3. Notice of the evidentiary hearing for a variance conducted pursuant to this Section shall be mailed to the person or entity whose 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. 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 of commissioners 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.
 4. The hearing shall be held. Any party who has standing may appear in person or by agent or by attorney.
 5. Under no circumstances shall the Board of Adjustment grant a

variance to allow use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

F. Decisions of the Board of Adjustment

In exercising the above mentioned powers, the Board of Adjustment may, so long as action is in conformity with the terms of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken.

13.6 APPEAL FROM THE BOARD OF ZONING ADJUSTMENT

Appeal from the decision of the Board of Adjustment may be taken to the Sampson County Superior Court within a period of thirty (30) days following decision.

SECTION 14. ZONING TEXT AND MAP AMENDMENTS

The Board of Commissioners may change the text regulations [text amendments] and zoning district lines [map amendment] according to the following procedures:

14.1 ACTION BY THE APPLICANT

The following actions shall be taken by the applicant:

- A. Initiation of Amendments: Proposed changes or amendments may be initiated by the Board of Commissioners, Planning Board, Board of Adjustment, or by the owner(s), or their agent, of property within the area proposed to be changed.
- B. Application: Application for any change or amendment shall be filed with the Administrative Official at least twenty-five (25) days prior to the Planning Board meeting at which the application is to be considered. The application shall contain a description of the proposed amendment and the names and addresses of property owners directly affected by the proposed change. Any application submitted in accordance with the provisions of this section for the purpose of amending the regulations or district boundaries established by this chapter may be withdrawn at any time, but fees are nonrefundable.
- C. Fee: The Town Board shall set a fee payable to the Town of Newton Grove, North Carolina, to cover the necessary administrative costs and advertising of each application for a change or amendment. The set fee shall be posted in the Town Clerk's Office.
- D. Notice of Legislative Public Hearing:
 - (1) Newspaper Notice. Per G.S. 160D-601(a), before action on the amendment, the Board of Commissioners shall hold a legislative public hearing. A notice of the hearing shall be given once a week for two consecutive calendar weeks in a newspaper have general circulation in the area. The notice shall be published the first time not more than 25 nor less than ten days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.
 - (2) When zoning regulations are changed or property is rezoned (zoning map amendment), the owner of that parcel affected by such rezoning parcels of land as shown on the county tax listing and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public the hearing on a proposed zoning map amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. If the zoning

map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-602, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

- (3) Posting property. The property shall also be posted at least ten days but not more than 25 days before the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons.

14.2 ACTION BY THE PLANNING BOARD

The Planning Board shall consider and provide written recommendations to the Board of Commissioners concerning each proposed zoning text or map amendment. Per G.S. 160D-604(d), When conducting a review of a proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the town board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made., A Planning Board member shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A planning board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

14.3 ACTION BY THE BOARD OF COMMISSIONERS

- A. Notice and Public Hearing: No text or zoning map amendment shall be adopted by the Board of Commissioners until after public notice of the legislative hearing is provided per Section 12.1.
- B. Board of Commissioners Action: Before making a legislative decision as it may deem advisable, the Board of Commissioners shall consider the planning board's recommendation on each proposed zoning text or map amendment. If no recommendation is received from the planning board within thirty (30) days after public hearing by the Board of Commissioners, the proposed amendment shall be deemed a recommendation of approval by the planning board. A board of commissioners member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this ordinance where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A board of commissioner 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
- C. Plan Consistency. Per G.S. 160D-605, when adopting or rejecting any zoning text or map amendment, the board of commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the town board that at the time of action on the amendment the town board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the board of commissioners shall provide a statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.
- D. Additional Reasonableness Statement for Rezonings. When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the town board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to

be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the board of commissioners statement on reasonableness may address the overall rezoning.

- E. Citizen Comments: If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to this ordinance to the Town Clerk at least two business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Board of Commissioners. Any resident or property owner who submits a written statement of citizen concern may withdraw their written statement any time prior to the meeting at which the item will be considered.
- F. Reconsideration One-Year Limitation: Whenever an application requesting an amendment has been acted on and denied by the planning board and the town board, such application, or one substantially similar, shall not be reconsidered sooner than one year after the previous denial.

SECTION 15. DEFINITIONS

Except where specifically defined herein all words used in this Ordinance shall carry their customary meanings. Words used in the present tense shall include the future tense; the singular number includes the plural; the word "building" includes the word "structure"; the word "lot" includes the word "plot" or "parcel"; the term "shall" is always mandatory; the words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

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. These are sometimes referred to as "ministerial" decisions or "administrative determinations."

Administrative hearing. A proceeding to gather facts needed to make an administrative decision.

Administrative Officer. The person, officer, or official or his authorized representative, whom the Town Board has designated as its agent for administration of this Ordinance.

Alley. A public way which affords only a secondary means of access to an abutting property and not intended for general traffic circulation.

Apartment. See Dwelling, Multi-Family.

Bed and Breakfast Inn. Temporary housing which includes breakfast but no other meals. No more than five (5) rooms are available for rent and the operator lives on the premises.

Billboard. See Sign, Outdoor Advertising.

