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GROWTH MANAGEMENT ORDINANCE OF THE TOWN OF ORIENTAL

Updated: [DATE]

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GROWTH MANAGEMENT ORDINANCE OF THE TOWN OF ORIENTAL

ARTICLE 1. GENERAL PROVISIONS

Section 1. Title: Town of Oriental Growth Management Ordinance

1.1 This Ordinance shall be known and may be cited as the Town of Oriental Growth Management Ordinance, (abbreviated “GMO”).

Section 2. Authority

2.1 This chapter is adopted pursuant to the authority contained in ~~Article 19, Chapter 160A Chapter 160D~~; Article 4, Chapter 113A; and Article 21, Chapter 143 of the North Carolina General Statutes (Hereinafter “NCGS”).

2.2 Whenever any provision of this chapter refers to or cites a Section of the NCGS, Court Ruling, State or Federal Departmental Rule or Regulation and that Section is later amended or superseded, the chapter shall be deemed amended to refer to the amended Section of the Section that most nearly corresponds to the superseded Section.

Section 3. Jurisdiction

3.1 This chapter shall be effective throughout the Town’s planning and development regulation jurisdiction. The Town’s planning and development regulation jurisdiction comprises the area within the corporate boundaries of the Town. Such planning and development regulation jurisdiction may be modified from time to time in accordance with ~~Section 160A-360~~ Sections 160D-200; 202; 903 of the NCGS.

3.2 In addition to other locations required by law, a copy of a map showing the boundaries of the Town’s planning and development regulation jurisdiction shall be available for public inspection in the Town Hall. The map may be viewed online at: <http://www.townoforiental.com> > General Ordinances > ~~Official~~ Official GMO Map

3.3 “Town Commissioners” shall refer to the Oriental Mayor and Board of Commissioners. See, Section 46.1.

Section 4. Effective Date

4.1 The provisions in this chapter were originally adopted and became effective on February 1, 1999. Subsequent amendments are dated as indicated throughout the GMO (Dec. 2015)

Section 5. Relationship to Land Use and Comprehensive Plan

5.1 It is the intention of the Town Commissioners that this chapter implement the planning policies adopted by the Town Commissioners as reflected in the TOWN OF ORIENTAL

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CAMA LAND USE PLAN (~~updated 2007~~ amended March 7, 2023) and the Town's Comprehensive Plan (adopted June 5, 2012). These documents may be viewed at Town Hall or found on the Town's website: <http://www.townoforiental.com>. (~~Dec. 2015~~)

5.2 Any plan under NCGS 160D, Article 5, such as a CAMA land use plan or comprehensive plan, must be adopted and amended as a legislative decision. This decision must follow the procedure for adopting, amending, or repealing development regulations specified by NCGS§160D-601.

5.3 A plan under NCGS 160D, Article 5 must be reasonably maintained as a requirement for zoning.

Section 6. No Use of Land or Buildings Except in Conformity with Chapter Provisions

6.1 Subject to Article XI of this chapter (Non-Conforming Situations), no person may use or occupy any land or buildings or authorize or permit the use or occupancy of land or buildings under their control except in accordance with all of the applicable provisions of this chapter.

6.2 For purposes of this Section, the "use" or "occupancy" of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 7. Fees

7.1 Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for land use permits, special use permits, growth management ordinance amendments, variances, appeals, other administrative relief, and site plan review. Fees required by this chapter shall not be used for purposes outside this chapter. The amount of the fees charged shall be as set forth in the Town's budget or as established by resolution of the Town Commissioners filed in the office of Town Hall.

7.2 Fees established in accordance with sub-section 7.1 above shall be paid upon submission of a signed application or notice of appeal.

Section 8. Severability

8.1 It is hereby declared to be the intention of the Town Commissioners that the Sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any such Section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining Sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted without the incorporation into this ordinance of such unconstitutional or invalid Section, paragraph, sentence, clause or phrase.

Section 9. Non-Abrogation of Existing Private Agreements

9.1 It is not intended that this ordinance repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations or permits previously adopted or issued pursuant to law except as set forth in Section 218 (Record). Should the requirements of these regulations conflict with those of the Growth Management Ordinance or other ordinance, the more stringent requirements shall prevail.

Section 10. Computation of time

10.1 The time within which an act is to be done which is stated in terms of days shall be computed by excluding the first day and by including the last day. If the last day is a Saturday, Sunday, or legal holiday, that day shall be excluded. When the period of time is less than seven days, intermediate Saturdays, Sundays, and legal holidays shall be excluded.

10.2 Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served by mail, three days shall be added to the prescribed period.

Section 11. Miscellaneous

11.1 As used in this ordinance, gender words are interchangeable between the masculine, the feminine, and neuter.

11.2 As used in this ordinance, words of the singular include the plural and words of the plural include the singular.

Section 12. Conflicts of Interest Standards

12.1 In General. The Town Commissioners, Planning Board, Board of Adjustment, any other appointed board or advisory committee, Land Use Administrator, and any other administrative staff shall abide by conflicts of interest standards pursuant to NCGS§160D-109.

12.1.1 Governing Board (Town Commissioners). A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

12.1.1.1 Zoning-Related Amendments. A governing 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.

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12.1.2 Appointed Boards (including Planning Board and Board of Adjustment). Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to NCGS 160D where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

12.1.1.1 Zoning-Related Amendments. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

12.1.3 Administrative Staff (including Land Use Administrator). No staff member shall make a final decision on an administrative decision required by NCGS 160D if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under NCGS 160D unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

12.2 Quasi-Judicial Decisions. A member of any board exercising quasi-judicial functions pursuant to NCGS 160D 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.

12.2.1 Impermissible violations of due process include, but are not limited to:

12.2.1.1 a member having a fixed opinion prior to hearing the matter that is not susceptible to change,

12.2.1.2 undisclosed ex parte communications,

12.2.1.3 a close familial, business, or other associational relationship with an affected person,

12.2.1.4 or a financial interest in the outcome of the matter.

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

12.4 Familial Relationship Definition. Within this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Sections ~~12~~ 13 through 19 Reserved

ARTICLE II. ADMINISTRATION

Section 20. Planning Board

20.1 There shall be a Planning Board appointed by the Town Commissioners.

20.1.1 Appointment and terms of Planning Board Members.

20.1.1.1 Planning Board members shall be appointed for three-year, staggered terms, but members may continue to serve until their successors have been appointed. Initially, two (2) members shall be appointed for three-year terms, two (2) members shall be appointed for two-year terms and one (1) member shall be appointed for a term of one (1) year. Vacancies may be filled for the unexpired terms only.

20.1.1.2 Members may be appointed to not more than two complete, three-year successive terms. After expiration of two complete successive terms, members may continue to serve until a replacement is appointed.

20.1.1.3 Planning Board members may be removed by the Town Commissioners at any time for failure to attend three consecutive meetings or for failure to attend fifty percent or more of the meetings within any twelve months period or for any other good cause related to performance of duties.

20.1.1.4 If a member moves outside the Town, that shall constitute a resignation from the Planning Board, effective upon the date a replacement is appointed by the Town Commissioners.

20.1.2 Meetings of the Planning Board

20.1.2.1 The Planning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in

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conformity with Section 144 (Applications to be Processed Expeditiously).

- 20.1.2.2 Since the board has only advisory authority, it need not conduct its meetings strictly in accordance with the quasi-judicial procedures set forth in Articles I (Administration), V (Permits), XII (Appeals, Variances, and Interpretations), and XIII (Hearing Procedures for ~~Appeals and Applications~~ Quasi-Judicial Decisions). However, it shall conduct its meetings to obtain necessary information and to promote the full and free exchange of ideas.
 - 20.1.2.3 Minutes shall be kept of all board proceedings.
 - 20.1.2.4 All board meetings shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.
- 20.1.3 All proposed amendments to the Growth Management Ordinance or Growth Management Map shall be submitted to the Planning Board for review and comment.
- 20.1.4 In addition all meetings of the Planning Board shall be open to the public and a single notice of the meeting shall be published in accordance with NCGS. (Dec. 2015)
- 20.1.5 Quorum and Voting (Planning Board)
- 20.1.5.1 A quorum for the Planning Board shall consist of a majority of the board membership (excluding vacant seats). A quorum is necessary for the board to take official action.
 - 20.1.5.2 All actions of the Planning Board shall be taken by majority vote, a quorum being present.
 - 20.1.5.3 A roll call vote shall be taken upon the request of any member.
 - 20.1.5.4 Members of the Planning Board shall not vote on recommendations regarding any growth management map or text amendment where the outcome of the matter under consideration is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.
 - 20.1.5.5. A member who has withdrawn from the meeting without being excused as provided in Section 20.1.5.4 (Voting) shall be counted as present for purposes of determining whether a quorum is present.
- 20.1.6 Planning Board Officers

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20.1.6.1 At its first meeting in June each year, the Planning Board shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairperson and preside over the board's meetings, one member to serve as vice-chairperson and one member to serve as secretary. The persons so designated shall serve in these capacities for terms of one year. Vacancies in these offices may be filled for the unexpired terms only majority vote of the board membership (excluding vacant seats).

20.1.6.1.1 The chairperson shall

20.1.6.1.1.1 decide all points of order and procedures, subject to the board's by-laws and rules of procedure,

20.1.6.1.1.2 shall vote on all matters decided by the Board,

20.1.6.1.1.3 shall appoint any committees found necessary to investigate any matters before the board.

20.1.6.1.2 The vice-chairperson shall serve as acting chairperson in the absence of the chairperson, and at such times, shall have the same duties and powers as the chairperson.

20.1.6.1.3 A secretary appointed at each meeting or Town staff shall keep minutes of all the Planning Board meetings.

20.1.7 Powers and Duties of Planning Board

20.1.7.1 The Planning Board may:

20.1.7.1.1 Acquire and maintain, in current form, basic information and material as necessary regarding past trends, present conditions, and forces at work which may cause change in these conditions;

20.1.7.1.2 Identify needs and problems growing out of those needs;

20.1.7.1.3 Determine objectives to be sought in development of the area;

20.1.7.1.4 Establish principles and policies for guiding action in development of the area;

20.1.7.1.5 Prepare and, from time to time, amend and revise a comprehensive and coordinated plan for the physical, social, and economic development of the area;

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- 20.1.7.1.6 Prepare and recommend to the Town Commissioners ordinances promoting orderly development along lines indicated in the comprehensive plan and advise the Town Commissioners concerning proposed amendments or such ordinances;
- 20.1.7.1.7 Determine whether specific proposed developments conform to the principles and requirements of the comprehensive plan for the growth and development of the area and ordinances adopted in the furtherance of such plan;
- 20.1.7.1.8 Keep the Town Commissioners and the general public informed and advised as to those matters;
- 20.1.7.1.9 Perform any other duties that may lawfully be assigned to it, and
- 20.1.7.1.10 Adopt rules and regulations governing its procedures and operations consistent with the provisions of this chapter.

Section 21. Advisory Committees

21.1 From time to time, the Town Commissioners may appoint one or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject area. By way of illustration, the Town Commissioners may appoint advisory committees to consider the thoroughfare plan, bikeway/greenway plans, economic developments plans, etc.

21.1.1 Members of such advisory committees shall sit as nonvoting members of the Planning Board when such issues are being considered and lend their talents, energies, and expertise to the Planning Board. However, all formal recommendations to the Town Commissioners shall be made by the Planning Board.

21.2 Nothing in this Section shall prevent the Town Commissioners from establishing independent advisory groups, committees, or boards to make recommendations on any issues directly to the Town Commissioners.

21.3 Minutes shall be kept of all advisory committee proceedings.

Section 22. Board of Adjustment

22.1 Appointment and Terms of Board of Adjustment

22.1.1 There shall be a Board of Adjustment consisting of five (5) members and two (2) alternates.

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22.1.2 Board of Adjustment regular members and alternates shall be appointed by the Oriental Town Commissioners for three-year staggered terms, but both regular members and alternates may continue to serve until their successors have been appointed. Initially, two (2) members shall be appointed for three-year terms, two (2) members shall be appointed for two-year terms, and one (1) shall be appointed for a one-year term. Vacancies may be filled for the unexpired terms only. Terms shall commence on July 1, and expire on June 30.

22.1.3 Regular Board of Adjustment members may be removed by the Town Commissioners at any time for failure to attend three consecutive meetings or for failure to attend fifty percent or more of the meetings within any twelve-month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. Upon request of the member proposed for removal, the Town Commissioners shall hold a hearing on the removal before it becomes effective.

22.1.4 If a regular or alternate member moves outside the Town, that shall constitute a resignation from the board, effective upon the date a replacement is appointed.

22.2 Meetings of the Board of Adjustment

22.2.1 The Board of Adjustment shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with Section 100 (Applications to be Processed Expeditiously).

22.2.2 The Board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Articles I (Administration), V (Permits), XII (Appeals, Variances, and Interpretations), and XIII (Hearing Procedures for **Appeals and Applications** Quasi-Judicial Decisions).

22.2.3 All meetings of the Board shall be open to the public, and whenever feasible, the agenda for each board meeting shall be made available in advance of the meeting.

22.2.4 Minutes shall be kept of all board proceedings.

22.3 Quorum and Voting (Board of Adjustment)

22.3.1 A quorum is necessary for the Board to take official action.

22.3.2 A member who has withdrawn from the meeting without being excused as provided in Section 22.3.7 shall be counted as present for purposes of determining whether a quorum is present.

22.3.3 The concurring vote of four-fifths of the regular board membership (excluding vacant seats) shall be necessary ~~to reverse any order, requirement, decision or determination of the administrator or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or~~ to grant any

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variance. For the purpose of this sub-section, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered “members of the board” for calculation of the requisite supermajority. All other actions of the Board of Adjustment shall be taken by a majority vote.

22.3.4 Once a member is physically present at a board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with sub-section (3) or has been allowed to withdraw from the meeting in accordance with sub-section (5).

22.3.5 A member of the board or any other body exercising the functions of a board of adjustment shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons’ constitutional rights to an impartial decision maker. Impermissible conflicts include but are not limited to, the following:

22.3.5.1 a member having a fixed opinion prior to hearing the matter that is not susceptible to change;

22.3.5.2 a member having undisclosed ex parte communications;

22.3.5.3 a member having a close familial, business, or other associational relationship with an affected person; or

22.3.5.4 If a member has a financial interest in the outcome of the matter.

22.3.6 If an objection is raised to a member’s participation and that member does not recuse him/herself, the remaining members shall, by majority vote, rule on the objections.

22.3.7 A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

22.3.8 A roll call vote shall be taken upon the request of any member.

22.4 Board of Adjustment Officers.

22.4.1 At its first regular meeting in June, the Board of Adjustment shall, by majority vote of its membership (excluding vacant seats), elect one of its members to serve as chairperson and preside over the board’s meetings and one member to serve as vice-chairperson. The persons so designated shall serve in these capacities for terms of one year. Vacancies may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).

22.4.2 The chairperson, or any member temporarily acting as chairperson, may administer oaths to witnesses coming before the board.

22.5 Powers and Duties of Board of Adjustment

22.5.1 The Board of Adjustment shall hear and decide:

- 22.5.1.1 Appeals from any order, decision, requirement, or interpretation made by the Land Use Administrator, as provided in Section 200 (Appeals).
- 22.5.1.2 Applications for variances, as provided in Section 201 (Variances).
- 22.5.1.3 Questions involving interpretations of the Growth Management Map, including disputed district boundary lines and lot lines, as provided in Section 192 (Interpretations).
- 22.5.1.4 Any other matter the board is required to act upon by any other town or county ordinance.
- 22.5.1.5 The board may adopt rules and regulations governing its procedures and operation not inconsistent with the provisions of this ordinance.

Section 23. Advisory Boards in General

23.1 All members appointed to boards under this chapter shall, before entering their duties, qualify by taking an oath of office as required by NCGS§160A-61.

23.2 If a board adopts rules of procedure, the rules of procedure must be maintained by the Land Use Administrator, and the rules of procedure must be available to the public on the Town's website.

Sections ~~23~~ 24 through 39 Reserved

Section 40. Land Use Administrator

40.1 The 'Land Use Administrator,' also known as the 'Town Manager,' has primary responsibility for administering and enforcing Town Ordinances. The person or persons to whom these functions are assigned shall be referred to in this chapter as the 'Land Use Administrator.' The enforcement authority of the Land Use Administrator may be delegated by the Land Use Administrator by direction to his or her staff.

Sections 41 through 45 Reserved

Section 46. Board of Commissioners

46.1 The Oriental Mayor and Board of Commissioners shall be referred to as the "Town Commissioners."

- 46.2 In considering proposed changes in the text of this chapter or in the Growth Management Map, the Town Commissioners shall act in their legislative capacity and must proceed in accordance with the requirements of Article XV (Amendments).
- 46.3 The Town Commissioners, in considering special use permit applications, act in a quasi-judicial capacity and are required to observe the procedural requirements detailed in Article V (Permits and Development Approvals) and Article XIII (Hearing Procedures for ~~Appeals and Applications~~ Quasi-Judicial Decisions).

Section 47. Determinations

- 47.1 The Land Use Administrator shall make determinations under this chapter. Determinations include, but are not limited to, notices of violation.
- 47.2 The Land Use Administrator shall give written notice to the property owner and party who sought the determination, if different from the property owner.
- 47.3 The written notice shall be delivered by personal delivery, email, or first-class mail.
- 47.4 The notice shall be delivered to the last address listed for the owner of the affected property on the county tax abstract and to the address provided in the application or request for a determination if the party seeking the determination is different from the owner.

Sections ~~47~~ 48 through 49 Reserved

ARTICLE III. DEVELOPMENT DISTRICTS AND THE GROWTH MANAGEMENT MAP

Section 50. Residential Districts Established

- 50.1 The following residential districts are hereby established R-1, R-2 and R-3. Each of these districts is designed and intended to secure for the persons who reside there a comfortable, healthy, safe, and pleasant environment in which to live, sheltered from incompatible and disruptive activities that properly belong in nonresidential districts. Other objectives of these districts are explained in the remainder of this Section.
- 50.1.1 The R-1 Residential District is established for low-density residential uses. Lots within this district will generally have access to public water and, to a lesser extent, public sewer systems.
- 50.1.2 The R-2 Residential District is established to allow low to medium density residential land use in areas which will normally be served by both public water and sewer systems. Residences shall be limited to two units per lot.

50.1.3 The R-3 Residential District is established to allow medium density residential land use in areas which will normally be served by both public water and sewer systems.

Section 51. Mixed Use Districts Established

51.1 The MU and MU-1 Districts (Mixed Use) are established to allow a broad range of uses, such as residences, services, offices, and the accommodation of small retail stores which provide goods and services primarily to surrounding residential neighborhoods.

Section 52. Official Growth Management Map

52.1 There shall be a map, known and designated as the official Growth Management Map, which shall show the boundaries of all development districts within the Town's planning **and development regulation** jurisdiction. This map shall be kept in the office of the Land Use Administrator.

52.2 The official Growth Management Map, dated February 3, 2009, is adopted and incorporated by reference. Amendments to this map shall be made and posted in accordance with the sub-sections below.

52.3 Amendments to the Official Growth Management Map are accomplished using the same procedures that apply to other amendments to this ordinance, as set forth in Article XV (Amendments).

52.4 The Land Use Administrator shall update the Official Growth Management Map as soon as possible after amendments to it are adopted by the Town Commissioners. Upon entering any such amendment on the map, the administrator shall change the date of the map to indicate its latest revision.

52.5 Should the Official Growth Management Map be lost, destroyed, or damaged; the Land Use Administrator may have a new map drawn. No further authorization or action is required by the Town Commissioners to do so, so long as no district boundaries are changed in this process.

52.6 No unauthorized person may alter or modify the Official Growth Management Map.

52.7 The Land Use Administrator shall keep copies of superseded prints of the Growth Management Map for **historical reference** **public inspection**.

Sections 53 through 59 Reserved

ARTICLE IV. PERMISSIBLE USES BY DISTRICT

Section 60. Permissible Uses and Specific Exclusions

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- 60.1 All legitimate uses of land are intended to be permissible within at least one development district in the Town's planning **and development regulation** jurisdiction with noted exceptions for Heavy Industrial Uses. Because the list of permissible uses set forth in Section 66 (Table of Permissible Uses) cannot be all-inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to those listed, as interpreted by the Land Use Administrator or the Planning Board.
- 60.2 The following uses are specifically prohibited in all districts:
- 60.2.1 Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the Town's fire prevention code.
- 60.2.2 Use of travel trailers or recreational vehicles (RVs)/tents as a permanent residence is prohibited.
- 60.2.3 Temporary habitation of travel trailers or recreational vehicles (RVs) may be granted for a period up to six continuous months with the issuance of a land use permit provided that there exists, on the lot where the travel trailer/RV is to be located, one or more primary structures or dwellings units that have functional sanitary systems for water and sewage, including bathroom facilities (tub, shower, toilet, etc.) and power that conform to existing rules, laws and regulations. This section does NOT include tents, except where specifically included.
- 60.2.3.1 Six Continuous months use is defined as uninterrupted time for up to six months and not shorter periods of time to equal six months over a longer span of time.
- 60.2.3.2 If the lot does not have structures or dwelling units that have functional sanitary systems for water and sewage and power, the land use permit must delineate how sanitary systems and power will be addressed in accordance within existing rules, laws and regulations.
- 60.2.3.3 One extension can be issued for a specific time, up to six months, by the Land Use Administrator and the recommendation of the Planning Board, but the travel trailers/RVs must vacate the lot, while the extension is being reviewed for approval or denial.
- 60.2.3.4 Temporary habitation will only be granted in conjunction with a particular activity such as – building a permanent home, repairing a home after a storm, raising a house due to flooding or general home repairs that require the permanent structure to be vacated, while work is performed.
- 60.2.3.5 Transient lodging in travel trailers/RVs/tents will be allowed, for a specific period of time, associated with a fair, carnival, temporary visit, or special event provided that sanitary systems for water,

sewage and power are provided and addressed. The transient lodging period will last only for the length of the fair, carnival or special event or, in the case of temporary visits, up to two weeks.

60.2.4 All Heavy Industrial Uses are prohibited.

60.3 Permissible Uses Not Requiring Permits

60.3.1 No land use or special use permit is necessary for the following entities:

60.3.1.1 Streets.

60.3.1.2 Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way.

60.3.1.3 Neighborhood utility facilities located within a public right-of-way with the permission of the owner (State or Town) of the right-of-way.

Section 61. Change in Use

61.1 A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot change. This occurs whenever:

61.1.1 The change is from one principal use category to another.

61.1.2 The original use is a combination use (26.000) or planned unit development (27.000), and the relative proportion of space devoted to the individual principal uses that comprise the combination use or planned unit development use changes to such an extent that the parking requirements for the overall use are altered.

61.1.3 The original use is a combination use or planned unit development use, and there is a change in the mixture of types of individual principal uses that make up the combination use or planned unit development use.

61.1.4 The original use is a planned residential development and the relative proportions of different types of dwelling units change.

61.1.5 There is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), and that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store, that constitutes a change in use even though both tenants fall within principal use classification 2.113. However, if the florist shop were

replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center – combination use) has not changed.

61.2 A mere change in the status of property from unoccupied to occupied or vice-versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.

61.3 A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

Section 62. Combination Uses

62.1 When a combination use comprises two or more principal uses that require different types of permits (land use and special use), then the permit authorizing the combination use shall be:

62.1.1 A special use permit if any of the principal uses combined requires a special use permit. *(“S”)

62.1.2 A Land Use permit in all other cases. *(L)

*These are indicated in the Table of Permissible Uses in Section 66 by the designation “S” or “L”.

Section 63. More Specific Use Controls

63.1 Whenever a development could fall within more than one use classification in the Table of Permissible Uses (Section 66), the classification that most closely and most specifically describes the development controls. For example, a small doctor’s office or clinic clearly falls within the 3.110 classification (office and service operations conducted entirely indoors and designed to attract customers or clients to the premises). However, classification 3.130, “physicians’ and dentists’ offices and clinics occupying not more than 10,000 square feet of gross floor area” more specifically covers this use and therefore is controlling.

Section 64. Accessory Uses

64.1 The Table of Permissible Uses (Section 66) classifies principal uses according to their impacts. Whenever an activity is conducted in conjunction with a principal use and this activity (a) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (b) is commonly associated with the principal use and integrally related to it, then that activity may be regarded as accessory to the principal use and may

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be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses.

Section No. 65 is Reserved

Section 66. Table of Permissible Uses (Updated June 2021)

66.1 Subject to Section 64, when used in connection with a particular use in the Table of Permissible Uses (Section 66) the letter “L” means that the use is permissible in the indicated district with a land use permit issued by the Land Use Administrator. The letter “S” means a special use permit must be obtained from the Town Commissioners. The letter “E” indicates the use is exempt from permit requirements. The letter “X” indicates the use is prohibited. Use of the designation “L” or “S” for combination uses is explained in Section 62. (Dec. 2015)

(Table of Permissible Uses – See next page)

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		DISTRICT				
Use Description		R1	R2	R3	MU	MU-1
<i>E= Exempt (no permit needed) L=Land Use Permit Required</i>						
<i>S=Special Use Permit Required X=Prohibited Use</i>						
1.000 RESIDENTIAL						
1.100 Single-family detached, one dwelling unit per lot						
	1.111 Site Built	L	L	L	L	L
	1.112 MFD. Homes (See restrictions, Sec. 251.125)	X	L	L	L	L
1.120 Single-family detached, more than one dwelling unit per lot						
	1.121 Site built and MFD homes	X	L	L	L	L
	1.130 Attached Multi-Unit Residences	X	S	S	S	S
	1.131 Apartment(s) accessory to a commercial use	X	X	X	S	S
1.200 Miscellaneous Rooms for Rent Situations						
	1.210 Rooming houses, boarding houses	X	X	X	L	L
	1.220 Bed and breakfast establishments	X	S	S	L	L
	1.230 Tourist homes and other temporary residences renting for less than (1) one month	X	S	S	L	L
	1.240 Hotels, motels, and similar businesses or institutions providing overnight accommodations	X	X	X	S	S
	1.250 Fraternities, sororities, dormitories and similar housing	X	X	X	S	S
1.300 Temporary Residences						
	1.310 Temporary emergency, construction and repair residences	L	L	L	L	L
	1.320 Homeless Shelters	X	X	X	S	S
1.400 Planned Residential Developments						
		S	S	S	S	S
2.000 SALES AND RENTAL OF GOODS, MERCHANDISE AND EQUIPMENT						
2.100 No Storage or Display of Goods Outside Fully Enclosed Building						
	2.110 High volume traffic generation					
	2.111 Convenience Stores/Grocery Store	X	X	X	L	S
	2.112 Shopping Center	X	X	X	S	S
	2.113 All other	X	X	X	S	S
	2.120 No/Low-volume traffic generation	X	X	X	L	S
	2.130 Wholesale sales	X	X	X	L	S
2.200 Storage and Display of Goods Within and/or Outside Fully Enclosed Building						
	2.210 High-volume traffic generation	X	X	X	S	S
	2.220 No/Low-volume traffic generation	X	X	X	L	S
	2.230 Wholesale sales	X	X	X	L	S
	2.240 Manufactured homes sales	X	X	X	L	S
3.000 OFFICE, CLERICAL, RESEARCH AND SERVICES NOT PRIMARILY RELATED TO GOODS OR MERCHANDISE						
3.100 All Operations Conducted Entirely Within Fully Enclosed Building						
	3.110 Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys and other professionals, insurance and stock brokers, travel agents, government office buildings, etc.	X	X	X	L	L
	3.120 Operations designed to attract little or no customer or client traffic other than employees of the entity operating the principal use	X	X	X	L	L
	3.130 Offices or clinics of physicians or dentists with not more than 10,000 square feet of gross floor area	X	X	X	L	L
	3.140 Banks and other offices and services with drive-in windows	X	X	X	L	L
	3.150 Home Office, with no customer/client traffic and all employees reside on the premises (Dec. 2015)	E	E	E	E	E

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		DISTRICT				
Use Description		R1	R2	R3	MU	MU-1
<i>E= Exempt (no permit needed) L=Land Use Permit Required</i>						
<i>S=Special Use Permit Required X=Prohibited Use</i>						
3.200 Operations Conducted Within and/or Outside Fully Enclosed Building						
	3.210 Operations designed to attract and serve customers or clients on the premises	X	X	X	L	L
	3.220 Operations designed to attract little or no customer or client traffic other than the employees of the entity operating the principal use	X	X	X	L	L
4.000 INDUSTRIAL						
	4.100 LIGHT INDUSTRIAL (See definitions, Section 251)	X	X	X	S	S
	4.200 MEDIUM INDUSTRIAL (See definitions, Section 251)	X	X	X	S	X
	4.300 HEAVY INDUSTRIAL (See definitions, Section 251)	X	X	X	X	X
5.000 EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, AND FRATERNAL USES						
5.100 Schools						
	5.110 Elementary and Secondary (including association grounds and athletic and other facilities)	S	S	S	L	S
	5.120 Trade or vocational schools	X	X	X	L	S
	5.130 Nursery School/Child Daycare	S	S	S	L	S
	5.200 Institutions (including associated residential structures for religious personnel, and associated buildings including school buildings)	S	S	S	L	S
	5.300 Libraries, Museums, Art Galleries, Art Centers and Similar Uses (including associated educational and instructional activities)	S	S	S	L	L
	5.400 Fraternal Clubs and Lodges and Similar Uses	X	S	S	L	L
6.000 RECREATION, AMUSEMENT, ENTERTAINMENT						
6.100 Activity Conducted Entirely Within Building or Substantial Structure						
	6.110 Bowling alleys, skating rinks, indoor tennis and squash courts, indoor athletic and exercise facilities and similar uses	X	X	X	S	X
	6.120 Theatres & Music Venues	X	X	X	S	X
	6.130 Coliseums, stadiums and all other facilities listed in the 6.100 classification designed to seat or accommodate simultaneously more than 1,000 people	X	X	X	S	X
	6.140 Game rooms, bingo, billiards, pool halls, dance hall	X	X	X	S	S
	6.150 Internet Sweepstakes and Electronic Gaming Operations	X	X	X	S	X
	6.160 Adult Bookstore, Adult Entertainment or Tattoo Parlors	X	X	X	S	X
6.200 Activity Conducted Primarily Outside Enclosed Buildings or Structures						
	6.210 Privately-owned outdoor recreational facilities such as golf and country clubs, etc. (not including campgrounds), not constructed pursuant to a permit authorizing the construction of some residential development	S	S	S	S	S
	6.220 Publicly-owned and operated outdoor recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, campgrounds, etc., not constructed pursuant to a permit authorizing the construction of another use such as a school	S	S	S	S	S
	6.230 Golf driving ranges not accessory to golf courses, Par 3 golf courses, miniature golf courses	S	S	S	S	X
	6.240 Horseback riding stables (not constructed pursuant to a permit authorizing residential development)	X	X	X	S	S

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		DISTRICT				
Use Description		R1	R2	R3	MU	MU-1
<i>E= Exempt (no permit needed) L=Land Use Permit Required</i>						
<i>S=Special Use Permit Required X=Prohibited Use</i>						
	6.250 Automobile and motorcycle racing tracks, skateboard parks, water slides, and similar uses	X	X	X	S	X
	6.260 Drive-in movie theatres	X	X	X	S	X
	6.270 Campgrounds, Travel Trailer/Recreational Vehicle (RV) Camps/Parks	X	X	X	S	S
	6.280 Pleasure Craft Only Marinas	S	S	S	S	S
7.000 INSTITUTIONAL RESIDENCES OR CARE OR CONFINEMENT FACILITIES						
	7.100 Hospitals and Medical Diagnostic and Treatment Facilities	X	X	X	S	S
	7.200 Nursing Care Institutions (Skilled and Intermediate Care), Retirement Communities	X	X	X	S	S
	7.300 Residential Care and Treatment Facilities	S	S	S	S	S
	7.310 Adult/Family Care homes, assisted living	S	S	S	S	S
	7.320 Group Homes for the Developmentally Disabled	S	S	S	S	S
	7.330 Residential Treatment Facility for substance abuse	S	S	S	S	S
	7.400 Adult Day Care/Adult Day Health	S	S	S	S	S
	7.500 Penal and Correctional Facilities	X	X	X	S	S
	7.510 Halfway House	X	X	X	S	S
	7.520 Secure Residential Treatment Facility for Substance Abuse	X	X	X	S	S
8.000 RESTAURANTS, BARS, NIGHT CLUBS						
8.100 Restaurants						
	8.110 Eat-in, carry out or delivery service; no drive-in service	X	X	X	L	L
	8.120 Drive-in service	X	X	X	S	S
8.200 Bars, Night Clubs						
		X	X	X	S	S
9.000 MOTOR VEHICLE AND BOAT-RELATED SALES AND SERVICE OPERATIONS						
	9.110 Motor Vehicle and Farm Equipment	X	X	X	L	X
	9.120 Automobile Service Stations	X	X	X	L	X
	9.130 Gas Sales Operations	X	X	X	L	X
	9.140 Automobile Repair Shop or Body Shop	X	X	X	L	X
	9.150 Car Wash (see Section 131)	X	X	X	S	X
9.200 Boat-Related (See Section 4.000 thru 4.300 and 6.280)						
	9.220 Boat Sales or Rental	S	S	S	L	L
	9.221 Commercial Boat/Ship Yard (See 4.200)	X	X	X	S	X
	9.222 Industrial Boat Ship Yard (See 4.300)	X	X	X	X	X
	9.223 Commercial Fishing Operation (See 4.100)	X	X	X	S	S
	9.224 Boat Fuel Services	X	X	X	L	S
	9.225 Boat Wash	X	X	X	S	X
10.000 STORAGE AND PARKING						
	10.100 Automobile Parking Garages or Parking Lots not located on a lot on which there is another principal use to which the parking is related	X	X	X	L	S
10.200 Storage of goods not related to sale or use of those goods on the same lot where they are stored						
	10.210 All storage within completely enclosed structures	X	X	X	L	S
	10.220 Storage outside completely enclosed structures	X	X	X	L	X
	10.230 Self-Service storage facility	X	X	X	L	X
	10.240 Storage of Vehicles, boats and other items	X	X	X	S	X

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Use Description	DISTRICT				
	R1	R2	R3	MU	MU-1
<i>E= Exempt (no permit needed) L=Land Use Permit Required</i>					
<i>S=Special Use Permit Required X=Prohibited Use</i>					
11.000 SCRAP MATERIALS, SALVAGE YARDS, JUNKYARDS, AUTOMOBILE GRAVEYARDS	X	X	X	S	X
12.000 SERVICES AND ENTERPRISES RELATED TO ANIMALS					
12.100 All Veterinary Services, including but not limited to Veterinarian, Animal Clinic, Grooming	X	X	X	S	S
12.200 Pet Cemetery	X	X	X	S	X
13.000 EMERGENCY SERVICES					
13.100 Police Stations	S	S	S	L	L
13.200 Fire Stations/Rescue Squads	S	S	S	L	L
13.300 Ambulance Service	X	X	X	L	L
13.400 Emergency Management Operation	L	L	L	L	L
14.000 AGRICULTURE, FORESTRY, MINING, QUARRYING OPERATIONS					
14.100 Agricultural Operations, Farming					
14.110 Excluding livestock	S	S	S	S	S
14.200 Mining or quarrying operations, including on-site sales of products (See Sec. 4.300)	X	X	X	X	X
14.300 Reclamation Landfill (See Sec. 4.300)	X	X	X	X	X
14.400 Agricultural Product Warehousing	X	X	X	S	X
15.000 MISCELLANEOUS PUBLIC AND SEMI-PUBLIC FACILITIES AND RELATED USES					
15.100 Main Post Office	X	X	X	L	X
15.110 Post Office Substation	X	X	X	L	L
15.200 Airports	X	X	X	S	X
15.300 Sanitary Landfill (See Sec. 4.300)	X	X	X	X	X
15.700 Military Reserve, National Guard Centers	X	X	X	L	X
15.800 Recycling Materials Collection Operations (See Sec. 4.300)	X	X	X	X	X
16.000 DRY CLEANER, LAUNDROMAT	X	X	X	S	S
17.000 UTILITY FACILITIES					
17.100 Neighborhood	S	S	S	S	S
17.200 Community or Regional	S	S	S	S	S
17.300 County-owned or Operated	S	S	S	S	S
17.400 Electric Substations	S	S	S	S	S
17.500 SOLAR ENERGY SYSTEMS (SESs)					
Level 1 Solar Energy System (SES)					
17.510 Integrated and Roof Mountet SESs	E*	E*	E*	E*	E*
17.520 Ground mounted SES which is an accessory to a new principal construction	E*	E*	E*	E*	E*
17.530 Ground mounted SES added as an accessory to an existing principal construction	L	L	L	L	L
17.540 Level 2 SES	X	X	X	S	S
<i>E* - Plans for the Solar Energy System included as accessory under the permit for the principle use</i>					
18.000 TOWERS AND RELATED STRUCTURES					
18.100 Towers and Antennas 75 Feet Tall or Less	L	L	L	L	L
18.200 Towers and Antennas More than 75 Feet Tall	S	S	S	S	S

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Use Description	DISTRICT				
	R1	R2	R3	MU	MU-1
<i>E= Exempt (no permit needed) L=Land Use Permit Required</i>					
<i>S=Special Use Permit Required X=Prohibited Use</i>					
19.000 OPEN AIR MARKETS					
19.100 Farm, Craft, Produce Markets	X	X	X	L	L
19.200 Flea Markets	X	X	X	L	X
20.000 FUNERAL HOME					
	X	X	X	L	X
21.000 CEMETERY AND CREMATORIUM					
21.100 Cemetery not on same property as church	S	S	S	S	S
21.200 Cemetery on same property as church	S	S	S	S	S
21.300 Crematorium	X	X	X	S	X
22.000 TEMPORARY STRUCTURES USED IN CONNECTION WITH THE CONSTRUCTION OF A PERMANENT BUILDING OR FOR SOME NON-RECURRING PURPOSE (See Section 133)					
	L	L	L	L	L
23.000 BUS STATION; TRAIN STATION; TAXI OPERATION					
23.100 Bus Station, Train Station	X	X	X	L	L
23.200 Taxi Operation	X	X	X	L	L
24.000 COMMERCIAL GREENHOUSE OR NURSERY					
24.100 No on-premises sales	X	X	X	S	S
24.200 Sales of products grown on premises	X	X	X	S	S
24.300 On-premises sales, including related accessory products	X	X	X	S	S
25.000 COMBINATION USES (See Section 63)					
25.100 PLANNED UNIT DEVELOPMENT	LS	LS	LS	LS	LS

Sections 67 through 69 Reserved

ARTICLE V. PERMITS AND DEVELOPMENT APPROVALS

Section 70. Permits Required

70.1 The use made of property may not be changed (see Section 61, Change in Use), clearing, grading or excavation may not be commenced, and buildings or other structures may not be constructed, erected, moved, or altered except in accordance with and pursuant to one of the following permits:

70.1.1 A land use permit issued by the administrator; or

70.1.2 A special use permit issued by the Town Commissioners

70.2 Land use permits and special use permits are issued under this chapter only when a review of the application submitted, including the plans submitted, indicates that the development will comply with the provision of this chapter if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued and all development shall occur strictly in accordance with such approved plans and applications.

70.3 A land use permit or special use permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the

principal) and shall identify the property involved and the proposed use. The permit shall incorporate the plans submitted and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. All special use permits shall be recorded in the Pamlico County Registry after execution by the record owner as provided in Section 98 (Effect of Permit on Successors and Assigns).

Section 71. No Occupancy or Use of Lots Until Requirements Fulfilled

71.1 Issuance of a special use or land use permit authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures or to make necessary improvements to a subdivision. However, except as provided in Section 81 (Authorizing Use or Occupancy Before Completion of Development Under Land Use Permits), Section 88 (Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits), and Section 96.1 (Completing Developments in Phases), the intended use may not be commenced or no building may be occupied until all of the requirements of this chapter and all additional requirements imposed pursuant to the issuance of a special use permit have been met.

Section 72. Who May Submit Permit Application/Submission Requirements

72.1 All applications for special use permits shall be submitted to the administrator a minimum of ten (10) calendar days prior to the date of the next regular Planning Board meeting. The Planning Board shall make a written recommendation to the Commissioners to schedule ~~a public~~ an evidentiary hearing if the application is complete and all requirements of the Growth Management Ordinance are met. If the submission deadline date falls on a Saturday, the application must be received by the preceding Friday. If the submission deadline falls on Sunday, the application must be received by the following Monday.

72.2 The Planning Board meeting shall serve as a preliminary forum for review of the special use permit application, provided that no part of the forum or a recommendation by the Planning Board shall be considered by the Town Commissioners in an evidentiary hearing.

Section 73. Applications to Be Complete

73.1 All applications for land use or special use permits must be complete before the permit-issuing authority will consider the application.

73.1.1 An application is complete when it contains all the information ~~necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this chapter~~ specified in subsection 102.6.

- 73.2 The administrator shall make every effort to develop application forms, instructional sheets, checklists, or other techniques or devices to assist applicants in understanding the application requirements and the form and type of information that must be submitted.

Section 74. Staff Consultation with Applicants

- 74.1 Before Formal Application: To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this chapter, pre-application consultation between the developer, the administrator and the Planning Board is encouraged. Applicants for a special use permit are encouraged to arrange a pre-application consultation at least 10 days prior to the application deadline.
 - 74.1.1 To assure applicant’s understanding of fire and emergency department limitations, a consultation with the Fire Marshal/Emergency Management Coordinator or his designated agent and the local Fire Chief may be required by the administrator.
- 74.2 After Application Submitted: Upon receipt of a formal application for a land use or special use permit, the administrator shall review the application and confer with the applicant to ensure that he understands the administrator’s interpretation of the applicable requirements of this chapter, that he has submitted all of the information that he intends to submit, and that the application represents precisely and completely what he proposes to do.

Section 75. Special Use Permit Submissions to Planning Board

- 75.1 If the application is for a special use permit, the administrator shall place the application on the agenda of Town Commissioners when the applicant indicates that the application is as complete as he intends to make it. However, if the administrator believes that the application is incomplete; he shall reject the application and inform the applicant of the reasons for the incompleteness.

Section 76. Public Amenity Proffers

- 76.1 When an application for a permit for use or development on waterfront property of two acres or more in an MU-1 district proposes and substantial public amenity (such as public parking beyond the amount required for the development, public restrooms, public access to the water, or public waterfront walkways), upon review and recommendation by the Planning Board, the Board of Commissioners may, after a public hearing, modify any one or more of the numerical standards and requirements of
 - 76.1.1 Section 116 (Residential Density),
 - 76.1.2 Section 117 (Non-residential and Mixed-Use Density),
 - 76.1.3 Section 112.4 (Minimum Lot Widths),
 - 76.1.4 Section 113 (Building Setback Requirements),

76.1.5 Section 118 (Lot Coverage), other than Section 119 (Building Footprint Limitations), and

76.1.6 Sub-section 1 of Section 114 (Building Height Limitations).

76.1.6.1 In no event may a building exceed a total height of 40 feet above the lowest adjacent finished grade or 48.5 feet above the mean sea level, whichever is higher.

76.2 Modifications to any numerical standard or requirement shall not exceed ten (10) percent of the original numerical value.

Section 77. Vesting Procedures

77.1 A landowner may request establishment of a **zoning** vested right in accordance with ~~NCGS§160A-385.1~~ NCGS§§160D-102; 108; 108.1, upon approval of a site-specific **development vesting** plan. The procedure is as follows:

77.1.1 A **zoning** vested right is established upon the valid approval by the Board of Commissioners or Board of Adjustment as applicable, of a site-specific **development vesting** plan, following notice and hearing;

77.1.2 Site-specific **development vesting** plans under this Section that may trigger a vested right include any plan requiring a Special Use Permit under the Town's GMO or any proposed subdivision plat;

77.1.3 In order for a **zoning** vested right to be established upon approval of a site-specific **development vesting** plan, the applicant must indicate at the time of application, on a form to be provided by the Administrator, that a **zoning** vested right is sought and pay a vesting application fee in addition to the regular application fee;

77.1.4 The duration of a **zoning** vested right shall be two (2) years (unless the approval authority in its own sound discretion determines a longer period is warranted by relevant circumstances, but in no case for a period exceeding five years. Determination of duration of vesting must be made at the time the site-specific **development vesting** plan is approved).

77.1.5 Exceptions. Any vested rights for a site-specific vesting plan are subject to exceptions specified in NCGS§160D-108.1.

77.2 Each map, plat, site plan or other document evidencing a site-specific **development vesting** plan shall contain the following notation: "Approval of this plan established a **zoning** vested right under ~~NCGS NCGS§160a-385.1~~ NCGS§160D-108.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."

77.3 Terms defined in ~~NCGS§160a-385.1(d)(4)~~ NCGS§160D-108.1(d) regarding the city's right to periodically review the project vested under this Section for compliance with the

terms and conditions of the original approval of the site-specific **development vesting** plan shall apply to the **zoning** vested right described in this Section. Should the developer fail to comply with the applicable terms and conditions of the approval, the **zoning** vested right shall be considered null and void.