Boarding House, or Lodging House. A building or part thereof where meals or lodging or both are provided for compensation for four (4) or more but not more than ten (10) individuals.

Bona fide farm purposes. Those agricultural activities set forth in G.S. 160D-903.

Buffer. A unit of required yard where a combination of plant or man-made barriers such as fencing, bushes, and tress, and/or earthen berm is utilized and intended to spatially separate and visually obstruct the view shed of two different land uses minimizing potential negative impacts thereof.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Building, Accessory. A use customarily incidental and subordinate to the principal use or

building and located on the same lot with such principal building or use. No manufactured home shall be considered an accessory building.

Building, Principal. A building in which is conducted the principal use of the lot on which said building is situated.

Building Line. See Setback Line.

Building Height. The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck line of a mansard roof; or to the mean height level between the eaves and ridge or a gable, hip, or gambrel roof.

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

Comprehensive plan. A comprehensive plan that has been officially adopted by the Board of Commissioners pursuant to G.S. 160D-501.

Day Care Facility. Child care arrangement which provides day care on a regular basis for more than four (4) hours per day for more than twelve (12) children, whether operated forprofit or not.

Decision-making board. A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this ordinance.

Determination. A written, final, and binding order, requirement, or determination regarding an administrative decision.

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

Development. Any of the following:

- (a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
- (b) The excavation, grading, filling, clearing, or alteration of land.
- (c) The subdivision of land as defined in G.S. 160D-802.
- (d) The initiation or substantial change in the use of land or the intensity of use of land.

Development approval. An administrative or quasi-judicial approval made pursuant to this ordinance that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits,

variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development regulation. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this ordinance, or a local act or charter that regulates land use or development.

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. For the purposes of Article 12 of G.S. 160D, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

Dwelling, Single Family. A detached residence designed for or occupied by one family only.

Dwelling, Two Family (Duplex). A residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each.

Dwelling, Multi-Family. A residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities each.

Electronic Gaming Operations. Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes, beach sweepstakes or cybercafes.

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

Family. One or more persons related by blood, marriage, or adoption occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging, or hotel.

Frontage. The distance between the two side lot lines as measured along the front street line.

Governing board. The Newton Grove Board of Commissioners. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and means any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

Home Occupations. Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residence purposed and does not change the character thereof, and in connection with which there is no display and no person not a resident on the premises is employed specifically with the home occupation, except that no more than one (1) assistant may be employed by the following home occupations: attorney, dentist, physician, chiropractor, and osteopath, Provided further, that no mechanical equipment is installed or used except such that is used for domestic or professional purposes, and that not over 25 percent of the total floor space of any structure is used for home occupations.

Hotel, Motel. Building(s) containing sleeping accommodations for ten (10) or more persons, primarily the temporary abode of persons who have their residences elsewhere.

Junk Yard or Salvage Yard. Use of property for indoor and/or outdoor storage, keeping, abandonment, sale or resale of junk including scrap metal, rags, paper, or other scrap materials, used lumber, salvaged house wrecking, and structural steel, materials and equipment, or for the dismantling, demolition, or abandonment of automobiles or other vehicle or machinery or parts thereof.

Landowner or owner. The holder of the title in fee simple. Absent evidence to the contrary, the town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

Legislative decision. The adoption, amendment, or repeal of a regulation under this ordinance or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S. 160D.

Legislative hearing. A hearing to solicit public comment on a proposed legislative decision.

Lot. A parcel of land having frontage on a public street or other officially approved means of access occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this Ordinance and the following definitions:

Lot, corner. A lot abutting two or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side.

Lot coverage. All areas of a lot or parcel covered by buildings and all accessory buildings including impervious surfaces such as parking lots.

Lot, substandard. A parcel of land held in separate ownership having frontage on public street, occupied or intended to be occupied by a principal building or structure together with accessory buildings, and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Ordinance.

Lot, depth. The mean horizontal distance between front and rear lot lines.

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

Lot, width. The distance between side lot lines measured at the building line.

Manufactured Home, Class A. A manufactured home 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 size and appearance standards:

- a. The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis;
- b. The manufactured home has a minimum of 1,200 square feet of enclosed and heated living area;
- c. The pitch of the roof of the manufactured home has minimum vertical rise of three and two tenths feet for each twelve feet of horizontal run (3.2 feet and 12 feet) and the roof is finished with a type of composition shingle that is commonly used in standard residential construction;
- d. The roof eaves and gable overhangs shall be 6-inch minimum (rain gutters may not be included in the minimum dimensions);
- e. The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction;
- f. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, is installed under the perimeter of the manufactured home;
- g. The front entrance to the manufactured home has stairs and a porch, the porch being at least four feet by six feet in size. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the North

Carolina State Building Code; and

- h. The moving hitch, wheels, and axles, and transporting lights have been removed.

It is the intent of these criteria to insure that a Class "A" manufactured home, when installed, shall have substantially the appearance of an on-site conventionally built, single-family dwelling, to include landscaping in harmony with surrounding dwellings.