- 77.4 Upon issuance of a building permit the expiration provisions of **NCGS§160A-418** **NCGS§§160D-403(c); 1111** and the revocation provisions of **NCGS§160A-422** **NCGS§§160D-403(f); 1115** shall apply, except that a building permit shall not expire or be revoked because of the running of time while a **zoning** vested right under this Section is outstanding.
- 77.5 A landowner may also request establishment of a **zoning** vested right in accordance with **NCGS§160A-385.1(d)(3)** **NCGS§160D-108(f)**, upon approval by the Board of Commissioners of a **phased multi-phased** development plan **where the proposed development meets the statutory definition in NCGS§160D-108(j)**.
- 77.5.1 **Phased-development Multi-phased development** plan must be submitted to the city by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the city to be a site-specific development plan.
- 77.5.2 The duration of such a vested right for a **phased multi-phased** development plan shall **not exceed five (5)** **be for seven (7)** years.
- 77.5.3 Terms defined in **NCGS§160A-385.1(d)(4)** **NCGS§160D-108.1(d)** regarding the city's right to periodically review the project vested under this Section for compliance with the terms and conditions of the original approval of the phased development plan shall apply to the **zoning** vested right described in this Section. Should the developer fail to comply with the applicable terms and conditions of the approval, the **zoning** vested right shall be considered null and void.

Sections 78 through 79 Reserved

Section 80. Land Use Permits

80.1 Land Use Permit Application

80.1.1 A completed application form for a land use permit shall be submitted to the Land Use Administrator by filing a copy of the application with the administrator.

80.1.2 The Land Use Administrator shall issue the land use permit unless the Land Use Administrator finds, after reviewing the application and consulting with the applicant as provided in Section 74.2 (Staff Consultation After Application Submitted), that:

- 80.1.2.1 The requested permit is not permitted according to the Table of Permissible Uses; or

- 80.1.2.2 The application is incomplete; or
- 80.1.2.3 If completed as proposed in the application, the development will not comply with one or more requirements of this chapter (not including those requirements concerning which variance has been granted or those the applicant is not required to comply with under the circumstances specified in Article XI Non-Conforming Situations and Definitions); or (March 2016)
- 80.1.2.4 If, in the opinion of the Land Use Administrator, the application should be reviewed and approved or denied for recommendation by the Planning Board, the Land Use Administrator may defer the matter to the Planning Board, with or without a recommendation from the Land Use Administrator. (March 2016)

Section 81. Authorizing Use or Occupancy Before Completion of Development Under Land Use Permits

81.1 In cases when, because of weather conditions or other factors beyond the control of the land use permit recipient (exclusive of financial hardship), it would be unreasonable to require the land use permit recipient to comply with all of the requirements of this chapter prior to commencing the intended use of the property or occupying any buildings, the Town Commissioners may authorize the commencement of the intended use or the occupancy of buildings if the permit recipient provides a certified check, irrevocable letter of credit, performance bond, certificate of deposit, or other security satisfactory to the Land Use Administrator for 125 percent of the cost of the required improvements, to ensure that all of the requirements of this chapter will be fulfilled within a reasonable period determined by the Town Commissioners. In no case, however, shall such period exceed twelve months. All securities shall be the same as cash and shall be redeemable within the corporate limits of the Town of Oriental.

Sections 82 through 85 Reserved

Section 86. Special ~~use~~ Use Permits

86.1 Special Use Permit Application

- 86.1.1 An application for a special use permit shall be submitted to the Planning Board for review by filing a copy of the application with the Land Use Administrator. The Planning Board shall make a recommendation to the Board of Commissioners concerning the issuance of a special use permit.
- 86.1.2 No special use permit shall be approved until a public hearing has been held by the Town Commissioners in accordance with Section 211 (Evidentiary Hearing Required ~~on Appeals and Applications~~ for Quasi-Judicial Decisions).

86.1.3 The Land Use Administrator shall make every reasonable effort to comply with the notice provisions set forth in this Section. However, it is the Town Commissioners' intention that failure to comply with any of the notice provisions (except those set forth in Section 212, Notice of Hearing) shall not render any permit request invalid.

86.1.4 The Town Commissioners shall issue the requested special use permit unless they conclude, based upon the information submitted at the hearing, that:

86.1.4.1 The requested permit is not within its jurisdiction according to the table of permissible uses; or

86.1.4.2 The application is incomplete; or

86.1.4.3 If completed as proposed in the application, the development

86.1.4.3.1 will not comply with one or more requirements of this chapter (not including those the applicant is not required to comply with under the circumstances specified in Article XI, Non-Conforming Situations and Definitions); or

86.1.4.3.2 will materially endanger the public health and safety; or

86.1.4.3.3 will substantially injure the value of adjoining or abutting property; or

86.1.4.3.4 will not be in harmony with existing development and uses within the area in which it is to be located; or

86.1.4.3.5 will not be in general conformity with the land use plan, thoroughfare plan, or other plan, officially adopted by the Town Commissioners.

86.1.5 The Town Commissioners are required to take final action on a special use permit request within 65 days preceding the first meeting to consider the application, since inordinate delays can result in the applicant incurring unnecessary costs.

Section 87. Burden of Presenting Evidence; Burden of Persuasion

87.1 The burden of presenting a complete application (as described in Section 73, Applications to be Complete) to the Town Commissioners shall be upon the applicant. However, unless the Land Use Administrator informs the applicant in what way the application is incomplete and offers the applicant an opportunity to complete application, the application shall be presumed to be complete.

87.2 Once a completed application has been submitted, the burden of presenting evidence to the Town Commissioners sufficient to lead them to conclude that the application should

be denied for any reasons stated in Section 86.1.4 (Special Use Permit Application) shall be upon the party or parties urging this position.

- 87.3 The burden of persuasion on the issue of whether the development, if completed as proposed, will comply with the requirements of this chapter remains at all times on the applicant. The burden of persuasion on the issue of whether the application should be turned down for any of the reasons set forth in Section 84.1.4 (Special Use Permit Application) rests on the party or parties urging that the requested permit should be denied.

Section 88. Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits

- 88.1 In cases when, because of weather conditions or other factors beyond the control of the special use permit recipient (exclusive of financial hardship), it would be unreasonable to require the permit recipient to comply with all of the requirements of this chapter before commencing the intended use of the property or occupying any buildings, the Town Commissioners may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this chapter are concerned), if the permit recipient provides a certified check, irrevocable letter of credit, performance bond, certificate of deposit, or other security satisfactory to Town Commissioners for 125 percent of the cost of the required improvements, in order to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve months).
- 88.2 When the Town Commissioners impose additional requirements upon the permit recipient in accordance with Section 216 (Additional Requirements on Special Use Permits), or when the developer proposes, in the plans submitted, to install amenities beyond those required by this chapter, the Town Commissioners may authorize the permittee to commence the intended use of the property or to occupy any building before the additional requirements are fulfilled or the amenities installed if they specify a date by which or a schedule according to which such requirements must be met, or each amenity installed and if they conclude that compliance will be ensured as the result of any one or more of the following:
- 88.2.1 Surety, satisfactory to the Town Commissioners, is furnished;
 - 88.2.2 A condition is imposed establishing an automatic expiration date on the permit, thereby ensuring that the permit recipient's compliance will be reviewed when application for renewal is made;
 - 88.2.3 The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 229 (Penalties and Remedies for Violations) and Section 230 (Permit Revocation).
 - 88.2.4 An irrevocable letter of credit that can be executed at a local bank is furnished.

Sections 89 through 95 Reserved

Section 96. Other Permit Provisions

96.1 Completing Developments in Phases

96.1.1 If a development is constructed in phases or stages in accordance with this Section, then, subject to the provisions of Section 71 (No Occupancy or Use of Lots Until Requirements Fulfilled) and Section 81 (Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits, exceptions to Section 71) shall apply to each phase or stage as if it were the entire development.

96.1.2 The developer shall submit plans that clearly show the various phases or stages of the proposed development and that the requirements of this chapter will be satisfied with respect to each phase or stage.

96.1.3 If a development that is to be built in phases or stages includes common area improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development), then, as part of his application for development approval, the developer shall submit a proposed schedule for completion of such common area improvements. The schedule shall relate completion of such common area improvements to completion of one or more phases or stages of the entire development. Once a schedule of improvements has been approved and made part of the permit by the Town Commissioners, no land may be used or no buildings may be occupied except in accordance with the schedule approved as part of the permit, provided that:

96.1.3.1 If the improvement is one required by this chapter then the developer may utilize the provisions of Section 81.1 (Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits).

96.1.3.2 If the improvement is an amenity not required by this chapter or is provided in response to a condition imposed by the Town Commissioners, then the developer may utilize the provisions of Section 81.1 (Authorizing Use or Occupancy Before Completion of Development Under Special Use Permits).

Section 97. Expiration of Permits

97.1 Land use and special use permits shall expire automatically if, within one year after the issuance of such permits, the use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use.

97.2 If, after some physical alteration to land or structures begins, and such work is discontinued for a period of ~~one year~~ 24 consecutive months, then the land use or the

special use permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 209 (Reconsideration of Board Action).

97.3 The permit-issuing authority may extend for a period up to six months the date when a land use or special use permit would otherwise expire pursuant to sub-sections (1) or (2) if it concludes that:

97.3.1 the permit has not yet expired,

97.3.2 the permit recipient has proceeded with due diligence and in good faith, and

97.3.3 conditions have not changed so substantially as to warrant a new application.

97.4 Successive extensions may be granted for periods up to six months (for a total period not to exceed two years) upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

97.5 The special use permit within the jurisdiction of the Town Commissioners is issued when the Town Commissioners vote to approve the application and issue the permit. A land use permit within the jurisdiction of the administrator is issued when either of the following takes place:

97.5.1 A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or

97.5.2 The administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions, such as having the permit executed by the property owner, so it can be recorded if required under Section 142(2) (Effect of Permit on Successors and Assigns).

97.6 This Section shall be applicable to permits issued prior to the date this Section becomes effective.

Section 98. Effect of Permit on Successors and Assigns

98.1 Land use or special use permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion covered under a permit continues to be used for the purposes for which the permit was granted, then:

98.1.1 No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit; and

98.1.2 The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having any interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice (as provided in sub-section (2) of the existence of the permit at the time they acquired their interest.

98.2 Whenever a special use permit is issued to authorize development (other than single-family) on a tract of land in excess of one acre, nothing authorized by the permit may be done until the record owner of the property signs a written acknowledgement that the permit has been issued so that the permit may be recorded in the Pamlico County Registry and indexed under the record owner's name as grantor.

Section 99. Amendments to and Modifications of Permits

99.1 A minor modification or change in a permit (including an approved plan), ~~that is clearly within the Growth Management Ordinance~~ shall be defined in this chapter and is permissible with ~~the approval of the permit issuing authority~~ administrative approval. ~~A minor modification of an approved special use permit shall not change permitted use or density.~~ Such permission may be obtained by a written application and noted on the previously approved permit or plan.

99.2 A major modification or change in a permit (including an approved plan), ~~occurs when there is more than one minor modification or change of use being currently proposed or previously granted~~ is a modification that does not fall under the definition of a minor modification. Such change or modification will be processed as a new application. If such requests are required to be acted upon by the Town Commissioners, new conditions may be imposed in accordance with Section 216 (Additional Requirements on Special Use Permits), but the applicant retains the right to reject such additional conditions by withdrawing his request for a modification or change and may then proceed in accordance with the previously issued permit.

~~99.3 The administrator and the Planning Board representative shall determine whether modification of, or changes to permits fall within the categories set forth above in sub-sections 99.1 and 99.2.~~

99.4³ Approval of all modifications or changes must be given in writing and approval noted on the previously approved permit or plan.

Section 100. Applications to be Processed Expeditiously

100.1 Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the Town shall make every reasonable

effort to process appeals and permit applications as expeditiously as possible, consistent with the need to ensure that all development conforms to the requirements of this chapter.

Section 101. Maintenance of Common Areas, Improvements, and Facilities

101.1 The recipient of any land use or special use permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities, required by this chapter or any permit issued in accordance with its provisions, except those areas, improvements, or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. As illustrations, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed.

Section 102. Development Approvals in General

102.1 The definition of development approval in this section shall be consistent with the definition in subsection 251.56a of this chapter.

102.2 Any development approval shall be provided in writing.

102.3 An application for development approval must be made by one or more of the following: the landowner of the affected property, a lessee or person holding an option or contract to purchase or lease the property, or an authorized agent of the landowner. An easement holder may also apply for development approval for such development as is allowed by the easement.

102.4 Per NCGS§160D-104, development approvals shall run with the land.

102.5 Permit choice. An applicant for a development approval (development permit) shall have the right to permit choice as detailed in NCGS§§160D-108(b) and 143-755 once a complete application is submitted to Town staff. The Land Use Administrator shall determine if an application is complete.

102.6 Application completeness. An application is determined to be complete if the following are provided:

102.6.1 Any relevant information necessary to determine if a proposed development and/or use meets the requirements of this chapter. This could include, but is not limited to, property identification (valid street address and/or property identification number), a clear description of the proposed development and/or use, and specification of relevant dimensions.

102.6.2 A dated signature by the applicant.

102.6.3 Payment of any required application fee.

102.7 Duration. Unless extended elsewhere in this ordinance, a development approval expires one year after the date of issuance if the work authorized by the development approval has not been substantially commenced. If work has commenced, a development approval expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.

Sections ~~102~~ **103** through 110 Reserved

ARTICLE VI. GENERAL DEVELOPMENT STANDARDS

Section 111. Developer to Solicit Neighborhood Review

111.1 The developer/owner of a proposed development, including a multi-unit, planned unit, or planned residential development shall have an informational meeting with property owners whose property is within three-hundred (300) feet of the property line of the proposed development (as reflected on the current Pamlico County tax records). The notification of this meeting shall also be given to the administrator to be distributed to the Planning Board and to the Town Board and take place prior to submitting an application to the town for a special use permit and shall include a brief description of the development, the date, time, and location of the meeting. The notice shall be sent by first class mail at the expense of the owner/developer a minimum of ten (10) days prior to the date of the informational meeting. (Dec 2015)

Section 112. Lot Size

112.1 Minimum Square Footage

All lots in the following districts shall have at least the amount of square footage indicated in the following table:

<u>District</u>	<u>Minimum Square Feet</u>
R-1	10,000
R-2	5,000 for residential uses; 8,000 for nonresidential uses, as determined in Section 66, Table of Permissible Uses
R-3	5,000 for residential uses; 8,000 for nonresidential uses, as determined in Section 66, Table of Permissible Uses
MU/MU-1	5,000 for residential uses; 5,000 for nonresidential uses, as determined in Section 66, Table of Permissible Uses 5,000 for mixed residential/nonresidential use

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112.2 The minimum lot sizes set forth in this Section are permissible only if and to the extent that potable water and sewer facilities are or can be made available to serve every lot.

112.3 Deviations from the minimum lot size requirements of this Section may be made for nonconforming lots in accordance with Section 192.1 (Nonconforming Lots).

112.4 Minimum Lot Widths

112.4.1 The lot width shall be measured at the front minimum building line, which is determined by the setback from the street as shown in Section 113.2.

<u>District</u>	<u>Lot Width</u>
R-1	60'
R-2	50'
R-3	50'
MU	50'
MU-1	50'

Deviations from the minimum lot width requirements of this Section may be made for nonconforming lots in accordance with Section 192.1 (Nonconforming Lots).

112.5 If a structure is subject to an inspection for compliance with “North Carolina Farm Labor Rules and Regulations,” the lot area requirement will be based on the number of residents allowed by the regulations, or one thousand (1,000) square feet of lot area whichever is greater.

Section 113. Building Setback Requirements (Updated June 2021)

113.1 Subject to Section 192 (Non-conforming Lots), Sub-section (2) and Sub-section (3), no portion of any building may be located on any lot closer to any lot boundary line or to the street right-of-way line than is authorized in the tables set forth in Section 113.4 below.

113.2 Setback distances shall be measured from the property line or street right-of-way, perpendicular thereto, to a point on the lot that is directly below the nearest extension of any part of the building. Porches, air conditioning units, steps, eaves, gutters, cornices, buttresses, open or enclosed fire escapes, outside stairways, balconies, and similar features are considered part of the building.

113.3 Buildings with multiple eave heights may use more than one setback table, such that each building eave height is regulated by the applicable table.

113.4 Building Setbacks Tables

113.4.1 Table 1 – Eave Height 0 feet up to and including 25 feet: (March 2016)

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District	Minimum Distance From Front Street Right-of-Way	Minimum Distance From Street Side Right-of-Way	Minimum Distance from Side Boundary Line	Minimum Distance From Rear Lot Boundary Line
R-1	25'	25'	12'	12'
R-2	15'	15'	7'	7'
R-3	15'	15'	7'	7'
MU	15'	15'	7'	7'
MU-1	15'	15'	7'	7'

113.4.2 Table 2 – Eave Height greater than 25 Feet up to 32 Feet:(March 2016)

District	Minimum Distance From Front Street Right-of-Way	Minimum Distance From Street Side Right-of-Way	Minimum Distance From Side Boundary Line	Minimum Distance From Rear Lot Boundary Line
R-1	30'	30'	13'	18'
R-2	18'	18'	10'	10'
R-3	20'	18'	10'	10'
MU	20'	18'	10'	10'
MU-1	20'	18'	10'	10'

113.5 Within the R-2, R-3, MU, and MU-1 districts, when any multi-unit development is located on one lot, whether residential, non-residential or mixed residential/non-residential units, each building must be at least 14 feet from any other building located on the same lot, in addition to the standards in the tables of Section 113.4, above.

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- 113.6 If a multi-unit development abuts an R-1, R-2 or R-3 property, setbacks for all structures within the multi-unit development shall be at least twenty (20) feet on the side so abutting.
- 113.7 If a multi-unit development abuts an R-1 lot or is on or abuts an R-2 or R-3 lot, any driveway, parking area or other impervious surfaces shall be at least seven (7) feet from the property line.
- 113.8 Notwithstanding the foregoing, in the event a building constructed prior to February 1, 1999, is elevated to raise the bottom floor system to, or no more than four (4) feet above, the Pamlico County flood elevation minimum building height, and any of the building's existing steps are extended to comply with the North Carolina Building Code, any such extensions to existing steps shall not be included as a substantial part of the building as described in Section 113.2, provided that such steps do not encroach into any Town right-of-way and the Planning Board approves any encroachment into the required setback. Such step extensions shall not be considered an extension or enlargement of a nonconforming situation as described in Section 193 (Extension or Enlargement of Nonconforming Situations).
- 113.9 The setback requirements of these regulations shall not prohibit any necessary retaining wall nor prohibit buffer strip, fence or wall. Walls and fences shall not create a sight obstruction at street intersections or at driveways. (Dec 2015)
- 113.10 When new construction is located in an existing neighborhood the Town Board of Adjustments, after a public hearing, may grant a reduction to the front setback requirement in this Section in accordance with the Variance process. The requested front setback line shall not encroach on any road right-of-way. If a deviation of the front setback line is granted, the number of front feet of reduction shall be added to the rear lot setback. The burden of persuasion for the need of a requested reduction shall fall upon the applicant.
- 113.11 This ordinance is intended to permit reasonable accommodations to citizens with disabilities under The Americans with Disabilities Act (ADA). In the event that a conflict exists between a reasonable accommodation and a requirement of the ordinance, the Planning Board may grant authorization to allow for the accommodation. The request must be made and may be approved for the time required to accommodate the disability. When the need for an accommodation no longer exists, the accommodation must be removed to return the property to GMO compliant condition. An example of this may be considering an encroachment into a required setback, but not into right-of-way, to allow space for an entry ramp to a dwelling. (June 2021)

Section 114. Building Height Limitations (September 2016)

- 114.1 No building shall exceed a total height of 35 feet above the lowest adjacent finished grade, or 43.5 feet above mean sea level, whichever is higher.

- 114.1.1 Height above mean sea level shall be shown on the application and certified by a surveyed elevation provided by owner/developer.
- 114.1.2 Lowest adjacent finished grade is the lowest street grade on the front lot line.
- 114.2 The height of the highest roof eave (the projecting overhang at the lower edge of a roof), excluding dormers, of any building shall not exceed 32 feet above the lowest adjacent finished grade and no exterior wall of a building without an eave shall exceed 32 feet above the lowest adjacent grade. The level of the lowest adjacent grade shall be measured out ten (10) feet from a line plumb with the outermost edge of the eave. New construction may exceed height limits specified in sub-section (1) by up to five (5) feet, provided that
 - 114.2.1 for each additional one (1) foot above specified height limits, all street setbacks are increased by three (3) feet, and
 - 114.2.2 all side line and rear setbacks are increased by one (1) foot, or for each additional one (1) foot above specified height limits, or
 - 114.2.3 all street setbacks are increased by two (2) feet, and
 - 114.2.4 all side line and rear setbacks are increased by two (2) feet.
- 114.3 Existing structures proposed to be raised solely to comply with the minimum elevation requirements imposed by Pamlico County are exempt from the height limitations of this Section only to the extent of the distance needed to achieve such compliance. When an existing building is replaced or additional height is added to an existing structure other than by or in addition to raising the first floor, the height limits of this Section are applicable.
- 114.4 The following features are exempt from the district height limitations set forth in sub-section:
 - 114.4.1 Chimneys, not to exceed three (3) feet above the highest point of the structure, and
 - 114.4.2 Church spires, weathervanes, railings, and flagpoles.
 - 114.4.3 Towers and antennas are allowed in all development districts to the extent authorized in the Table of Permissible Uses (Section 66), use classification 18.000.

Section 115. Roof Pitch

- 115.1 The main roof pitch must be between 4/12 pitch and 12/12 pitch, except that up to 20 percent of the roof footprint may be flat. The minimum 4/12 pitch does not apply to manufactured homes, Class A or Class B which meet or exceed the United States Department of Housing and Urban Development standards. The minimum 4/12 roof pitch requirement also does not apply to commercial buildings in MU and MU-1 that do not

contain any residential units and are less than 25 feet in height above the mean adjacent grade. Exemption from the roof pitch requirement will require a Special Use Permit.

Section 116. Residential Density

116.1 Every lot developed for residential purposes only shall have the number of square feet per dwelling unit indicated in the following table. In determining the number of dwelling units permissible on a tract of land, fractions of square feet shall be rounded to the nearest whole number.

District	Minimum Square Feet
R-1	10,000
R-2	5,000 for 1 unit; 5,000 for the second unit
R-3	5,000 for 1 unit; 4,000 for each additional unit, provided that 5,000 sq. ft. shall be required for each unit above 8 units in a single building.
MU	5,000 for 1 unit; 4,000 for a second unit
MU-1	5,000 for 1 unit; 4,000 for a second unit

Section 117. Non-residential and Mixed-Use Density

117.1 When any structure is used as a nonresidential/residential mixed-use building, there shall be no density requirements for the commercial portion of the building. The percentage of nonresidential to residential use shall be based on lot size and as shown in sub-section 117.2. The percentages are based on the total heated square footage of the building. The residential portion of the building requires 5,000 square feet in lot size for the first unit and 4,000 square feet for each additional residential unit within the building.

117.2 Nonresidential/residential ratios for mixed use buildings:

District Residential	Lot Size	Min. Non-residential	Max
MU & MU-1	Less than 21,780 sq. ft.	30%	70%
MU & MU-1	21,780 sq. ft. and greater	20%	80%

(Dec. 2015)

117.3 In case of conversion from non-residential to residential use which reduces the non-residential percentage below the ratios of sub-section 117.2, the requirement for residential development set forth in Section 116 (Residential Density) must be met.

117.4 Whenever the owner of (or other party in control of) a unit intends to convert its use from residential to nonresidential, or vice versa, but neither a Land Use nor Special Use Permit is required, the owner of (of other party in control of, or a proposed owner of, or party proposed to be in control of) the converting unit shall notify the administrator in writing

ten (10) days prior to the conversion to ensure that all other requirements of the Growth Management Ordinance are met, including parking.

117.5 In MU-1 on any lot under nine thousand (9,000) square feet a multi-use building has no unit density requirements for commercial or residential uses.

Section 118. Lot Coverage

118.1 For this Section, the formula to calculate the Floor Area Ratio (FAR) is:

$$\text{FAR} = \frac{\text{Building(s) Footprint}}{\text{Lot Area}}$$

Example for A lot which is 5,000 sq. feet. The proposed building foundation is 10 feet wide and 50 feet long, then the building footprint is 500 square feet. The FAR is 10%. (Dec 2015)

118.2 FAR Limitations

118.2.1 No building or combination of buildings located in the R-1 district shall have a FAR greater than thirty percent (30%) of the lot on which it is located.

118.2.2 No building or combination of buildings located in the R-2 or R-3 district shall have a FAR greater than thirty-five percent (35%) of the lot on which it is located.

118.2.3 No building or combination of buildings located in the MU or MU-1 district shall have a FAR greater than forty percent (40%) of the lot on which it is located. If the building(s) is solely residential it shall not cover more than thirty-five percent (35%) of the lot on which it is located.

118.2.4 No more than fifty percent (50%) of the area of any lot located in the R-1, R-2, and R-3 districts, or any lot in MU or MU-1 districts used solely for residential use, shall be covered with surfaces impervious to water.

118.2.5 No more than sixty percent (60%) of the area of any other lot located in the MU and MU-1 district shall be covered with surfaces impervious to water.

Section 119. Building Footprint Limitations

119.1 All single, covered (under roof) buildings are subject to the following maximum footprint:

District	Max. Footprint
R-2	5,000 sq. ft.
R-3	6,000 sq. ft.
MU/MU-1	6,000 sq. ft. for solely residential structures 8,000 sq. ft. for nonresidential or mixed use

Section 120. Drainage Requirements (September 2016)

- 120.1 In connection with any application for a land use or special use permit for development that will affect drainage of the property subject to the application, the applicant shall submit with the permit application information demonstrating compliance with the drainage requirements in sub-sections 120.2 through 120.8, below.
- 120.2 The landowner, where applicable, shall comply with the North Carolina Department of Transportation regulations regarding surface water drainage systems for roads, NCGS 77-14 concerning obstructions of streams and drainage ditches, and NCGS 156-21, concerning long-standing ditches and canals.
- 120.3 No surface water shall be channeled or directed into a sanitary sewer.
- 120.4 Where feasible, the landowner shall connect to an existing storm drainage system without inserting additional culverts other than those under permitted driveways. In addition, the Town will maintain open drainage. If drainage requires maintenance/clearing and is piped and covered, the Town will uncover the ditch to an open culvert in order to maintain drainage in the right-of-way. Where the landowner cannot feasibly connect to an existing storm drainage system, the applicant shall submit a drainage plan prepared by the Pamlico Soil and Water Conservation District or certified by a professional engineer.
- 120.5 It shall be the landowner's responsibility to make such offsite improvements to receiving drainage systems that will accommodate the increased runoff within limits approved by the permit-issuing authority.
- 120.6 The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance. If a permit proposes a change of elevation of the soil of the lot more than 30 inches in any location, the permit must include a drainage plan that minimizes the impact of drainage on neighboring properties.
- 120.7 Stream banks and channels downstream from any land-distributing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land-distributing activity in accordance with the North Carolina Sedimentation Pollution Control Act, NCGS ~~143-34.12~~, Chapter 113A, Article 4 and the North Carolina Administrative Code Title ~~15~~ 15A, Chapter 4.
- 120.8 In all areas of special flood hazards, all development proposals shall have adequate drainage provided to reduce exposure to flood damage as determined by the Pamlico Soil and Water Conservation District or by a certified engineer.

Section 121. Terraforming of Lots (March 2016)

- 121.1 For any new construction or for the replacement of existing structures, the soil structure and levels of the existing lot may not be altered in order to increase the height of the building or structure to be erected, in any way which would:

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- 121.1.1 Cause a change in drainage, to or from the subject lot, into bodies of water or wetlands, other than right-of-way drainage ditches installed or planned by the Town; or
- 121.1.2 Cause water to accumulate on either the subject lot or affected lots, other than into ponds already in existence or being made specifically for the development of the lot, that are included in the description and drawings of the permit application; or
- 121.1.3 Violate CAMA regulations, state or county laws or regulations, or federal environmental laws.
- 121.1.4 The Land Use Administrator will determine if stamped, engineered drawings or certification from the Pamlico Soil and Water Conservation District are required.
- 121.1.5 If post construction drainage in the year following terraforming is negatively impacted, the terraforming owner must mitigate such impact to the satisfaction of the Town.

Section 122. Construction Repair (September 2016)

- 122.1 Whenever possible, any construction within Town of Oriental **planning and development regulation** jurisdiction must contain the equipment necessary to perform such work on the property for which the construction is being performed. When not possible, any damage to the right-of-way, including roads, on both the subject property and the surrounding properties done by construction equipment must be repaired to its previous condition by the property owner contracting the work or his/her contractor at the conclusion of construction.

Sections 123 through 125 Reserved

ARTICLE VII. SPECIFIC DEVELOPMENT STANDARDS

Section 126. Multi-Unit Development

- 126.1 A townhouse unit shall connect by means of a common wall for at least ten (10) feet of its length to one or more other similar units and shall be exempt from the setbacks of the GMO only in respect of the line or lines between it and one or more townhouse unit's common property line.
- 126.2 A fence or a screen of dense plant material not less than six (6) feet high is required where multi-unit development abuts a single-family residential lot. This provision may be waived by the abutting property owners' consent at the time of permitting.

Section 127. Planned Unit Developments

- 127.1 The yard and height regulations set forth in this Article VII (Specific Development Standards) Sections may be modified, upon approval by the Planning Board, for a development as a whole. Such modification must be indicated on the face of the Special Use Permit. There shall not be less than the required area per dwelling unit for the district in which such development is located.
- 127.2 Land not shown as lots or reserved for residential or nonresidential development shall be commonly owned land. Such land shall be designated on the development plan as common area to be held in separate ownership for the use and benefit of residents of the Planned Unit Development (PUD).
- 127.3 All Planned Unit Developments must comply with all other Sections of Articles VI (General Development Standards) and VII (Specific Development Standards), Sections 111-126.
- 127.4 All buildings shall be separated by not less than fourteen (14) feet.

Section 128. Towers Over 75 Feet Tall

- 128.1 Towers and antennas more than 75 feet tall, including relay stations, for commercial operations such as cable television, radio telephones, radio and television stations are allowed in all development districts only with the issuance of a Special Use Permit if the Town Commissioners find that the evidence presented at the hearing establishes each of the following:
 - 128.1.1 Radio or television or similar reception for adjoining properties will not be disturbed or diminished.
 - 128.1.2 The height of the tower does not exceed five hundred (500) feet.
 - 128.1.3 The lighting of the tower does not exceed the minimum standards of the Federal Aviation Administration (FAA) for red obstruction lighting system contained in Advisory Circular No. 7017460-IF dated 27 September 1978, as they may amend the same.
 - 128.1.4 The minimum yard setback from the outside dimensions of the tower, not from guy anchors, to any adjoining lot or public right-of-way is at least one hundred (100) percent of the tower height. All guy wires, however, must be situated on the same lot as the tower.
 - 128.1.5 A fence or wall surrounds the base of the tower and each guy anchor at least eight (8) feet in height unless the tower and all guy anchors are mounted entirely on a building more than eight (8) feet in height. Except fence and wall entrances, all fences and walls shall be screened with plant material so that no more than two-thirds of the surface of the fence or wall is visible within three (3) years after erection of the structure from a public street or from any adjoining lot which contains a dwelling.

- 128.1.6 The use will not be injurious to property or improvements in the affected area.
- 128.2 If determined by the Town that the proposed tower is situated in a location which will benefit the Town's telecommunications systems, then, the tower shall be engineered and constructed to accommodate the additional telecommunicating equipment beneficial to the public system.
- 128.3 If the tower is between one hundred (100) feet and one hundred eighty (180) feet-in-height, the tower shall be engineered and constructed to accommodate a minimum of one (1) additional telecommunication user. If the tower exceeds a height of one hundred eighty (180) feet, the tower shall be engineered and constructed to accommodate a minimum of two (2) additional telecommunication users. Any co-location may be approved by administrative approval.

Section 129. Family Care Homes

- 129.1 No family care home (Table of Permissible Uses, classification 1.430) shall be located within 2,640 feet of another such facility, measured along the nearest property lines in relation to one another.

Section 130. Golf Courses

- 130.1 All golf course greens, tees and fairways (Table of Permissible Uses, classification 6.210 and 6.220) shall be set back at least 50 feet from any property line.

Section 131. Automobile Service Stations/Gas Sales Operations

- 131.1 Certification by a registered engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage and sanitary sewer systems.

Section 132. Car Wash

- 132.1 If proposed use is not located adjacent to a residential zoning district or use, only a land use permit is required. If proposed use is located adjacent to a residential zoning district or use, a special use permit is required.

Section 133. Temporary Emergency, Construction, or Repair Residences

- 133.1 Temporary residences and offices used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project and prior to the issuance of a final certificate of occupancy.

Section 134. Internet Sweepstakes/Electronic Gaming/Tattoo Parlors/Adult Bookstores/Adult Entertainment as permitted under State Law.

- 134.1 Restricted to MU district and requires a Special Use Permit.
- 134.2 The maximum number of machines/terminals, computers for any electronic gaming operations business is ten (10).
- 134.3 The establishments must be a minimum of one thousand (1000) feet from churches, synagogues, schools, daycare centers, library, public parks, public buildings, and recreational areas open to the general public and three hundred (300) feet from abutting property in the R-1, R-2, or R-3 Districts.

Section 135. Recreational Vehicle and Tent Camping Parks

- 135.1 Purpose. This article is enacted in order to achieve orderly development of recreational vehicle parks (RV parks), to promote and develop the use of land to minimize possible impacts, and to promote the health, safety and general welfare of the public. The Town of Oriental (the “Town”) finds that properly planned and operated recreational vehicle communities (“RV parks”):
 - 135.1.1 Promote the safety and health of the residents of such communities and of other nearby communities.
 - 135.1.2 Encourage economical and orderly development of such communities and of other nearby communities.
 - 135.1.3 It is, therefore, declared to be the policy of the Town to eliminate and prevent health and safety hazards and to promote the economical and orderly development and utilization of land through planned and supervised RV parks under the standards and regulations necessary to accomplish these purposes.
 - 135.1.4 Ensure all facilities, avenues of ingress/egress, walks, paths, and structures, are constructed according to the Americans with Disabilities Act (ADA) regulations in addition to other requirements listed herein.
- 135.2 Preliminary consultation. Prior to making application for an RV park, prospective applicants are encouraged to discuss the site plan review process, RV park requirements of the GMO, and their proposal with the Land Use Administrator.
 - 135.2.1 At this time, for this purpose, all pertinent information that may be on file relating to the proposed park location shall be made available. It is the purpose of this preliminary consultation to eliminate as many potential problems as possible in order for the application to be processed without delay.
 - 135.2.2 The consultation should take place prior to a survey or detailed work by an engineer or surveyor.

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135.2.3 There is no fee for pre-application consultation and administrative assistance. However, this free service shall not include extensive field inspection or extensive correspondence.

135.3 Applicability

135.3.1 This article shall apply to any recreational vehicle park to be located within the Town limits in MU and MU-1 districts, as defined in Section 51 of the Town's Growth Management Ordinance ("GMO") and as shown on the Town's Growth Management Map.

135.4 Definitions

135.4.1 Accessory structure. Any structural addition to the recreational vehicle or site, including awnings, cabanas, carports, garages, porches, storage cabinets, storage sheds, and similar stand-alone appurtenant structures. A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.

135.4.2 Biodegradable. Capable of being decomposed by biological agents, especially bacteria.

135.4.3 Building Inspector. The official of the County responsible for the inspection of electrical, mechanical and plumbing associated with a property.

135.4.4 Camping trailer. A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.

135.4.5 Land Use Administrator. The person designated to administer the Oriental Growth Management Ordinance (see Section 40, Land Use Administrator). The official of the Town or his/her designee charged with the enforcement of the provisions of this article.

135.4.6 Controlling interest. A person or developer who controls at least fifty-one percent (51%) of ownership.

135.4.7 Dry hydrant. An un-pressurized, permanently installed pipe that has one end below the water level of a lake, pond or container.

135.4.8 Fifth-wheel trailer. A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use, of a size and weight that does not require a special highway movement permit and designed to be towed by a motorized vehicle that contains a

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towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

- 135.4.9 Full-time employee. A person who is responsible for maintenance of the RV park seven (7) days per week. This person may or may not be the owner of the RV park.
- 135.4.10 Licensee or agent. A person who may or may not own the RV park but is person responsible for the day to day operations including records of the park.
- 135.4.11 Motor Home or house car. A vehicular unit, designed to provide temporary living quarters, built into as an integral part, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must provide at least four of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating or air conditioning, a portable water supply system including a faucet and sink, separate 110-125 volt electrical power supply, or an LP gas supply.
- 135.4.12 Opaque fence. A fence made of solid materials designed to shield from public view the RV park.
- 135.4.13 Public use phone. A phone used by registrants of the RV park for emergency purposes.
- 135.4.14 Recreational vehicle or RV. A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. The basic entities are camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper. For the purposes of this Ordinance, RVs and tents are synonymous.
- 135.4.15 Recreational vehicle park or RV park. Any lot, tract, or parcel of land upon which accommodation is provided for two or more recreational vehicles, tents, or combination thereof used as living or sleeping quarters by the day, week, or month, whether a charge is or is not made. A recreational vehicle park is a unified development of recreational vehicle spaces provided for recreational vehicle use with or without community facilities and permitted permanent buildings. For the purpose of this Ordinance, the terms RV Park and Campground are synonymous.
- 135.4.16 Recreational vehicle site or RV site. That part of a lot or area in a recreational vehicle park or RV park that has been reserved for the placement of one recreational vehicle or RV.
- 135.4.17 Tent. A collapsible shelter of fabric (such as nylon or canvas) stretched and sustained by poles and used for camping outdoors.

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- 135.4.18 Travel trailer. A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.
- 135.4.19 Truck camper. A portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck.
- 135.5 Inspections
- 135.5.1 Authorized. The Building Inspector and Land Use Administrator official are hereby authorized to make such inspections as are necessary to determine compliance with this article.
- 135.5.2 Entry on premises. The Building Inspector and Land Use Administrator shall have the power to enter at reasonable times upon any private or public property within the purpose of inspecting and investigating conditions or complaints relating to the enforcement of this article.
- 135.6 Notices, hearings and orders
- 135.6.1 Notice of violation. Whenever it is determined that there are grounds to believe that there has been a violation of any provision of this article, the Town of Oriental shall give notice of such alleged violation to the licensee ~~or agent~~, as hereinafter provided. The notice shall also be given to the property owner if different from the licensee. Such notice shall:
- 135.6.1.1 Be in writing.
- 135.6.1.2 Include a statement of the reasons for its issuance.
- 135.6.1.3 Allow ten (10) days for compliance, except for emergencies, as provided in Section 135.6.1.4 below.
- 135.6.1.4 Be served upon the Owner ~~or his agent~~ and licensee if different; provided that such notice or order shall be deemed to have been properly served upon the Owner or agent when a copy thereof has been served in person or sent by certified mail to his/her last known address.
- 135.6.1.5 Contain an outline of remedial action that, if taken, will affect compliance with the provisions of this article.
- 135.6.1.6 After all procedures outlined above are exhausted citations may be issued.

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- 135.6.2 If a municipality mails a notice to a property owner in accordance with Section 135.6.1 and the United States Postal Service returns the notice as “refused” or “unclaimed”, the validity of the notice is not affected, and the notice is considered as delivered.
- 135.6.3 Appeal from notice. Any person affected by any notice that has been issued in connection with the enforcement of any provision of this article applicable to such park may request a hearing before the Board of Adjustment; provided that such person shall file within ten (10) days after the day the notice was served, in the Town’s Administrative Offices, with a copy to the office of the Land Use Administrator, a written petition requesting such hearing and setting forth a brief statement of the grounds thereof. The filing request for a hearing shall operate as a stay of the notice and of the suspension, except in the case of an order issued under sub-section 135.6.5 of this Section.
- 135.6.4 Issuance of order. After such hearing, the Board of Adjustment shall issue an order in writing sustaining, modifying, or withdrawing the notice of violation. Any failure to comply with an order sustaining or modifying the finding of a violation shall constitute grounds for immediate revocation of the ability to operate the park affected by the order.
- 135.6.5 Order without notice. Whenever the Town finds that an emergency exists which requires immediate action to protect the public health or safety, the designated official may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring the action to be taken as deemed necessary to meet the emergency. Notwithstanding any other provisions of this Section, such order shall be effective immediately, but upon written petition to the Town shall be afforded a hearing as soon as possible. The provisions of sub-section 135.6.3 of this Section shall be applicable to such hearing and the order issued thereafter.

135.6.6 Certification required. 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.

135.7 Violations declared nuisance; abatement; penalty

- 135.7.1 Any noncompliance with this article is hereby deemed a nuisance. The Town may abate and remove the nuisance. Any person(s) violating this article shall be subject to a fine not to exceed five hundred dollars (\$500.00) for each provision violated, and each day that there is a failure to comply with the terms of any provision of this article is declared to be a separate offense. For violations of the provisions of this article that govern fire safety, zoning, or public health and sanitation, including dumping of

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effluent or refuse, the fine may not exceed two thousand dollars (\$2000.00) per day, per violation. The Land Use Administrator shall be the authority of the jurisdiction responsible for the issuance of citations and any action deemed necessary for the enforcement of this ordinance.

- 135.7.2 The Administrator or assigned designee may, in writing, suspend or revoke a Special Use Permit required by this ordinance whenever the permit is issued in error or on the basis of incorrect information, or in repeated violation of any ordinance or regulation or any provision of this ordinance, or where a park is being maintained in a manner contrary to the terms of the permit.

135.8 Location and fencing

- 135.8.1 Sensitive Areas/Unstable Lands - No RV park shall be approved for location within any part of a 100-year floodplain of the Town as delineated by the Flood Insurance Rate Maps issued by the Federal Emergency Management Agency.

135.8.1.1 Copies of the Flood Insurance Rate Maps shall be available for public inspection at Town Hall.

- 135.8.2 RV parks shall be located in an area regulated by 135.9 of this article.

- 135.8.3 Buffering and screening shall be required if the park is not compatible with the surrounding uses, as determined by the Land Use Administrator. The purpose of buffering and screening is to create an area providing landscape screening and fencing which is used to reduce visual, noise, light, and incompatibility impacts.

- 135.8.3.1 An opaque fence at least eight (8) feet in height must be placed inside the property line to buffer the RV Park from view. The fence shall be installed between the RV Park and all adjacent properties. The fence must be approved by the Land Use Administrator prior to installation. The fence must be maintained in good repair, finish and appearance. When adequate, natural buffers should be encouraged. All plantings shall be maintained and/or replaced in healthy living condition for the life of the RV Park.

- 135.8.4 The Land Use Administrator, in consultation with the Tree Board, will determine on a case by case basis the need and extent of landscape screening or fencing necessary to mitigate these impacts; The Town Board has final approval.

135.9 Size and density

- 135.9.1 Each RV park must have a minimum size of two (2) acres, within a five (5) acre site. The maximum site density for RV parks shall be ten (10) sites

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per acre. Only one (1) recreational vehicle is permitted per recreational vehicle site. The expansion of existing parks shall require new park permits and shall be in accordance with all requirements and provisions of this ordinance.

135.9.2 Tent sites limited to 6 people per site.

135.10 Size of individual sites; pad requirements; landscaping

135.10.1 Each recreational vehicle site within the RV park shall have a minimum area of one thousand nine hundred fifty (1,950) square feet and shall be at least thirty (30) feet wide and sixty-five (65) feet in depth. The sites shall be designed as pull-through for ease of entering and leaving the site. An impermeable roadway constructed to NCDOT standards for highways is therefore required to the front and rear. In addition, the space shall be clearly marked identifying the space number. The left 1/3 (10 x 65) and the right 1/3 (10X 65) side of the site or driver's side must be planted with grass and other landscaping; the middle (10 x 65) must be paved with cement with a base of at least 6" ABC composite as normally required for heavy vehicular traffic, The middle portion is to be used for the parking of the recreational vehicle with the area on the right used as a patio area. (moved up)

135.10.2 Each tent site shall provide, at minimum, a 20ft by 20 ft camp pad, which should be level, covered with grass, with good drainage of water.

135.11 Street access; street lighting

135.11.1 Each recreational vehicle site within the RV park shall have access to an internal private paved roadway, built to NCDOT highway standards, which shall have access to a public street. The entrance of the internal roadway shall have a pavement width of at least thirty (30) feet. The major thoroughfare shall have a pavement width (concrete or asphalt) of twenty-four (24) feet in accordance with Town standards. The roadway may be fifteen (15) feet if the RV park is designed for one-way roads. Each emergency access lane shall have a clear unobstructed width of twenty-four (24) feet; fifteen (15) feet if one-way and shall have a turning area and radii with a minimum of sixty (60) feet to permit free movement of emergency vehicles. Dead-end streets are not allowed. All roads shall be open for access at all times to police and other emergency vehicle access.

135.11.2 Metal signs shall be placed along the emergency access lane, by the owner or agent of the RV park stating that parking is prohibited. The sign type, size, height and location shall be approved by the Town.

135.11.3 Adequate street lighting for the RV park shall be approved by the Land Use Administrator to illuminate streets, driveways and walkways for the

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safe movement of pedestrians and vehicles, while avoiding excess lighting trespass to neighboring property owners.