Manufactured Home, Class B. A manufactured home 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 size and additional criteria:

- a. The manufactured home is set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation, vinyl, masonry curtain wall or material intended specifically for this purpose, un-pierced except for required ventilation and access, is installed under the entire perimeter of the manufactured home
- b. The front entrance to the manufactured home has stairs and a porch, the porch being at least four feet by six feet in size. Stairs, porches, entrance platforms, ramps, and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the North Carolina State Building Code; and
- c. The moving hitch, wheels, and axles, and transporting lights have been removed.

Manufactured Home Park. Any plot of ground upon which five (5) or more manufactured homes occupied for dwelling or sleeping purposes are located, regardless of whether or not a charge is made for such accommodations.

Modular Home. Any building or closed construction which is made or assembled in manufacturing facilities on or off the building site for installation or assembly and installation on the building site other than mobile homes or recreational vehicles. Modular homes shall comply with all codes applicable to residential construction and shall be considered the same as any conventional, site-built home.

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

Park Model Home. A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) is composed of one or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported on its own chassis and (ii) does not exceed forty feet in length and eight feet in width.

Parking Space. The storage space of not less than eight (8) feet by twenty (20) feet for

one (1) automobile, plus the necessary access space. It shall always be located outside the dedicated street right-of-way.

Person. An individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

Planning and development regulation jurisdiction. The geographic area defined in Part 2 of G.S. 160D within which the Town may undertake planning and apply the development regulations authorized by this ordinance.

Property. All real property subject to land-use regulation by the town. The term includes any improvements or structures customarily regarded as a part of real property.

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. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

Riparian Buffer. A specified width of land that adjoins surface waters whereupon any land disturbing activity is restricted providing preservation of the natural resource.

Service Station. A building or lot dedicated to the rendering of services such as the sale of gasoline, oil, lubricants, and accessories and the minor repair of automobiles such as tune-ups, brake adjustments, and tire changes excluding body work, overhauling, and painting.

Setback Line. The line on the front, rear, and sides of a lot, set according to the district regulations, which delineates the area upon which a structure may be built or maintained.

Shopping Center. Two or more commercial establishments planned and constructed as a single unit with off-street parking and loading facilities provided on the property and related in location, size, and type of shops to the trade area which the unit serves.

Sign. Any words, lettering, parts of letters, pictures, figures, numerals, phrases, sentences, emblems, devices, flashing lights, design, trade names or trade marks by which anything is made known, such as the designation of an individual, a firm, an association, a profession, a business, a commodity, a product, which are visible from any

public way and used to attract attention.

Sign, business. Any sign which advertises an establishment, a service, commodity, or activity conducted upon the premises where such sign is located.

Sign, outdoor advertising (Billboard). Any sign which advertises an establishment, service, commodity, goods or entertainment sold or offered on premises other than that on which the sign is located.

Sign, temporary advertising. Any sign, banner, pennant, valance or advertising display constructed of wood, metal, cloth, canvas, cardboard, wall-board or other light material with or without frames, whether either by reason of construction or purpose are intended to be displayed for a short period of time only.

Sign, freestanding. A sign erected on a freestanding frame, mast or pole, and not attached to any building, and which is permanently affixed to the property.

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

Special use permit. A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as special use permits or special exceptions.

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

Structure. Anything constructed or erected, the use of which requires permanent or semi-permanent location on the ground, or attachment to something having permanent location on the ground, including advertising signs.

Travel Trailer. A structure that is (i) intended to be transported over the streets and highways (either as a motor vehicle or attached to or hauled by a motor vehicle), and (ii) is designed for temporary use as a sleeping quarters, but that does not satisfy one or more

of the definitional criteria of a manufactured home.

Tourist Home. A dwelling in which sleeping accommodations are provided or offered to transient visitors for compensation.

Vested Right. The right to undertake and complete development and use of property under the terms and conditions of an approval secured as specified in G.S. 160D-108 or under common law.

Yard. A required open space on the same lot as the principal building, unoccupied and unobstructed (other than for vegetation) from the ground upward except as otherwise provided herein.

Yard, front. A yard extending across the front of a lot measured from side to lot line to side lot line and lying between the abutting street right-of-way and the front building setback line.

Yard, rear. A yard extending across the rear of the lot measured from side lot line to side lot line and lying between the rear property line and the rear building setback line.

Yard, side. A yard extending along either side of a lot measured from front yard line to rear line and lying between the side lot line and the side setback line.

Zoning map amendment or rezoning. An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

Zoning regulation. A zoning regulation authorized by Article 7 of G.S. 160D.

Schedule of Text Amendments

Case #	Purpose	Section	Date Apprvd
TA02 10	Parking (Off Street)	7.1E	Aug 2002
TA04 03	Signage	9.4D	Mar 2004
TA07 01	State Mandated Revisions Zoning & Sub		Mar 2007
TA10 04	Add Electronic Gaming Operations as CUto CB District	6.6B	Jun 2010
TA11 01	Adopt Land Use Plan recommendations		July 2011
TA12 01	Allow Modular SFD to R20 District	6.1A	Sept 2012
TA12 02	Watershed		Nov 2012
TA14 01	Conditional Use Process	10.2/10.4	Mar 2014