135.12 Required facilities

- 135.12.1 Each RV park must have an office for the manager of the RV park, and a bathroom and shower facilities, as well as laundry facilities. All facilities used by residents must be well lit inside and out during the night hours. All facilities must meet applicable codes adopted by the Town. There shall be at least four off-street parking spaces provided for the RV park office.
- 135.12.2 Off-street parking shall be provided at the rate of one space for each RV site. There will also be one additional parking space for each five (5) RV sites above one in the park. Each parking space shall be a minimum of twelve (12) feet by thirty (30) feet in size. (b) All RV parks shall have at least one (1) recreation area, located as to be free of traffic hazards, easily accessible to all park residents and centrally located where topography permits. Not less than ten (10) percent of the gross park area shall be devoted to recreational facilities. Recreation areas include space for community buildings and community use facilities such as restroom and shower facilities, adult recreation (basketball court or tennis court) and playgrounds for children, and swimming pools, but not including vehicle parking, maintenance and utility areas.

135.13 Soil and ground cover

- 135.13.1 Exposed ground surfaces in all parts of the RV parks shall be paved, covered with stone, rock, or other similar solid material, or protected with vegetative cover in order to prevent soil erosion and eliminate dust. All pavement shall be kept in good repair.

135.14 Prohibited placement of recreational vehicle

- 135.14.1 RVs located in the park are subject to the temporary habitation rules provided in the GMO under Section 60, (2) of Article IV. Wheels must remain on all RVs at all times within the park.

135.15 Area designated for RV parks

- 135.15.1 The area designated for the placement of recreational vehicle parks shall be established on a map with a copy of such in the office of the Building Inspector and office of the Land Use Administrator.

135.16 Setbacks

- 135.16.1 All of the RV park's individual sites shall be placed within the RV park to observe the following setback requirements:

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- 135.16.1.1 A minimum twenty-five (25) foot wide buffer yard shall be established along that portion of the RV park which adjoins a public road right-of-way. A minimum twenty (20) foot wide buffer yard shall be established along all other property lines.
- 135.16.1.2 There shall be a minimum distance of ten (10) feet between an individual RV unit and an adjoining interior RV park street.
- 135.16.1.3 There shall be a minimum distance of five (5) feet between an RV unit and the interior line of a perimeter buffer.

135.17 Drainage

- 135.17.1 The RV park shall be subject to the requirements of the GMO Section 120 regarding drainage. The ground surface in all parts of the RV park shall be graded and designed to drain all storm water, surface water in a safe, efficient manner accordingly. Drainage analysis shall be performed by a licensed professional engineer and easements for the conveyance of surface water off-site shall be obtained and forwarded to the Land Use Administrator.

135.18 Water supply

- 135.18.1 Each site within an RV park shall be provided with a connection to the Town water supply. The water distribution system shall be installed as follows:
 - 135.18.1.1 The water supply system, fixtures and other equipment must be installed in accordance with applicable codes adopted by the Town.
 - 135.18.1.2 A master water meter shall be installed to serve the RV park. Sub-metering or re-metering of RV sites is not permitted.
 - 135.18.1.3 A reduced pressure principal backflow preventer will be required to be placed at the property line on the discharge side of the master meter. In addition, one (1) must be properly installed and inspected at each of the connections for each RV site and located on the left side of the site.
 - 135.18.1.4 Water riser service branch lines shall extend at least four (4) inches above ground elevation. The branch line shall be at least $\frac{3}{4}$ inch.
 - 135.18.1.5 Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipes. Surface drainage shall be diverted from the location of utility connections at each site.
 - 135.18.1.6 The owner/operator shall have complete maintenance responsibility for the water system within the RV park.

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- 135.18.1.7 The Town has no maintenance responsibility for service lines within the RV park. The responsibility of the Town for supplying water to the RV park stops with the master water meter.

135.19 Wastewater facilities

- 135.19.1 Each site within the RV park shall be provided with a connection for wastewater. Tent sites are exempt from this requirement. All proposed wastewater service lines shall be connected to the Bay River Metropolitan Sewer District wastewater system. A permit from CAMA shall be obtained prior to placement of an on-site sewage facility (pump out and dump station). The Town must approve all proposed wastewater facility plans prior to construction. The wastewater distribution system shall be installed as follows:
- 135.19.1.1 The pump out and dump facilities must be installed in accordance with applicable codes adopted by the Town.
 - 135.19.1.2 Each site shall be provided with a four-inch diameter wastewater riser and shall extend above grade four (4) to six (6) inches. The wastewater riser pipe shall be so located on each stand so that the wastewater connection to the RV drain outlet will approximate a vertical position. Each inlet shall be provided with a gastight seal when connected to a recreational vehicle or have a gastight seal plug when not in service. The plug shall be that of a spring-loaded device.
 - 135.19.1.3 The wastewater connection to each site shall consist of a single four-inch service line without any branch lines, fittings, or connections. All joints shall be watertight.
 - 135.19.1.4 Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four (4) to six (6) inches above the ground elevation.
 - 135.19.1.5 Each collection wastewater line shall provide a vent extending a minimum of ten (10) feet in height.
 - 135.19.1.6 The owner/operator shall have complete maintenance responsibility for the wastewater system within the RV park. The responsibility of the Town stops at the property line.
 - 135.19.1.7 Sanitary dump stations shall be screened from other activities by visual barriers such as fences, walls or natural growth and shall be separated from any RV space by a distance of at least fifty (50) feet.

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- 135.19.1.8 All chemicals entering the Bay River Metropolitan Sewer District shall be biodegradable.

135.20 Electrical service

- 135.20.1 Each site within the RV park shall be provided with electrical service. All electrical service shall be underground and installed in accordance with the National Electrical Code. The electrical service shall be installed as follows:
 - 135.20.1.1 A master electric meter shall be installed to serve the RV park. Sub-metering or re-metering of RV sites is not permitted.
 - 135.20.1.2 The Town has no maintenance responsibility for service lines within the RV park. The responsibility of the Town stops at the property line.
 - 135.20.1.3 The location of all underground lines shall be clearly marked by surface signs at approved intervals.
 - 135.20.1.4 Power supply to each RV site shall be a minimum of one 30-amp and one 50-amp power supply. Tent sites shall be provided a minimum of one (1) twenty (20) Amp receptacle.
 - 135.20.1.5 Outlets (receptacles or pressure connectors) shall be housed in an Underwriters' Laboratories, Inc. approved weatherproof outlet box.

135.21 Sanitary facilities

- 135.21.1 Each RV park shall provide the following sanitary facilities as listed below and shall all be ADA compliant:
 - 135.21.1.1 One (1) toilet or stool for the female sex for every ten (10) sites or fraction thereof (minimum of one (1) is required) for the first one hundred and twenty (120) sites, and one (1) per forty (40) sites thereafter.
 - 135.21.1.2 One (1) toilet or stool and one (1) urinal stall for the male sex for every twenty (20) sites or fraction thereof (minimum of one (1) is required) for the first one hundred and twenty (120) sites, and one (1) per forty (40) sites thereafter.
 - 135.21.1.3 One (1) washbasin shall be provided within the toilet room for every two (2) toilets or fraction thereof (a minimum of one (1) is required).
 - 135.21.1.4 One (1) shower shall be provided for each sex for each ten (10) sites or fraction thereof (minimum of one (1) is required for each

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sex) for the first one hundred and twenty (120) sites, and one (1) per forty (40) sites thereafter.

- 135.21.1.5 All toilets and shower facilities shall be placed in properly constructed buildings and located not more than two hundred (200) feet from any recreational vehicle site.
- 135.21.1.6 Buildings shall be well lit at all times, day or night, well ventilated with screened openings, and constructed of moisture proof material to permit rapid and satisfactory cleaning, scouring and washing.
- 135.21.1.7 The floors shall be of concrete or other impervious material, elevated not less than four (4) inches above grade, and each room shall be provided with floor drains.
- 135.21.1.8 A slop sink or basin with water supply shall be in each restroom (male and female) and at least one (1) in the laundry facility, and shall be constructed in accordance with design, size and materials approved by the building official.
- 135.21.1.9 Toilet and bathing facilities shall be in separate rooms or partitioned apart in any manner as to provide privacy and promote cleanliness. Each toilet provided in a community toilet house shall be partitioned apart from any other toilet in the same room. The floor surface around the commode shall not drain into the shower floor.
- 135.21.1.10 Toilet floors and walls shall be of impervious material, painted, and kept clean at all times. Shower stalls shall be of tile, plaster, cement or some other impervious material and shall be kept clean at all times. If a shower stall is of some impervious material other than tile, cement or plaster, it shall be white or some light color and kept clean at all times. The floor of any bathroom, other than the shower stall, shall be of some impervious material, and the walls of the bathroom, other than the shower stall, shall be papered with canvas and wallpaper, or an equivalent washable surface kept clean at all times.

135.22 Storage, collection and disposal of refuse and garbage

- 135.22.1 Each RV park shall provide safe and adequate facilities for the collection and removal of waste and garbage. Storage, collection, and handling shall be conducted so as to create no health hazards, rodent harborage, insect breeding areas, or fire hazards. Every site shall be located within two hundred (200) feet of a refuse facility measured along the RV park internal roadway. Trash dumpsters shall be screened on all sides, and on a raised pad of 6" above grade.

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135.23 Telephone

- 135.23.1 A minimum of one (1) land line telephone shall be provided in an easily accessible location twenty-four (24) hours a day, seven (7) days a week for emergency use.

135.24 Accessory structures

- 135.24.1 The individual sites within the RV park are not allowed to have accessory (stand-alone) structures as defined herein.

135.25 Registration of guests

- 135.25.1 Each person renting a site within a RV park shall provide the following information to the owner, manager, operator or person in charge of the RV park:

- 135.25.1.1 Name;
- 135.25.1.2 Full address of permanent residence;
- 135.25.1.3 Automobile and recreational vehicle license plate number and the state in which each is registered;
- 135.25.1.4 Driver's license number of the owner;
- 135.25.1.5 The number or letter of the site being rented;
- 135.25.1.6 Date of arrival and departure; and
- 135.25.1.7 Current Insurance company, policy number, contact information.

135.26 Control of insects, rodents and other pests

- 135.26.1 Grounds, buildings and structures in the RV park shall be maintained free of the accumulation of high grass and weeds (4" or more) and debris so as to prevent rodent and snake harborage or the breeding of flies, mosquitoes or other pests.
- 135.26.2 The RV park owner or manager shall be responsible for maintaining the entire area of the park free of dry brush, leaves, limbs and weeds.

135.27 Fire safety standards; fire hydrants

- 135.27.1 Open fires shall be allowed only in a manner and within a container approved by the Office of the State Fire Marshal.
- 135.27.2 A fire hydrant(s) must be placed such that each recreational vehicle site is no more than six hundred (600) feet from one.

135.28 Permanent occupancy prohibited

- 135.28.1 No RV park or recreational vehicle therein shall be used as a permanent residence for any period of time, notwithstanding Section 14, except for permanent full-time employees of the RV park.
- 135.28.2 Unoccupied parking of an RV unit for any period exceeding two weeks is considered storage, which is hereby prohibited.
 - 135.28.2.1 No more than one (1) space shall be allowed for use as a permanent residence for full time employees.
- 135.28.3 Occupancy of a recreational vehicle within the RV park extending beyond an accumulation of one hundred and seventy-nine (179) days in any twelve (12) month period (whether consecutive or not) shall be presumed permanent occupancy and is hereby prohibited; such occupants may not return for a period of sixty (60) days following such occupancy or parking.
- 135.28.4 Change of ownership of grandfathered RV park
 - 135.28.4.1 Upon change of controlling interest of a grandfathered RV park the new owner shall immediately bring the existing RV park to meet the requirements of this ordinance.

135.29 EMERGENCY

- 135.29.1 In the event of a natural disaster, or related incidents removal of all RV units/tents are to be removed from the park within six (6) hours of issuance of a hurricane or tropical storm WARNING issued by the National Weather Service.
- 135.29.2 In the event of a declaration of disaster, state of emergency, or marshal law by the state or federal government concerning the Oriental area, all RV units/tents are to be removed from the RV park within six (6) hours.
- 135.29.3 The Town of Oriental assumes no liability for vehicles not removed as directed.

Section 136. Broad Street Corridor Overlay District

- 136.1 Zoning overlay districts are hereby established to supplement the existing residential, mixed use, and conditional zoning districts. Within the area encompassed by a zoning overlay district all requirements of the existing zoning district (i.e. R-1, R-2, R-3, MU or MU-1) will apply, unless specifically exempt within the overlay regulations, in addition to requirements required by the zoning overlay.
- 136.2 The Broad Street Overlay District is established to maintain and expand the existing visual character of the Broad Street corridor, provide for save and efficient movement to

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and between properties within the corridor, and provide for distinctive gateways and other elements that reflect the Town of Oriental.

- 136.2.1 The Broad Street Corridor overlay shall begin at the intersection of North Street and Broad Street and extend north to the municipal boundary. Only parcels of land that abut the Broad Street right-of-way are subject to the provision of the overlay. The extent and boundaries of the overlay are indicated on the official Growth Management Map of the Town of Oriental.
- 136.3 New construction of a principal building shall include a landscape buffer along the road edge at least ten feet in width, parallel with HWY 55. Up to five (5) feet of this buffer may be within state right-of-way with permission from the Department of Transportation. Landscaping shall conform to the specifications below, unless otherwise approved by the Oriental Tree Board:
 - 136.3.1 A two (2) inch caliper crape myrtle will be planted every 20 linear feet in the frontage buffer.
 - 136.3.2 Tree cultivar selection will be subject to approval by the Oriental Tree Board.
 - 136.3.3 Tree pruning and maintenance will be provided by the Oriental Tree Board.
 - 136.3.4 Dead trees will be replaced by the property owner.
 - 136.3.5 Turf grass or other groundcover within the buffer will be maintained by the property owner.
- 136.4 New construction of a principal building with windows and/or doors that face Broad Street shall have a minimum of eight-foot deep covered porch that spans no less than 50% of the front of the building. The remaining front portion of the building to be an eight-foot landscaped buffer, approved by the Tree Board.
- 136.5 New construction of a principal building without windows and doors along Broad Street shall have at least a ten-foot wide landscaping buffer extending from the structure, parallel to HWY 55, in addition to the requirements set forth in 90.1 above. The landscape buffer shall contain trees and evergreen shrubs sufficient to screen the building, and the design will be subject to approval of the Oriental Tree Board.
- 136.6 New driveway construction shall include a five-foot-wide hard surface walkway suitable for walking or bike riding. The walkway shall connect adjoining lots on each side of the property, connecting to the walkways on those lots if walkways currently exist. Wooden bridges over drainage ditches are permitted.
- 136.7 Commercial buildings twenty-five (25) feet or less in height above the mean adjacent grade are not subject to the roof pitch requirements of Section 115. Buildings that contain

both residential and commercial uses are subject to the roof pitch requirements as described in Section 115.

Section 137. Solar Energy Systems

137.1 Purpose

The purpose of this ordinance is to facilitate the construction, installation, and operation of Solar Energy Systems (SESs) in the Town of Oriental in a manner that promotes economic development and ensures the protection of health, safety, and welfare while also avoiding adverse impacts to important areas such as agricultural lands, endangered species habitats, conservation lands, and other sensitive lands. It is the intent of this ordinance to encourage the development of SESs to reduce reliance on foreign and out-of-state energy resources, bolster local economic development and job creation, support the diversification of the state’s energy portfolio, strengthen energy and grid security, reduce greenhouse gas emissions, reduce local air and water pollution, and aid North Carolina in meeting its Renewable Portfolio Standard. This ordinance is not intended to abridge safety, health or environmental requirements contained in other applicable codes, standards, or ordinances. The provisions of this ordinance shall not be deemed to nullify any provisions of local, state or federal law.

137.2 Applicability

137.2.1 This ordinance applies to the construction of any new SES within the planning and development regulation jurisdiction of the Town.

137.2.2 An SES established prior to the effective date of this ordinance shall remain exempt:

137.2.3 Exception: Modifications to an existing SES that increases the SES area by more than 5% of the original footprint or changes the solar panel type (e.g., photovoltaic to solar thermal) shall be subjected to this ordinance.

137.2.4 Maintenance and repair are not subject to this ordinance.

137.2.5 This ordinance does not supersede regulations from local, state, or federal agencies. Some important examples of such regulations include, but are not limited to:

137.2.5.1 Building/Electrical Permits Required - Nothing in this ordinance modifies already established building standards required to construct a SES.

137.2.5.2 Onsite Wastewater System Avoidance - Nothing in this ordinance modifies already established Department of Health and Human Services requirements. A SES shall not be constructed over onsite

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wastewater systems (e.g., septic systems) unless approved by the Department of Health and Human Services.

- 137.2.5.3 Stormwater/Coastal Area Management Act (CAMA) Permit Required - Nothing in this ordinance modifies the requirements or exempts any SES of complying with the various stormwater jurisdictions and regulations established by the Department of Environment and Natural Resources or with CAMA. North Carolina statute requires the acquisition of stormwater permits for construction projects that impact stormwater runoff.

137.3 Permits Required - The type of permit required for an SES is displayed in the Table of Permissible Uses (Section 60)

137.4 Parcel Line Setbacks

- 137.4.1 Section 113.4.1 provides the Parcel Line setback to ground mounted Level I SES equipment, including any security fencing, poles, and wires necessary to connect to facilities of the electric utility.

- 137.4.1.1 SESs may not be installed within the area set off by a line running across the façade of the structure extending to the property boundaries on either side of the facade, and those areas of common or public access faced by the structure.

- 137.4.2 The following provisions shall apply to the location of all Level 2 SESs and Improvement Areas:

- 137.4.2.1 Improved areas shall not be located in a federally designated Special Flood Hazard Area.
- 137.4.2.2 All site plans for Solar Energy Systems located in areas covered by the most recent AICUZ (Air Installation Compatible Use Zoning) report or subsequent reports must be sent to the North Carolina Department of Military and Veterans Affairs and the North Carolina Commanders' Council for comment within 30 days from the date the site plans are sent.
- 137.4.2.3 All Improved Areas shall be at least 100 feet from a public road and 25 feet from the fence line.
- 137.4.2.4 Improved Areas shall be at least 100 feet from any contiguous property line not associated with a Solar Energy System.
- 137.4.2.5 All access roads and storage areas shall be established on a 30-foot minimum easement to a public right-of-way.

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- 137.4.2.6 All Solar Energy Systems shall have a minimum landscape buffer containing evergreen vegetation screening where existing buffers do not obscure solar energy system perimeters from dwelling units on adjacent parcels. At maturity required vegetative screening shall not be less than 15 feet tall regardless of line of sight.
- 137.5 Enclosure Fencing and Security (LEVEL 2 ONLY) Solar energy systems shall be fenced completely by a continuous barrier extending from the surface of the ground to a uniform height of not less than 6 feet from the ground at any given point, constructed of dirt, wood, stone, steel, or other metal, or any substance of a similar nature and strength. The perimeter fence shall be designed to restrict unauthorized access.
- 137.6 Height Limitations - The height of ground mounted systems may not exceed sixteen (16) feet in height as measured from the front property line abutting a public roadway. Roof mounted systems are subject to the same height restrictions as roof structures listed in Section 114.
- 137.7 Wind Rating - All Systems must be able to withstand 140MPH wind load.
- 137.8 Aviation Notification - The requirements below apply to all systems:
 - 137.8.1 A map analysis showing a radius of five (5) nautical miles from the center of the SES with any airport operations within this area highlighted shall be submitted with permit application.
 - 137.8.2 For consideration of potential impacts to low altitude military flight paths, notification of intent to construct the SES shall be sent to the NC Commanders Council at least 30 days before the SUP hearing for Level 2 SESs and at least 45 days before starting construction for applicable Level 1 systems. Proof of delivery of notification and date of delivery shall be submitted with permit application. Notification shall include:
 - 137.8.2.1 Location of SES (i.e., map, coordinates, address, or parcel ID)
 - 137.8.2.2 Solar technology (i.e., polycrystalline PV, monocrystalline PV, Cadmium Telluride PV, evacuated tube solar thermal, flat plate solar thermal, etc.)
 - 137.8.2.2 Approximate number of solar modules/panels
 - 137.8.2.3 System mounting (i.e., fixed-tilt on flat roof, fixed-tilt ground-mount, 1-axis tracking ground- mount, etc.)
 - 137.8.2.4 The maximum height of the array from the ground or roof surface
 - 137.8.2.5 Power capacity of the system, in both DC and AC Watts where applicable

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- 137.8.2.6 Acreage of array and acreage of total project
 - 137.8.2.7 Explain how the project will connect (i.e., net meter, to existing distribution line, to new distribution line, to transmission line)
 - 137.8.2.8 Explain whether a substation will be constructed. Provide location and size
 - 137.8.2.9 State if the site is within five nautical miles (5.75mi) of aviation operations? If so, provide the required Solar Glare Hazard Analysis Tool (SGHAT) analysis results.
- 137.8.3 The latest version of the SGHAT or equivalent shall be used per its user’s manual to evaluate the solar glare aviation hazard. The full report for each flight path and observation point, as well as the contact information for the zoning administrator, shall be sent to the authority indicated below at least 30 days before the SUP hearing for Level 2 SESs and at least 45 days before starting construction for Level 1 SESs. Proof of delivery of notification and date of delivery shall be submitted with permit application.
- 137.8.4 For airport operations at airports not in the National Plan of Integrated Airport Systems (NPIAS), including military airports, within 5 nautical miles of the center of SES: provide required information to the NC Commanders Council for military airports and to the management of the airport for non-military airports. Any applicable SES design changes (e.g., module tilt, module reflectivity, etc.) after initial submittal shall be rerun in the SGHAT tool and the new full report shall be sent without undue delay to the contact specified in 137.7.2 above for accurate records of the as-built system.
- 137.9 Level I and Level 2 Solar Energy System Additional Requirements
- 137.9.1 Level I Ground Mounted System Requirements: These are in addition to height, setback, aviation, and other applicable district standards.
 - 137.9.1.1 The size of the area in which an array can be installed may not exceed 50% of the primary structure’s footprint. The footprint of the primary structure is the ground area covered by the primary structure inclusive of an attached garage or carport.
 - 137.9.1.2 Systems are subject to setbacks in Section 113.4.1
 - 137.9.1.3 Systems must be configured in a contiguous manner
 - 137.9.1.4 Systems must be mounted above the flood zone.

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- 137.9.1.5 Systems may not exceed sixteen (16) feet in height as measured from the front property line abutting a public roadway.
- 137.9.1.6 Systems must be permanently affixed.
- 137.9.2 Level 2 Requirements: These requirements are in addition to height, setback, aviation notification, and applicable district standards.
 - 137.9.2.1 Site Plan: site plan shall be submitted to the Land Use Administrator demonstrating compliance with:
 - Setback and height limitations established in Sections 137.4.2 and 137.6 ,
 - Applicable zoning district requirements such as lot coverage,
 - Applicable solar requirements per this ordinance.
 - 137.9.2.2 Visibility- Public signage (i.e., advertising, educational, etc.) as permitted by local signage ordinance (Article X, Signs), including appropriate or required security and safety signage.
 - 137.9.2.3 If lighting is provided at site, lighting shall be shielded and downcast such that the light does not spill onto the adjacent parcel or the night sky. Motion sensor control is preferred.

137.10 Abandonment and Decommissioning Plans

137.10.1 Abandonment

- 137.10.1.1 A Solar Energy System that ceases to produce energy on a continuous basis for 12 months will be considered abandoned unless the current responsible party (or parties) with ownership interest in the Solar Energy System provides substantial evidence (updated every 6 months after 12 months of no energy production) to the Building Inspector or his designee of the intent to maintain and reinstate the operation of that facility. It is the responsibility of the responsible party (or parties) to remove all equipment and facilities and restore the parcel to its condition prior to development of the Solar Energy System.
- 137.10.1.2 Upon determination of abandonment, the Building Inspector shall notify the party (or parties) responsible they must remove the Solar Energy System and restore the site to its condition prior to development of the Solar Energy Facility within 360 days' of notice by the Building Inspector or his designee.
- 137.10.1.3 If the responsible party (or parties) fails to comply, the Building Inspector or his designee may remove the Solar Energy System, sell any removed materials, and initiate judicial proceedings or

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take any other steps legally authorized against the responsible parties to recover the costs required to remove the Solar Energy System and restore the site to a non-hazardous pre-development condition.

137.10.2 Decommissioning

- 137.10.2.1 A decommissioning plan signed by the party responsible for decommissioning and the landowner (if different) addressing the following shall be submitted prior to the issuance of a development permit:
- 137.10.2.2 Defined conditions upon which decommissioning will be initiated (i.e., end of land lease, no power production for 12 months, abandonment etc.)
- 137.10.2.3 Removal of all non-utility owned equipment, conduit, structures, fencing, roads, solar panels and foundations.
- 137.10.2.4 Restoration of property to condition prior to development of the Solar Energy System.
- 137.10.2.5 The timeframe for completion of decommissioning activities.
- 137.10.2.6 Description of any agreement (e.g., lease) with landowner regarding decommissioning.
- 137.10.2.7 The party currently responsible for decommissioning.
- 137.10.2.8 Plans for updating the decommissioning plan.
- 137.10.2.9 A form of surety equal to 125% of the entire cost of decommission under the plan, as estimated by a North Carolina licensed engineer under seal, and approved by the County Building Inspector and Town Attorney, either through cash, a surety performance bond, irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the Town or in escrow with a financial institution designated as an official depository of the Town. This surety shall be retained by the Town to cover the cost of the decommissioning requirements herein. Following initial submittal of the surety, the cost calculation shall be reviewed annually, and adjusted accordingly based upon an updated estimate of a North Carolina licensed engineer under seal, of the estimated decommissioning costs; provided however, any such periodic adjustment must be approved by the Planning Board. Failure to comply with any requirement of this paragraph shall result in the immediate termination and revocation of all prior approvals and permits; further, Town shall be entitled to make immediate demand

upon, and/or retain any proceeds of, the surety, which shall be used for decommissioning and/or removal of the Solar Energy System, even if still operational.

Sections 138 through 139 Reserved

ARTICLE VIII. SUBDIVISIONS

Section 140. Purpose of Article VIII

140.1 The purpose of this Article VIII is to establish procedures and standards for the development and subdivision of land within the corporate limits of the Town of Oriental in order to promote the public health, safety, and general welfare of the community as authorized in ~~NCGS Section 160A-372~~ NCGS Sections 160D-804; 804.1.

Section 141. Subdivision Definitions

141.1 A “subdivision” shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions, for the purpose, whether immediate or future, of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets. The following are not included within this definition and are not subject to any regulations enacted pursuant to this ordinance:

141.1.1 The combination or recombination of portions of previously platted lots if the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town as required by ordinance;

141.1.2 The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved;

141.1.3 The public acquisition by purchase of strips of land for widening or opening of streets; and

141.1.4 The division of a tract in single ownership whose entire area is not greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town.

141.1.5 The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.

141.2 A ‘minor subdivision’ is defined as the division of a tract of land as in 1) above and also meets all of the following criteria:

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- 141.2.1 no new public or private streets, access easements, or right-of way dedication are proposed;
 - 141.2.2 no changes in existing streets are proposed;
 - 141.2.3 no extension of utility infrastructure is proposed;
 - 141.2.4 the entire tract to be subdivided is five acres or less in size;
 - 141.2.5 a total of six or fewer lots will result after the subdivision is complete.
- 141.3 A ‘major subdivision’ is defined as the division of a tract of land as in 141.1 above **and** that does not meet the criteria of 141.2 above **and does not meet the criteria of 141.4 below.**
- 141.4 An ‘expedited subdivision’ is defined as a division of a tract of land as in 141.1 above and also meets all of the following criteria (also specified in NCGS§160D-802(c)):**
- 141.4.1 it is not a division of land into parcels greater than 10 acres where no street right-of-way dedication is involved;**
 - 141.4.2 no portion has been divided under this sub-section in the past 10 years;**
 - 141.4.3 the entire area of the tract or parcel to be divided is greater than 5 acres;**
 - 141.4.4 no more than three lots result from the division;**
 - 141.4.5 all resultant lots comply with all of the following:**
 - 141.4.5.1 all lot dimension size requirements of the Town subdivision and zoning regulations;**
 - 141.4.5.2 the use of the lots is in conformity with the Town zoning regulations; and**
 - 141.4.5.3 a permanent means of ingress and egress is recorded for each lot;**
 - 141.4.6 the property is under single ownership.**

Section 142. No Subdivision Without Approval

- 142.1 Duty of the Register of Deeds and Clerk of Court. The Town of Oriental shall file a copy of this ordinance with the Register of Deeds of Pamlico County. Thereafter, no subdivision plat of land within the Town’s **planning and development regulation** jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the governing body as required by this ordinance and until this approval on shall have been entered the face of the plat in writing by the Chairman of the Town Planning Board. The Register of Deeds shall not file or record a plat of a subdivision of land located

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within the territorial jurisdiction of the Town that has not been approved in accordance with the ordinance, nor shall the Clerk of Superior Court of Pamlico County order or direct the recording of a plat if the recording would be in conflict with this Section. The owner of the land shown on a subdivision plat submitted for recording or his authorized agent shall sign a statement on the plat stating whether or not any land shown thereon is within the subdivision regulation jurisdiction of the Town.

142.2 Pre-sale Contracts. The provisions of this Section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision ordinance or recorded with the register of deeds, provided the contract does all of the following:

142.2.1 Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance.

142.2.2 Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat.

142.2.3 Provides that if the approved and recorded final plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat.

142.2.4 Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15 day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

142.3 The provisions of this Section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision ordinance or recorded with the register of deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the

final plat has been properly approved under the subdivision ordinance and recorded with the register of deeds.

Section 143. Exception for Group Development

143.1 The standards and requirements of this ordinance may be modified by the Board of Commissioners upon recommendation of the Planning Board in the case of a plan and program for a group, cluster or planned unit development, which, in the judgment of the Board of Commissioners, provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, which also provides such covenants or other legal provisions as will assure conformity to and achievement of the purpose and intent of this ordinance, and which is in compliance with the Growth Management Ordinance of the Town of Oriental.

Section 144. Plat Preparation and Approval Procedure

144.1 No final plat of a major subdivision within the planning and development regulation jurisdiction of Oriental shall be accepted for recording by the Pamlico County Register of Deeds until final approval has been given by the Town of Oriental. To obtain final plat approval the subdivider shall follow the steps enumerated in this Article.

144.2 No final plat of a minor subdivision within the planning and development regulation jurisdiction of Oriental shall be accepted for recording by the Pamlico County Register of Deeds until final approval has been given by the Town of Oriental. To obtain final plat approval the subdivider shall follow the steps enumerated only in Section 146 (Preliminary Plat) and Section 147 (Planning Board Approval) with the following exceptions:

144.2.1 The plat content shall be as required in Section 149 (5) (Final Plat) without certificates (2) and (5),

144.2.2 Interested agencies may be consulted for comment, at the administrator’s discretion,

144.3 Upon approval of the minor subdivision by the Town Board of Commissioners, the subdivider may consider this as final approval as in Section 149 (Final Plat) and shall record the plat pursuant to Section 149 (9) (Final Plat).

144.4 No final plat of an expedited subdivision within the planning and development regulation jurisdiction of Oriental shall be accepted for recording by the Pamlico County Register of Deeds until final approval has been given by the Town of Oriental. To obtain final plat approval the subdivider shall submit the plat to the Land Use Administrator for review.

144.5 Upon final approval of the expedited subdivision by the Land Use Administrator, the subdivider may record the plat.

Section 145. Sketch Design Plan

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- 145.1 Prior to submitting a preliminary plat, the subdivider is encouraged to prepare and submit to the administrator a sketch design plan of the proposed subdivision. The sketch design plan should contain the following information:
- 145.1.1 The proposed name and location of the subdivision.
 - 145.1.2 The total acreage of the proposed subdivision.
 - 145.1.3 The tentative street and lot arrangement.
 - 145.1.4 The name and address of the owner and subdivider.
 - 145.1.5 Lot sizes and number of lots.
 - 145.1.6 The existing and proposed uses of the land within the subdivision and adjoining it.
 - 145.1.7 The zoning classification, if any, of the tract and adjoining properties.
 - 145.1.8 Sketch vicinity map, if outside limits.
- 145.2 The administrator shall review the sketch design plan and shall advise the subdivider or his agent of the procedures to be followed in the preparation and submission of the preliminary and final plats. This review shall in no way be construed as constituting an official action of approval of the proposed subdivision as required by this ordinance.

Section 146. Preliminary Plat

- 146.1 Submission Required: The subdivider, or his agent, shall submit five (5) copies of the preliminary plat and any supplementary materials to the administrator at least twenty-five (25) days prior to the Planning Board meeting at which said plat is to be considered. A fee according to a regularly adopted fee schedule of the Town Board of Commissioners will be required to cover the administrative costs of review.
- 146.2 Content of Plat: The preliminary plat shall be drawn at a scale of one (1) inch to one-hundred (100) feet or larger, on sheets of a size suitable for recording by the Pamlico County Register of Deeds and shall show the following:
- 146.2.1 The location of existing and platted property lines, streets, buildings, water courses, railroads, transmission lines, sewers, bridges, culverts, storm drains, water mains, and any public utility easements, both on the land subdivided and on the land immediately adjoining.
 - 146.2.2 The boundary line of the tract to be subdivided drawn accurately with all bearings and distances shown.
 - 146.2.3 Wooded areas, marshes, and any peculiar, natural conditions affecting the site.

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- 146.2.4 Names of adjoining property owners or subdivisions.
 - 146.2.5 Zoning classification, if any, both of the land to be subdivided and of adjoining property.
 - 146.2.6 Proposed streets, street names, right-of-way, typical street cross Sections, pavement widths, approximate grades.
 - 146.2.7 The plan for proposed utility layouts (sewer, water, electric) showing connections to existing systems, storm drainage, etc.
 - 146.2.8 Other proposed rights-of-way or easements, location, width, or purpose.
 - 146.2.9 Proposed lot lines, lot and block numbers and approximate dimensions.
 - 146.2.10 Proposed minimum building setback lines.
 - 146.2.11 Contours with vertical intervals of two feet or less.
 - 146.2.12 Proposed location and size of parks, school sites, or other public open spaces, if any.
 - 146.2.13 Title, date, north arrow, and graphic scale.
 - 146.2.14 Name(s) of owner(s), mortgagees, surveyor and land planner.
 - 146.2.15 Site data, including acreage in total tract, acreage in parks or other land usage, total number of lots, linear feet in streets.
 - 146.2.16 Sketch vicinity map showing relationship between subdivision and surrounding area.
 - 146.2.17 The preliminary plat shall be accompanied by a copy of any proposed deed restrictions or restrictive covenants.
- 146.3 Review by Interested Agencies: The administrator shall check the plat for compliance with Town ordinances and distribute prints of the proposed subdivision to any governmental agency or agencies having a specific interest in the subdivision for their comments or recommendations, including where applicable but not limited to the Pamlico County Health Department, the N.C. Department of Transportation, the Land Resources Division of the North Carolina Department of Environment and Natural Resources, the Soil Conservation Service, the U.S. Postal Service. The administrator shall consolidate such recommendations and present them to the Planning Board.
- 146.4 The Planning Board shall review the preliminary plat within sixty (60) days after the administrator receives the preliminary plat and the comments or authorized signatures on the certificates from the appropriate agencies.

Section 147. Planning Board Approval

147.1 The Planning Board shall, in writing, recommend approval, conditional approval with recommended changes to bring the plat into compliance, or disapproval with reasons within forty-five (45) working days of its first consideration of the plat. If the Planning Board does not make a written recommendation within forty-five (45) working days after its first consideration of the plat, the subdivider may apply to the Board of Commissioners for approval or disapproval.

147.2 Review by Board of Commissioners: The Town Board of Commissioners shall review the preliminary plat with the recommendation of the Planning Board and shall approve, conditionally approve, or disapprove the plat within sixty (60) days after submission.

147.2.1 Approval. If the Town Board of Commissioners approves the preliminary plat, such approval shall be noted on two copies of the plat, one to be returned to the subdivider and one to be kept in the permanent record of the Town of Oriental.

147.2.2 Conditional Approval. If the Town Board of Commissioners recommends approval of the preliminary plat conditioned on modifications being made to bring the plat into compliance, it shall retain one copy of the originally submitted preliminary plat with its certificate that the plat will be approved when the conditions noted are met and shall return one copy to the subdivider with its written conditions for approval. The subdivider shall have sixty (60) days in which to make the changes needed to bring the plat into compliance. The subdivider shall submit two copies of the corrected plat to the administrator who will review it to ensure that the recommended changes have been made and who will place review of the corrected plat on the agenda for the next Town Board of Commissioners' meeting. If the preliminary plat has been properly amended, the Town Board of Commissioners will certify the plat as approved. If the subdivider fails to resubmit the plat within sixty (60) days or has not submitted a plat with adequate modifications as required by the Town Board of Commissioners within sixty (60) days, then the subdivider must resubmit a proper preliminary plat to the administrator and begin the preliminary plat approval process again, including payment of fees, before approval can be given.

Section 148. Disapproval

148.1 If the preliminary plat is disapproved by the Town Board of Commissioners, the reasons for such disapproval shall be stated in writing, specifying the provisions of this ordinance with which the subdivider has not complied in the preparation of the plat. One (1) copy of such reasons and one (1) copy of the plat shall be retained in the permanent records of the Town Board of Commissioners. One (1) copy of the reasons and one (1) copy of the plat shall be returned to the subdivider. A subdivision plat resubmitted after being disapproved by the Town Board of Commissioners shall be treated as a newly submitted plat.

Section 149. Final Plat

149.1 Submission Required Within 12 Months: Within twelve (12) months after approval of the preliminary plat, the subdivider or his agent shall submit to the Subdivision administrator five (5) copies of the final plat, unless an extension of time for submission of the final plat is requested and allowed by the Planning Board. If no final plat is submitted or extension allowed within twelve (12) months of the approval of the preliminary plat, the preliminary plat shall become null and void. For purposes of calculating the time allowed for submission of the final plat where the preliminary plat was conditionally approved and the conditions were met, approval is deemed to have taken place on the date of the conditional approval of the Town Board of Commissioners.

149.2 Completion of Improvements Prior to Final Approval: Prior to final plat submission or approval, the subdivider shall complete and dedicate in a manner satisfactory to the Planning Board all required improvements as specified either on the approved preliminary plat or, in the case of a phased subdivision, on that portion of the approved preliminary plat which the subdivider proposes to record.

149.3 Completion of Improvements Under Guarantee. As an alternative, the subdivider may obtain a performance guarantee to assure successful completion of required improvements. Any performance guarantee shall be handled in accordance with NCGS§160D-804.1.

149.3.1 The performance guarantee may be a letter of credit or performance bond(s) from a surety bonding company authorized to do business in North Carolina or other form of guarantee that provides equivalent security.

149.3.2 The ~~letter of credit or bonds~~ performance guarantee shall be payable to the Town of Oriental and shall be in an amount equal to 1.25 times the entire cost, as shown on the estimate required herein.

149.3.3 The ~~bond~~ performance guarantee shall be approved by the Oriental Planning Board and the Town Attorney. The letter of credit or bond shall be conditioned so that the required improvements may be constructed by the Town without cost to the Town in the event of default by the subdivider.

149.3.4 ~~The duration of the guarantee shall be until such time as the improvements are accepted by the Oriental Planning Board following receipt by said Board of appropriate written releases from the agencies herein above specified but in no case for longer than twenty-four (24) months from the date of final approval.~~ The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued,

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unless the developer determines that the scope of work for the required improvements necessitates a longer duration.

149.4 ~~**Bond Guaranteeing Improvements Required. In addition, the Town shall require a bond guaranteeing utility taps, curbs, gutters, sidewalks, drainage facilities, water and sewer lines, and other improvements against defects for one year from the date of final plat approval. This bond shall be in an amount determined by the Planning Board and shall be in cash or be made by a Surety Company authorized to do business in North Carolina.**~~ There shall be no requirement for a bond guaranteeing improvements against defects.

149.5 Content of Plat. The final plat shall be prepared by a registered surveyor licensed to practice in North Carolina. The final plat shall be drawn at a scale of one (1) inch to one hundred (100) feet or larger, on sheets of a size suitable for recording by the Pamlico County Register of Deeds and shall conform to the preliminary plat as it was approved. One (1) copy of the final plat shall be an original drawn in ink on linen or film suitable for reproduction. Four (4) copies shall be black or blue line prints. The final plat shall show the following information:

149.5.1 The exact boundary lines for the tract to be subdivided fully dimensioned by length and bearings, and the location of intersecting boundary lines of adjoining lands, with adjacent subdivisions identified by official names.

149.5.2 The accurate locations and descriptions of all monuments, markers, and control points.

149.5.3 Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, central angles and tangent distances for the center line of curved streets and curved property lines that are not the boundary of curved streets. All dimensions shall be measured to the nearest one-hundredth (1/100) of a foot and all angles to the nearest thirty (30) seconds.

149.5.4 The location of all rights-of-way, easements, and areas to be dedicated to public use with the purpose of each stated.

149.5.5 The location, purpose, and dimensions of areas to be used for purposes other than residential and public.

149.5.6 The blocks numbered consecutively throughout the entire subdivision and the lot numbers consecutive throughout each block.

149.5.7 Right-of-way lines, widths and names of all streets and location and widths of all adjacent streets and easements.

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- 149.5.8 The name of the subdivision and the names and addresses of the owner and the surveyor.
 - 149.5.9 The date of the survey and plat preparation, a north arrow indicating whether true north or magnetic and graphic scale.
 - 149.5.10 The deed restrictions proposed for the subdivision should accompany the final plat if any.
 - 149.5.11 A statement explaining the status of the streets and a copy of any maintenance agreement regarding streets shall be submitted with the final plat.
 - 149.5.12 Any other information considered by either the subdivider or the Planning Board to be pertinent to the review of the final plat.
 - 149.5.13 Signed certificates as indicated in Appendix A shall appear on each of the five (5) copies of the final plat that are submitted to the Planning Board by the subdivider.
 - 149.5.14 Areas of flood hazard as indicated by the current Flood Insurance Rate maps.
- 149.6 Planning Board Review: The final plat shall be reviewed by the Planning Board for conformance to the approved preliminary plat within twenty-five (25) days of its submission or at its next regular meeting, whichever is later. The Planning Board may appoint an engineer to check the final plat against the subdivision's actual layout for correctness, charging the costs to the subdivider if the plat is found to be in error.
- 149.7 Approval of Plat: If the final plat is in compliance with the ordinance or the Planning Board approves the changes made from the approved preliminary plat, the Planning Board shall approve the final plat. Such approval shall be indicated on each copy of the plat by the signed certificate in Appendix A.
- 149.8 Disapproval of Plat: If the Planning Board disapproves the final plat, the reasons shall be stated in writing, specifying the provisions of this ordinance with which this plat does not comply. One (1) copy of this statement shall be transmitted to the subdivider within fifteen (15) days of disapproval. One (1) copy of the statement and one (1) copy of the final plat shall be retained by the Planning Board as part of its permanent record.
- 149.9 Final Plat Recordation: The subdivider shall file the approved final plat with the Pamlico County Register of Deeds within sixty (60) days after the date of Planning Board approval; otherwise, such approval shall be null and void. One (1) copy of the approved final plat marked filed by the Pamlico County Register of Deeds shall be returned to the Town Clerk to be kept in the Town's permanent files.

Section 150. Resubdivision Procedures

150.1 For any re-platting or re-subdivision of land, the same procedures, rules and regulations shall apply as prescribed herein for an original subdivision.

Section 151. Final Plat Approval Required

151.1 A final plat shall be prepared, approved, and recorded, pursuant to the provisions of this ordinance when any subdivision of land takes place. Final plat approval is required before any street dedication may be accepted for ownership and maintenance, before any construction permit may be issued, and before any water, sewer or other facility or service may be extended to or connected with any subdivision for which a plat is required.

Section 152. Acceptance of Dedication

152.1 The approval of a plat does not constitute an acceptance of any dedication of public streets, grounds or facilities shown on the plat until such time as the Town Board of Commissioners may accept such dedication by resolution. The Town shall in no event be held to answer in any civil action or proceeding for failure to open, repair, or maintain any street located outside its corporate limits.

Section 153. Vacation of Plat

153.1 **Written Instrument Required:** Any plat or any part of any plat may be vacated by the owner at any time before the sale of any lot in the subdivision by a written instrument to which a copy of such plat shall be attached, declaring the same to be vacated.

153.2 **Board of Commissioners Approval:** Such an instrument shall be approved by the Town Board of Commissioners upon recommendation of the Planning Board. The governing body may reject any such instrument which abridges or destroys any public rights in any of its public uses, improvements, streets or alleys.

153.3 **Form and Effect:** Such an instrument shall be executed, acknowledged, or approved and recorded and filed in the same manner as a final plat; and being duly recorded or filed, shall operate to destroy the force and effect of the recording of the plat so vacated, and to divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described in such plat.

153.4 **Owners of Lots Must Join:** When lots have been sold, the plat may be vacated in the manner provided in this Section only when all owners of the lots in the subdivision as shown on said plat join in the execution of the instrument described in this Section.

Section 154. Improvements Required

154.1 Each subdivision shall contain the improvements specified in this Article, which shall be installed in accordance with the requirements of this ordinance and paid for by the subdivider, unless other means of financing is specifically stated in this ordinance. Land

shall be dedicated and reserved in each subdivision as specified in this Article. Each subdivision shall adhere to the minimum standards of design established by this Article.

Section 155. Suitability of Land

- 155.1 Unsuitable Land: Land which has been determined by the Board of Commissioners on the basis of engineering or other expert surveys to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be platted for that purpose, unless and until the subdivider has taken the necessary measures to correct said conditions and to eliminate said dangers.
- 155.2 Solid Waste Sites: Areas that have been used for disposal of solid waste shall not be subdivided unless tests by the N.C. Department of Environment, Health and Natural Resources, Division of Health Services, Solid and Hazardous Waste Section, County Health Department, a structural engineer, a soils expert and any other appropriate authority determine that the land is suitable for the purpose proposed. It shall be the responsibility of the developer to certify that areas which have been used for solid waste that are intended to be subdivided conform to requirements of appropriate agencies.

Section 156. Name Duplication

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

Section 157. Subdivision Design

- 157.1 Blocks.
 - 157.1.1 The lengths, widths, and shapes of blocks shall be determined with due regard to: provision of adequate building sites suitable to the special needs of the use contemplated; needs for vehicular and pedestrian circulation; control and safety of street traffic; limitations and opportunities of topography; and convenient access to water areas.
 - 157.1.2 Blocks shall not be less than 400 feet or more than 1800 feet in length.
 - 157.1.3 Blocks shall have sufficient width to allow two (2) tiers of lots of minimum depth except where single tier lots are required to separate residential development from through vehicular traffic or another type of use, in nonresidential subdivisions, or where abutting a water area.
 - 157.1.4 Where deemed necessary by the Board of Commissioners, a pedestrian crosswalk at least fifteen (15) feet in width may be required to provide convenient public access to a public area such as a park or school, to a water area, or to areas such as shopping centers, religious or transportation facilities.

157.1.5 Block numbers shall conform to the Town street numbering system, if applicable.

157.2 Lot Requirements

157.2.1 Lot sizes shall be pursuant to requirements of the zoning district.

157.2.2 Lots shall meet any applicable Pamlico County Health Department requirements.

157.2.3 Double frontage lots shall be avoided wherever possible.

157.2.4 Side lot lines shall be substantially at right angles to or radial to street lines.

157.3 Easements shall be provided as follows:

157.3.1 Utility Easement: Easements for underground utilities shall be provided, where necessary, adjacent to street rights-of-way and shall be at least ten (10) feet wide for water, sanitary sewer and electric lines, and as required by the companies involved for other utilities. The Board of Commissioners will determine whether one (1) easement is sufficient or whether several easements are necessary to accommodate the various facilities and the subdivider shall provide the required easements. These requirements may be modified with approval in a Group Development.

157.3.2 Drainage Easements: Where a subdivision is traversed by a stream or drainage way, an easement shall be provided conforming with the lines of such stream and of sufficient width as will be adequate for the purpose.

Section 158. Streets

158.1 Requirements: All subdivision lots shall abut on a street dedicated to the public. All streets shown on the final plat shall be dedicated to the public. All streets shall be built to the standards contained in this ordinance, which include those minimum construction standards established by the N.C. Department of Transportation for subdivision roads which are in effect at the time of construction. Where the offer of dedication of a street is not to be accepted by the Town of Oriental or the State at substantially the same time as final plat approval, a written agreement with provisions acceptable to the Town Board of Commissioners for maintenance of the street shall be included with the preliminary plat.

158.2 Subdivision Street Disclosure Statement: All streets shown on the final plat shall be designated in accordance with NCGS 136-102.6 and designation as public shall be conclusively presumed an offer of dedication to the public. Where streets are dedicated to the public but not accepted into a municipal or the State system, a statement explaining the status of the streets and maintenance responsibility shall be included with the final plat.

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- 158.3 Access to Adjacent Properties: Where, in the opinion of the Board of Commissioners, it is necessary to provide for street access to an adjoining property, proposed streets shall be extended by dedication to the boundary of such property and a temporary turnaround provided. The extension shall have the same right-of-way width as the street being extended.
- 158.4 Nonresidential Streets: The subdivider of a nonresidential subdivision shall provide streets in accordance with the North Carolina Roads, Minimum Construction Standards, as amended, or the standards in this ordinance, whichever are stricter in regard to each particular item.
- 158.5 Design Standards: The design of all streets and roads within the jurisdiction of this ordinance shall be in accordance with the accepted policies of the North Carolina Department of Transportation, Division of Highways. The N.C. Department of Transportation, Division of Highways' Subdivision Roads Minimum Construction Standards, as amended, shall apply for any items not included in this ordinance, or where stricter than this ordinance. The provision of street rights-of-way shall conform to and meet the requirements of the thoroughfare plan of Oriental as approved by the Planning Board and adopted by the Board of Commissioners and the North Carolina Board of Transportation.
- 158.5.1 Right-of-way Widths: Right-of-way widths shall not be less than forty-five (45) feet. The subdivider will only be required to dedicate a maximum of one hundred (100) feet of right-of-way. In cases where over 100 feet of right-of-way is desired, the subdivider will be required only to reserve the amount in excess of one hundred (100) feet.
- 158.5.2 Cul-de-sacs: Permanent dead-end streets shall not exceed 1200 feet in total length. Longer cul-de-sac lengths may be authorized provided the Planning Board determines there is no practical option for providing street connectivity due to existing documented environmental features such as wetlands, natural water bodies, topographical features, environmental conditions or physical conditions such as property shape, property accessibility, or land use relationships. All such cul-de-sac extensions shall have a turnaround or cul-de-sac connection no less than every 800 feet.
- 158.6 Other Requirements
- 158.6.1 Through Traffic Discouraged on Residential Collector and Local Street: Local streets shall be laid out in such a way that their use by through traffic will be discouraged. Streets shall be designed, or walkways dedicated to assure convenient access to parks, playgrounds, schools, or other places of public assembly.
- 158.6.2 Sidewalks: Sidewalks may be required by the Board of Commissioners on one or both sides of the street in areas likely to be subject to heavy pedestrian traffic such as near schools and shopping areas. Such sidewalks

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shall be constructed to a minimum width of four (4) feet and shall consist of a minimum thickness of four (4) inches of concrete. All sidewalks shall be placed in the right-of-way, unless the development is platted as a planned unit or group development. Sidewalks shall consist of a minimum of six (6) inches of concrete at driveway crossing.

- 158.6.3 Street Names: Proposed streets that are obviously in alignment with existing streets shall be given the same name. In assigning new names, duplication of existing names shall be avoided and in no case shall the proposed name be phonetically similar to existing names in the county irrespective of the use of a suffix such as street, road, drive, place, court, etc. Street names shall be subject to the approval of the Board of Commissioners.
- 158.6.4 Street Name Signs: The subdivider shall be required to provide and erect street name signs to Town standards at all intersections within the subdivision.
- 158.6.5 Permits for Connection to State Roads: An approved permit is required for connection to any existing state system road. This permit is required prior to any construction on the street or road. The application is available at the office of the nearest district engineer of the Division of Highways.
- 158.6.6 Wheelchair Ramps: In accordance with NCGS 136-44.14, all street curbs in North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities, or altered for any reason after September 1, 1973, shall provide wheelchair ramps for the physically handicapped at all intersections where both curb and gutter and sidewalks are provided and at other major points of pedestrian flow.

Section 159. Utilities

- 159.1 Water and Sanitary Sewer Systems: Each lot or dwelling unit in all subdivisions within the corporate limits of the Town of Oriental shall be provided, at the subdivider's expense, with an extension of the municipal water system and the sanitary sewer system.
- 159.2 Storm Water Drainage System: Storm water drainage requirements are as follows:
 - 159.2.1 The subdivider shall comply with the North Carolina Department of Transportation regulations regarding surface water drainage systems for roads where applicable.
 - 159.2.2 No surface water shall be channeled or directed into a sanitary sewer.
 - 159.2.3 Where feasible, the subdivider shall connect to an existing storm drainage system.

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- 159.2.4 Where an existing storm drainage system cannot feasibly be extended to the subdivision, a drainage system shall be submitted by the subdivider for review and approval with the preliminary plat. The drainage plan shall be prepared by the USDA Soil Conservation Service, or it shall be certified by a professional engineer.
- 159.2.5 The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each two hundred (200) feet of horizontal distance.
- 159.2.6 Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act, NCGS ~~143-34.12~~, Chapter 113A, Article 4 and the North Carolina Administrative Code Title ~~15~~ 15A, Chapter 4.
- 159.2.7 Anyone constructing a dam or impoundment within the subdivision must comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2K.
- 159.2.8 In all areas of special flood hazards, all subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.
- 159.2.9 When new subdivisions are determined by the Planning Board to displace more surface water runoff than the existing receiving drainage system can accommodate, it shall be the subdivider's responsibility to make such offsite improvements to the receiving drainage systems that will accommodate the increased runoff within limits approved by the Board of Commissioners.
- 159.3 Underground Wiring: All subdivisions shall have underground wiring. Such underground wiring shall be installed in accordance with the electric policies of the Town of Oriental. The subdivider shall be required to pay the charges for installation of the underground service as provided in the electric policies.
- 159.3.1 The subdivider shall not be required to bury power lines that existed above ground at the time of first plat approval.
- 159.3.2 The subdivider shall not be required to bury power lines located outside the boundaries of the subdivision.

Section 160. Other Requirements

- 160.1 Surveys: Unless otherwise specified by this ordinance, the Manual of Practice for Land Surveying as adopted by the N.C. State Board of Engineers and Land Surveyors, under the provisions of Title 21 of the North Carolina Administrative Code, Chapter 56 (21

NCAC 56), shall apply when conducting surveys for subdivisions; to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions.

- 160.2 Construction Procedures: No construction or installation of improvements shall commence in a proposed subdivision until the preliminary plat has been approved, and all plans and specifications have been approved by the appropriate authorities. No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of this ordinance until all the requirements of this ordinance have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the administrator of this ordinance to provide for adequate inspection. The approving authorities having jurisdiction, or their representatives shall inspect and approve all completed work prior to release of the sureties.
- 160.3 Oversized Improvements: The Town of Oriental may require installation of certain oversized utilities or the extension of utilities to adjacent property when it is in the interest of future development. If the Town requires the installation of improvements in excess of the standards required in this ordinance, including all standards adopted by reference, the Town shall pay the cost differential between the improvement required and the standards in this ordinance.

ARTICLE IX. PARKING

Section 161. Number of Parking Spaces Required

- 161.1 Developments in all growth management districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.
- 161.2 When determination of the number of parking spaces required by this table results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.
- 161.3 Off-street parking shall be provided according to the following schedule:
 - 161.3.1 Single-family dwellings (Use 1.100); 2 spaces per dwelling;
 - 161.3.2 Multi-unit dwellings (Use 1.300); 2 spaces per dwelling unit;
 - 161.3.3 Business use of residence (Use 1.700); 1 space in addition to those required for dwellings;
 - 161.3.4 Motels, Hotels (Use 1.540), and Bed and Breakfasts (Use 1.520); 1 ½ spaces for each room available for rent;

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- 161.3.5 Restaurants (Use 8.100); 1 space for every 100 square feet of gross floor area in the building plus 1 space for every 150 square feet of outside dining area. Kitchen and food preparation areas should not be included in the square footage;
 - 161.3.6 Marinas (Use 6.280); 1 space for every 2 boat slips;
 - 161.3.7 Tattoo parlors/Adult Bookstores/Adult Entertainments (Use 6.160); 1 space for each business, plus one space for every 100 feet of gross floor area in the building;
 - 161.3.8 Shopping Centers (Use 2.112); 1 space for every business; 1 space for every 400 feet of gross floor area in the building; truck bay(s) for delivery of goods or merchandise to be determined on a case-by-case basis by the Town Board of Commissioners; and/or parking for vehicles with trailers or recreational vehicles to be determined on a case-by-case basis by the Town Board of Commissioners if business(es) cater(s) to customers with special parking needs.
 - 161.3.9 Internet Sweepstakes/Electronic Gaming: (Use 6.150); 1 space per 100 feet of gross floor area in the building plus 1 space for each terminal used for Electronic Gaming as defined in Article XVI, Section 251.
 - 161.3.10 All other businesses: 1 space for each business, plus one space for every 400 square feet of gross floor area in the building excluding storage space.
- 161.4 The council recognizes that the inflexible application of the parking standards set forth in sub-section (3) may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that might be better used for valuable development or environmentally useful open space. Therefore, the permit-issuing authority, with the written approval of the Planning Board, may permit deviations from the presumptive requirements of sub-section (3) and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in sub-section (1).
- 161.5 The council recognizes that the Table of Parking Requirements set forth in sub-section (3) cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority, with the written approval of the Planning Board, is authorized to determine the parking requirements using this table as a guide.
- 161.6 Whenever the permit-issuing authority, with the written approval of the Planning Board, allows or requires a deviation from the presumption parking requirements set forth in

sub-section (3), it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

Section 162. Parking Space Dimensions

- 162.1 Each parking space shall contain a rectangular area at least twenty (20) feet long and nine (9) feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces create the rectangular area required by this Section.
- 162.2 Parking spaces designated for use by a handicapped person shall meet the minimum standards and requirements of the N.C. State Building Code for handicapped parking spaces.

Section 163. General Design Requirements

- 163.1 Parking areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. Back out parking is permitted upon the issuance of a special use permit.

Section 164. Landscaping of Parking Lots

- 164.1 The purpose of this Section is to require buffers and landscaping of commercial and multifamily parking lots in the Town of Oriental. To preserve environmental quality and land values in commercial and residential districts.
- 164.2 Parking lots containing six or more parking spaces that abut a street right-of-way shall provide a five (5) foot planting area along the entire street frontage. A suitable ground cover and/or shrubbery shall be maintained in the planting area approved by the Tree Board.
- 164.3 Ten percent (10%) of the parking area in parking lots that contain ten (10) or more parking spaces is to be landscaped (exclusive of landscaping on the street frontage), provided that:
 - 164.3.1 No landscaping area shall be less than 100 square feet in area or less than five (5) feet in width.
 - 164.3.2 A minimum of one tree (including the tree island) is required for every ten (10) parking spaces.
 - 164.3.3 Each landscape area shall be planted with a tree at least 1 – ½ inches caliper, and that tree maintained or replaced if it dies. A suitable ground cover and/or shrubbery will be provided in each landscape area.

164.3.4 Existing plants may be incorporated into the design provided that, in the opinion of the Tree Board, the plants will survive construction and meet the purpose and spirit of the ordinance.

164.4 This ordinance applies to the construction of new parking lots containing six (6) or more parking spaces that are visible from a public right-of-way. This chapter also applies to the repair, rehabilitation or expansion of any existing parking lot if such repair, rehabilitation or expansion would increase the number of existing spaces by more than 25% or 4 spaces, whichever is less.

164.5 The Planning Board shall refer parking lot landscape plans to the Tree Board for review before final approval.

Section 165. Parking Area Surfaces

165.1 Parking areas shall be graded and surfaced with crushed stone, gravel, asphalt, concrete, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. This requirement does not apply to any project which is required to provide four parking spaces or less.

165.2 Individual spaces within a parking area shall be demarcated with landscape timbers, paint lines, or in some other practical manner. This requirement does not apply to any project which is required to provide four parking spaces or less.

Section 166. Satellite Parking

166.1 If the number of off-street parking spaces required by this chapter cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots with the issuance of a Special Use Permit. In issuing the Special Use Permit, the Town Commissioners will make the findings required in Section 86.1 (Special Use Permit Application) and must additionally find that satisfactory written evidence is presented that shows that permission to use the off-site parking has been granted by the owner of the property, and that the use of the property for parking will continue as long as parking is required.

Section 167. Special Provisions for Lots with Existing Buildings

167.1 Notwithstanding any other provision of this chapter, whenever:

167.1.1 there exists a lot with one or more structures on it constructed before the effective date of this chapter, and

167.1.2 a change in use that does not involve any enlargement of a structure is proposed for such lot, and

167.1.3 the parking requirements of Section 161.3 (Number of Parking Spaces Required) that would be applicable as a result of the proposed change

cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking,

167.1.4 then the developer need only comply with the requirements of Section 161.3 to the extent that:

167.1.4.1 parking space is practically available on the lot where the development is located, and

167.1.4.2 satellite parking space is reasonably available as provided in Section 95 (Satellite Parking).

167.2 However, if satellite parking subsequently becomes reasonably available, then it shall be a continuing condition of the permit authorizing development on such lot that the developer obtain satellite parking when it does become available.

Section 168. Driveways (Updated June 2021)

168.1 If access is being provided to vehicles from a public street to adjoining property by means of a driveway that must cross a curb or public sidewalk, the driveway must be installed with drainage pipe laid underneath to connect existing open drainage paths, and existing sidewalks and curbs.

168.2 Driveway Permit is required. Application for a Driveway Permit required by this article shall be made to the Town Manager on a form which shall be completed by the applicant as specified thereon and shall provide, among other things, a sketch which clearly shows the design of the driveway and the dimensions thereof, not to exceed twenty (20) feet in width (or two ten (10) foot widths in a circular configuration) in residential zones, and thirty (30) feet in width for commercial properties. Provided, however, all such installations shall be constructed so as neither to retain nor impede the flow of water in the gutter line of such driveway, any traversed Town right-of-way and any street and shall comply with handicap requirements when applicable. In addition, a fifteen inch (15”) minimum internal diameter culvert is required. If the proposed driveway complies with the provisions of the GMO, the Town Manager shall issue a Driveway Permit therefore. (June 2021);

168.2.1 each driveway not to exceed twenty (20) feet in width in residential zones, and thirty (30) feet or 50% of the frontage (whichever is greater) in width for commercial zones. Provided, however, all such installations shall be constructed so as neither to retain nor impede the flow of water in the gutter line of such driveway, any traversed Town right-of-way and any street and shall comply with handicap requirements when applicable: where curb and gutter is cut to provide for driveway, it must be put back in an ADA accessible way.

68.2.2 Driveway aprons may be no deeper than three (3) feet and may be flared to the street beyond the twenty (20) ft limit.

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- 168.2.3 A fifteen inch (15”) minimum internal diameter culvert is required.
 - 168.2.4 All driveways on the same street of the parcel must be separated by a minimum of five (5) ft. Driveways must be set back from the property line by two and a half (2.5) ft.
 - 168.2.5 If the proposed driveway complies with the provisions of the GMO, the Town Manager shall issue a Driveway Permit.
 - 168.2.6 Any existing driveway made noncompliant by this Ordinance enacted December 6, 2022 may be replaced to its original dimensions, provided all other requirements of the section are met. (December 2022)
 - 168.2.7 The Land Use Administrator may waive/adjust setbacks up to one half (1/2) of the required distance to avoid utility infrastructure and/or street tree preservation.
- 168.3 In the event the proposed driveway installation involves crossing a street drainage ditch, the applicant shall install a drainage pipe as specified by the Town Manager in such drainage ditch so as not to impede the flow of storm water.
- 168.4 Each person who intends or plans to use any portion of the sidewalk as a private driveway shall, if the Town Manager determines that the sidewalk area is inadequate for vehicular traffic, reconstruct the sidewalk in such a manner that the sidewalk is capable of carrying vehicular traffic without creating pedestrian hazards, and in accordance with applicable construction standards with respect to slope, drainage, reinforcement, finish, and other construction features.
- 168.5 No person planning to construct a driveway connection within the Town shall commence the demolition of any existing street improvement such as, but not limited to, the removal of existing curb, pavement, or the construction of a concrete driveway cut, without first having obtained the required permit.
- 168.6 All joints in the pavement or curb and gutter must have uniform matching surfaces as are obtained by forms or saw-cutting the asphalt or concrete to be removed. All new construction joints are to be cleaned and filled with an appropriate joint sealant upon completion and are to be inspected for approval by the Town Manager.
- 168.7 Any person who violates this Section 168 shall be guilty of a misdemeanor and shall be punished in accordance with Chapter A, Article II, Section 6.
- 168.7.1 If such violation shall consist of the incorrect installation of a driveway, the person responsible therefore shall correct such violation within thirty (30) days of the receipt of notice from the Town.
 - 168.7.2 Should such person fail to do so, the Town, utilizing its own resources or those of a private contractor, may remove and reconstruct the driveway in

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conformity with this article at the expense of such person who improperly constructed the driveway.

- 168.7.3 Should those expenses not be paid to the Town within thirty (30) days of receipt of a bill for same, the responsible party shall be liable to the Town for all costs and expenses allowed by law in a civil action brought to recover the same.

Section 169 Reserved

ARTICLE X. SIGNS

Section 170. Purpose of Article X

- 170.1 These sign regulations are designed to create a more attractive economic and business climate; to protect the physical appearance and aesthetics of the community; to protect property values; to control the number of distractions or obstructions that may pose traffic hazards; to provide reasonable, yet appropriate, conditions for advertising goods sold or services rendered in all districts; and, to ensure that signage is consistent with any comprehensive plan or long range plan that has been adopted or any other officially adopted plan that is applicable.

Section 171. General

- 171.1 The subject matter of all advertising signs shall be limited to advertising businesses or services available in the Town.
- 171.2 No new or existing sign of any type, or any part thereof, shall be erected, painted, posted, placed, replaced or hung in any zoning district or the shoreline except in compliance with this article with the exception of Section 171.3.
- 171.3 The Land Use Administrator, with the approval by the Board of Commissioners, may design and establish a public service signage that does not strictly adhere to this article.
- 171.4 All signs are a structure which must comply with the building code requirements of the Town, Pamlico County, and the State of North Carolina.
- 171.5 No sign to which this Article applies shall be erected in any public right-of-way.
- 171.6 A sign covered by more than one restriction of Sections 173 through 183 shall comply with the most restrictive of all applicable provisions of the GMO.
- 171.7 For a sign not included in this article the Planning Board will determine which definition in Section 172 (Sign Definitions) will apply to determine the status of the application.
- 171.8 Any illuminated sign shall meet the requirements of current National Electrical Code (NEC) and the restrictions outlined herein.

171.9 Non-profits are exempt from a sign permit fee but are required to submit a sign application for any signage to ensure compliance with regulations in this article.

Section 172. Sign Definitions

172.1 The words, terms and phrases, when used in this Article X, pertaining to signs, shall have the meanings ascribed to them in Section 251 of the GMO.

Section 173. Prohibited signs

173.1 The following signs, or element of signs, shall not be permitted in the Town of Oriental:

- 173.1.1 Signs which contain obscene, suggestive, or offensive words, or pictures, which would be inconsistent with a family-oriented community;
- 173.1.2 Abandoned, animated, dangerous, roof, safety imitation, street pavement, temporary pole and time/temperature signs as herein defined.
- 173.1.3 Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign;
- 173.1.4 Floodlights or signs erected or placed in such a manner as to cause glare that impairs driver vision on a roadway or causes a nuisance to adjacent property.
- 173.1.5 Changeable electronic variable message signs (CEVMS) and Light-Emitting Diode (LED)-Liquid Crystal Display (LCD) display technology signs except as stated in Section 174.1.6 of this Article.
- 173.1.6 Signs which are erected in a street right-of-way, or placed in a street right-of-way or placed in such a manner as to obstruct driver vision of any vehicle entering a roadway from any street, alley, driveway, or parking lot;
- 173.1.7 No person shall park any unlicensed vehicle or trailer on a street, public property or private property which has attached to it any sign or advertising device for the basic purpose of directing people to a business or activity located on the same or other premises. This is not meant to prohibit any form of vehicular signage, such as a sign attached to a bus or lettered on a vehicle.
- 173.1.8 No permanent signage drawn on street pavement of any kind, other than those placed by the town or state.

Section 174. Signs Excluded from Regulations

174.1 The following signs are excluded from the regulations and requirements of this chapter:

- 174.1.1 Signs erected by a governmental entity for a recognized public purpose and duly authorized by any law, statute or ordinance. Such signs including legal notices and traffic control or safety devices, provided such signs carry no supplementary advertising.
- 174.1.2 Signs located on the inside of a structure or building, that are not designed or located so as to be typically visible from outside the building.
- 174.1.3 Signs which are in the nature of cornerstones, commemorative tables and historic designation, provided such signs are less than 4 (four) square feet in size and not illuminated and must meet the NC Department of Cultural Resources' standards.
- 174.1.4 Signs clearly in the nature of decorations customarily associated with a national, local or religious holiday. Such signs shall be of any illumination or animation provided that a safety and/or visibility hazard is not clearly created.
- 174.1.5 Flags or insignias of any governmental entity when not displayed as an advertising device or in connection with any commercial promotion. The length of the flag shall not exceed one-quarter ($\frac{1}{4}$) the height of the flagpole size.
- 174.1.6 A CEVMS sign located within the right-of-way that functions as a traffic control device and that is described and identified in the Manual on Uniform Traffic Control Devices (MUTCD) approved by the Federal Highway Administrator as the National Standard.

Section 175. Signs Which Do Not Require A Sign Permit

- 175.1 The following signs may be erected without a permit. Such signs, however, shall be subject to all other provisions of this chapter:
 - 175.1.1 Any temporary sign, as defined in Section 251 except for those temporary signs that exceed the standards cited in the Sections below.
 - 175.1.2 Signs or posters concerning candidates for elective office, public issues and similar matter to be decided by public election, to be removed no later than one (1) week after such election, subject to penalty. Such signs shall not exceed eight (8) square feet in area, shall not be illuminated, and shall not be located within a public right-of-way nor be affixed to any public utility pole or street tree. Such signage shall not be located in any manner so as to create a safety or hazard. Signs that exceed the standard of this Section shall require a sign permit.
 - 175.1.3 Signs that indicate the sale, development, rental or lease of a particular structure or land area, provided such sign does not exceed four (4) square

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feet in area. One such sign shall be allowed per street front. Such signs shall not be located in a public right-of-way.

- 175.1.4 Credit card decals, store hour specifications, “open” or “closed” signs, or similar signs that do not display any advertising message, and do not exceed two (2) square feet in size. No flashing signs are permitted.
- 175.1.5 A sign which advertises the sale of personal property, such as a garage sale, yard, porch or moving sale sign, provided such sign is displayed for a time period not greater than seven (7) consecutive days, and is not to be located in public right-of-way or affixed to any public utility pole or street tree. Such signs shall not be located in such a manner so as to create a safety or visibility hazard.
- 175.1.6 Signs promoting community events and programs which last for a time period of fourteen (14) days or less and which are sponsored by nonprofit, public, educational, religious and charitable organizations. All such signs shall be removed not later than three (3) days after the scheduled activity.
- 175.1.7 Directional signs - area of sign can be no greater than 4 sq.ft.
- 175.1.8 Signs not exceeding four (4) square feet in area that are customarily associated with residential use, including address and/or name of occupants of the structure, signs on mailboxes or newspaper tubes, signs posted on property related to private parking, signs denoting security systems being used on the site, and signs warning against trespassing or danger from animals.
- 175.1.9 One (1) home occupation sign per residence, including framing structure, no larger than one (1) square foot.
- 175.1.10 Burgees as defined in Section 251.
- 175.1.11 Flag signs, including feather banners, that are used as a temporary sign.

Section 176. Sign Permits

- 176.1 Permits may be obtained by filing with the Land Use Administrator a written request containing or having attached thereto the following information:
 - 176.1.1 Name, address and telephone number of applicant and owner of land on which the sign is to be located if different from applicant.
 - 176.1.2 A drawing approximately to scale showing the design of the sign, including dimensions, method of attachment, or support, source of illumination and showing the relationship to any building or structure to which it is, or is proposed to be, installed or affixed.

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- 176.1.3 A plot plan, approximately to scale, indicating in feet the location of the sign relative to property lines, easements, streets, sidewalks, and other signs.
 - 176.1.4 Two (2) copies of the plans and specifications of the sign, including methods of construction and attachment to building, structure or ground.
 - 176.1.5 Name of person erecting the sign.
 - 176.1.6 If the applicant is not the owner of the property at the proposed sign location, the owner shall also sign the permit application.
- 176.2 It is the responsibility of the applicant to keep the Land Use Administrator aware of any change of address/contact information.
- 176.3 The Land Use Administrator, upon receiving an application for a permit, shall examine said application, all other pertinent data and the premises upon which the proposed sign is to be erected. If it shall appear that the proposed sign is in compliance with all of the requirements of this Article and all other ordinances of the Town and meets all building and electrical codes of the Town and State, if applicable, he/she, after the review of a Planning Board member, shall then issue the permit.
- 176.4 A schedule of fees for sign permits shall be determined by the Town Board and made available from the Land Use Administrator. An application is required for a logotype sign, but no fee shall be required for this type of sign.
- 176.5 Sign permits issued shall be reviewed by the Planning Board on a monthly basis at the regular meeting.

Section 177. Time Limits

- 177.1 The erection of new sign structures shall not commence until a permit has been issued. The sign structure must be completely constructed and erected within one hundred eighty (180) days from the date of issuance of the permit. The provisions of this Section shall not apply when delays are not a result of willful acts or neglect by the persons obtaining the permit. In that event, the Land Use Administrator may grant an extension of thirty (30) days of time within which operation must be started or resumed. All requests for such extensions and approval thereof shall be in writing.

Section 178. Construction

- 178.1 All signs shall be constructed of durable nature and designed according to generally accepted engineering practices, to withstand wind pressures and load distribution, as specified in the N.C. Building Code. Where wood materials are used, they shall be treated to inhibit decay and insect damage.

Section 179. Maintenance

179.1 The following maintenance requirements must be observed for all off-premise and on-premise signs visible from any public street or highway within the jurisdiction of this ordinance, and the Land Use Administrator shall inspect all signs for compliance with such requirements:

179.1.1 No sign shall have more than twenty (20%) percent of its surface area covered with disfigured, cracked, ripped or peeling paint or poster paper for a period of more than thirty (30) successive days.

179.1.2 No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts or be allowed to stand more than fifteen (15) degrees away from the perpendicular for a period of more than thirty (30) successive days.

179.1.3 No sign shall be allowed to have weeds, vines, landscaping or other vegetation growing upon it and obscuring its view from the street or highway from which it is to be viewed for a period of more than thirty (30) successive days.

179.1.4 No directly or indirectly illuminated sign may be allowed to stand with only partial illumination for a period of more than thirty (30) successive days.

179.1.5 If a sign is damaged such that more than fifty (50%) percent of the value is lost, with such determination made by the Land Use Administrator, any repair or replacement must be done in conformance with this ordinance.

Section 180. Non-Conforming Signs

180.1 Signs in existence prior to adoption of this ordinance and which do not conform to the provisions of this Article are declared non-conforming signs. Non-conforming signs may be continued, provided they:

180.1.1 Were erected prior to adoption of this ordinance;

180.1.2 Shall not be expanded or relocated;

180.1.3 Shall not be modified in any way, which increases their degree of nonconformity;

180.1.4 Shall not be re-established after damage or destruction in excess of fifty (50%) percent of the sign square footage at the time of the damage or destruction; and

180.1.5 Are not to be replaced with another non-conforming sign nor modified in any way except as noted in Section 179 (Maintenance).

Section 181. Removal

181.1 With respect to any sign not in compliance with this chapter, the owner of the sign and owner of the property on which the sign is erected, if different, shall be notified by certified mail to the last known address that they have thirty (30) days to bring such sign into compliance. If it is not brought into compliance, such sign may be removed by the Town at the expense of the owner of the sign and/or the owner of the property where the sign is located. If a sign is located on public right-of-way, public property or public trust area, the Town may remove said sign at the expense of the owner twenty-four (24) hours after notification by certified mail. If a sign is a public nuisance or detrimental to public health and safety, the Town may remove said sign at the expense of the owner twenty-four (24) hours after notification.

Section 182. Appeals and Variances

182.1 Exceptions or hardships produced by this ordinance may be appealed to the Land Use Administrator who, in conjunction with the Planning Board, shall review the request to determine if it is allowable. The following questions must be considered in the review:

182.1.1 Will the change materially endanger public health or safety;

182.1.2 How will the change affect joining or abutting property; and

182.1.3 Will the change be in harmony with existing signage in the area.

182.2 A special use permit issued by the Town Board is required for any sign not included in the above.

Section 183. Exempt Signs, Prohibited Signs, and Signs Requiring a Permit

183.1 The table in sub-section 183.2 indicates which signs are allowed without a permit (exempt), prohibited, or require a sign permit from each growth management district and the shoreline (in the ‘S’ column- see the definition of a shoreline sign in Section 251). Exempt signs are indicated with an “E”, prohibited signs are indicated with an “X”, and signs that require a permit are indicated with a “P”. All signs are subject to the associated restrictions listed in the table.

183.2 Table of Exempt, Prohibited and Permitted signs by zoning district:

TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed) P = Requires a sign permit X = Prohibited sign</i>							
Abandoned Sign	See Section 251	X	X	X	X	X	X

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TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed) P = Requires a sign permit X = Prohibited sign</i>							
A-frame board	Size limited to no more than 4 feet by 30 inches and to be removed daily at the close of business	X	X	X	E	E	X
Animated Sign	See Section 251	X	X	X	X	X	X
Awning sign	Whether one business or multiple businesses, the area of signage must be delineated, cannot exceed 32 sq.ft in MU (20 sq. ft. in MU-1) and is included in the total signage allowed for free-standing on premise signs.	X	X	X	P	P	X
Banner/	<p>A sign that promotes activities of non-profits & charities or special events within the town shall be erected no more than 30 days before such event and is to be removed 5 days after such event.</p> <p>A business can use a banner to advertise provided the sign not be displayed for a period longer than 14 days.</p> <p>A temporary sign or banner less than 12 sq.ft. in size in MU(less than 8 sq.ft. in size in MU-1) may be used in lieu of a permanent sign if a permit is obtained.</p>	E	E	E	E	E	E

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TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed)</i>		<i>P = Requires a sign permit</i>		<i>X = Prohibited sign</i>			
Building Artwork		X	X	X	E	E	X
Burgee		E	E	E	E	E	E
Business sign, off-premise	Area of sign limited to no more than 16 sq.ft. (10 sq.ft in MU-1) and height no more than 10 ft. (7 ft in MU-1)	X	X	X	P	P	X
Business sign, on-premise	<p>Where there is one business on a lot or located in a single building, the business may have signage not to exceed 32 sq.ft. (20 sq.ft. in MU-1)</p> <p>Where there are multiple businesses located on a lot or in a building, the location may have freestanding signage up to 32 sq.ft. (20 sq.ft. in MU-1) Any free standing sign cannot exceed 12 feet in height in MU (9 ft. in height in MU-1).</p> <p>In addition, each individual business located in the building may have signage attached to the building not to exceed 12 sq.ft. (8 sq.ft. in MU-1)</p> <p>When multiple businesses or other entities are located in a single office unit, the office unit, not each</p>	X	X	X	P	P	P

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TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed)</i>		<i>P = Requires a sign permit</i>			<i>X = Prohibited sign</i>		
	<p>individual business or entity, may have the additional attached signage as indicated above.</p> <p>S – Not to exceed 4 sq.ft. for charter boats and limit one sign per boat; any other commercial sign not to exceed 1 square foot on any gangway, pier or dock and limited to one sign; a single land sign relating to above businesses not to exceed 16 sq.ft. when facing the water.</p>						
Business complex sign	Area of sign can be no greater than 20 sq.ft. and is not included in the total square footage allowed for an on-premise business sign.	X	X	X	P	P	P
Business directional sign	Sign can be no larger than 4 sq.ft. and placed at one or more locations as determined by the administrator.	P	P	P	P	P	P
Canopy sign	Whether one business or multiple businesses, the area of signage must be delineated, cannot exceed 32 sq.ft. in MU (20 sq.ft. in MU-1) and is included in the total signage allowed for free-standing on premise signs.	X	X	X	P	P	X

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TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed) P = Requires a sign permit X = Prohibited sign</i>							
CEVM'S	See Sections 173 & 174	X	X	X	X	X	X
Changeable sign	<p>MU – Area of sign limited to no more than 16 sq. ft. and height no more than 10 ft. and the area of signage shall not be included in total allowable on-premise business signage.</p> <p>MU-1 – area of sign is limited to the allowable square footage for on-premise sign(s) as herein defined.</p>	X	X	X	P	P	P
Commemorative sign	See Section 174	E	E	E	E	E	X
Construction sign	<p>One freestanding sign with the size limited to 32 sq.ft. with a maximum height of 12 feet (20 sq.ft. with a maximum height of 9 feet in MU-1) be erected after permit is issued and removed after certificate of occupancy is issued.</p> <p>R-1, R-2 & R-3 – One freestanding sign with the size limited to 10 sq.ft. with a maximum height of 6 feet to be erected as soon as permit is issued and removed after certificate of occupancy is issued.</p>	P	P	P	P	P	P
Dangerous sign	See Section 173	X	X	X	X	X	X
Development sign	Sign must be removed one year from issuance of	X	P	P	P	P	X

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TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed) P = Requires a sign permit X = Prohibited sign</i>							
	permit or when certificate of occupancy is issued, whichever happens first. Size requirements are the same as for construction sign .						
Digital sign	See CEVM's	X	X	X	X	X	X
Double-faced sign	Maximum size of sign shall adhere to individual type of sign as described in this Section.	X	X	X	P	P	X
Directional sign	See Section 175	E	E	E	E	E	X
Entrance sign	Area of sign can be no greater than 20 sq.ft.	P	P	P	P	P	X
Feather/flutter/scooper/ Banner or flag	See restrictions for flag sign (Flag signs, including feather banners, used as a temporary sign are exempt)	X	X	X	P	P	P
Flag sign (including feather banners)	Any flag (or Feather/flutter/ banner or flag) used to advertise or attract businesses, products or services or a flag (feather/ flutter/scooper banner or flag) with or without graphics and no message, shall not exceed twenty (20) sq. ft. and be limited in number to one every hundred (100 feet). A flag cannot be attached to any supporting structure	X	X	X	P	P	P

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TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed) P = Requires a sign permit X = Prohibited sign</i>							
	that is more than twelve (12) feet high in MU or nine (9) feet high in MU-1.						
Free Standing sign	See restrictions for individual types of signs as described in this Section						
Generic sign	If area of sign is no greater than 2 sq.ft. it shall not be included in the total square footage allowed for on-premise business sign-age as described in this Section.	X	X	X	E	E	X
Holiday decoration	See Section 174	E	E	E	E	E	E
Home occupation sign	Limited to one sign no more than 4 sq.ft. One sign less than 1 sq.ft. exempt-see Section 175.1.9.	P	P	P	P	P	X
Illuminated sign	No floodlights or signs shall be erected or placed in such a manner as to cause glare that impairs driver vision on a roadway or causes a nuisance to adjacent property.	X	X	X	P	P	X
Kiosk sign	Area of sign limited to no more than 16 sq.ft. in MU (10 sq.ft. in MU-1) . Area of signage shall be included in total allowable on-premise business signage.	X	X	X	P	P	X

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TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed) P = Requires a sign permit X = Prohibited sign</i>							
Logotype sign	Area of sign can be no greater than 4 sq.ft. and is not counted in the total square footage allowed for an on-premise business sign. No fee required with application.	X	X	X	P	P	X
Marquee sign	Area of sign limited to no more than 16 sq.ft. in MU (10 sq.ft. in MU-1) . Area of signage shall be included in total allowable square footage for on-premise business signage.	X	X	X	P	P	X
Menu-board/ specials board	Sign can be no larger than 18 inches by 24 inches in size.	X	X	X	E	E	X
Murals		X	X	X	P	P	P
Obscene sign	See Section 173	X	X	X	X	X	X
Occupant/street number sign	Size not to exceed one square foot. See Section 104	E	E	E	E	E	E
Off-premise sign	*See restrictions for individual types of signs as described in this Section. Area of sign limited to no more than 20 sq.ft. and height no more than 9 ft. in both MU and MU-1	X	X	X	P	P	X
On-premise sign	*See restrictions for individual types of signs as described in this Section.						

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TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed)</i>		<i>P = Requires a sign permit</i>			<i>X = Prohibited sign</i>		
Open/close or vacancy sign	See Section 174.	E	E	E	E	E	E
Political or campaign sign	Size not to exceed 12 sq.ft. and must be removed within 7 days after the election.	E	E	E	E	E	E
Portable sign	Use of sign is limited for special or charitable events or events that are in the Town or of special interest to the Town and not for advertising businesses or merchandize. Sign must be removed within 14 days of event.	X	X	X	P	P	X
Product name sign	An additional combined total of twenty (20) sq.ft. of product name signage is permissible in MU & MU-1 provided that each individual sign does not exceed two (2) square feet.	X	X	X	P	P	X
Real estate sign, temporary	For R-1, R-2, R-3 MU, MU-1 districts, one sign per each street frontage that is no greater than 4 sq.ft. For S (Shoreline) properties, one residential “for sale” sign per property, which shall not exceed 6 sq.ft. Sign must be removed within 14 days after sale or rental of property. Signs may not be placed in the town right-of-way.	E	E	E	E	E	E

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TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed) P = Requires a sign permit X = Prohibited sign</i>							
Residential sign	In R-1, R-2, R-3 MU, and MU-1 the size shall not exceed one square foot. In 'S', the size shall not exceed 6 sq.ft..	E	E	E	E	E	E
Right-of-way signs	See Section 173	X	X	X	X	X	X
Roof sign	See Section 173	X	X	X	X	X	X
Safety imitation signs	See Section 173	X	X	X	X	X	X
Shoreline sign	See Business sign, on premise in this Section.						
Street pavement	Chalk signage for a town event or chalk artwork, which is temporary in nature and which is not prohibited as described in Section 173-Prohibited signs, are exempt.	E	E	E	E	E	E
Temporary pole sign	See Section 173	X	X	X	X	X	X
Temporary Sign	See restrictions for individual signs as described in this Section. A temporary sign may be used to advertise provided the sign not be displayed for a period longer than 14 days.						
Time/temperature sign	See Section 173	X	X	X	X	X	X
Warning or danger sign	See Section 173	E	E	E	E	E	E
Wind Devices	See restriction for individual signs as described in this Section						
Window sign	See Section 175	X	X	X	E	E	X

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TYPE OF SIGN	RESTRICTIONS	R-1	R-2	R-3	MU-1	MU	S
<i>E = Exempt (no permit needed) P = Requires a sign permit X = Prohibited sign</i>							
Yard sale sign	Signs must be temporary in nature, shall not be placed in the public right-of-way, nor on public utility poles, telephone poles, traffic signs, trees, parking meter poles, benches, refuse containers and are limited to a 7-day display period and must be removed at the end of the final day of sale.	E	E	E	E	E	E

Sections 184 through 189 Reserved

ARTICLE XI. NONCONFORMING SITUATIONS AND DEFINITIONS

Section 190. Definitions

190.1 The words and phrases defined in this Section 190 shall have the meaning indicated when used in this Article.

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

190.1.2 Effective date of this chapter. Whenever this article refers to the effective date of this chapter, the reference shall be deemed to include the effective date of any amendments to this chapter if the amendment, rather than this chapter as originally adopted, creates a nonconforming situation.

190.1.3 Expenditure. A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in position.

190.1.4 Nonconforming lot. A lot existing at the effective date of this chapter (and not created for the purposes of evading the restrictions of this chapter) that

does not meet the minimum area, building setback, or dimensional requirements of the district in which the lot is located.

- 190.1.5 Nonconforming project. Any structure, development, or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
- 190.1.6 Nonconforming use. A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)
- 190.1.7 Nonconforming situation. A situation that occurs when, on the effective date of this chapter, an existing lot or structure or use of an existing lot or structure does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this chapter, or because land or buildings are used for purposes made unlawful by this chapter.

Section 191. Continuation of Nonconforming Situations and Completion of Nonconforming Projects

- 191.1 Subject to the restrictions and qualifications set forth in Section 192 through 197 and Section 60 (Permissible Uses and Specific Exclusions), nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued.
- 191.2 Nonconforming projects may be completed only in accordance with the provisions of Section 197 (Completion of Nonconforming Projects).

Section 192. Nonconforming Lots

- 192.1 When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot does not meet the required minimums in Sections 70 (Minimum Lot Size) or 71 (Minimum Lot Widths), then the lot may be used as proposed just as if it were conforming. However, no use (e.g., a two-family residence) that requires a greater lot size than the established minimum lot size for a particular growth management district is permissible on a nonconforming lot.

- 192.2 When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements (Section 113) cannot reasonably be complied with, then the Board of Adjustment, subject to the provisions of Section 201 (Variances) and Section 211 (**Evidentiary Hearing Required on Appeals and Applications for Quasi-Judicial Decisions**), may issue a variance from the applicable setback requirements if it finds that:
- 192.2.1 The property cannot reasonably be developed for the use proposed without such deviations;
 - 192.2.2 These deviations are necessitated by the size or shape of the nonconforming lot;
 - 192.2.3 The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety; and
 - 192.2.4 The property can meet the average distance of the building setbacks of developed properties on the same and opposite sides of the street to which the subject property abuts.
- 192.3 Compliance with applicable building setback requirements is not reasonably possible if a building that serves the minimal needs of the use proposed for the nonconforming lot cannot practicably be constructed and located on the lot in conformity with such setback requirements. However, mere financial hardship does not constitute grounds for finding that compliance is not reasonably possible.
- 192.4 This Section applies only to undeveloped nonconforming lots. A lot is undeveloped if it has no substantial structures upon it. A change in use of a developed nonconforming lot may be accomplished in accordance with Section 195 (Change in Use of a Nonconforming Situation).
- 192.5 If on the date this Section becomes effective an undeveloped nonconforming lot adjoins and has continuous frontage with one (1) or more other undeveloped lots under the same ownership, then neither the owner of the nonconforming lot nor his successors in interest may take advantage of the provisions of this Section. This sub-section shall not apply to a nonconforming lot if a majority of the developed lots located on either side of the street where such lot is located and within five hundred (500) feet of such lot are also nonconforming. The intent of this sub-section is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified in this chapter, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

Section 193. Extension or Enlargement of Nonconforming Situations

- 193.1 Except as specifically provided in this Section, no person may engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation. In

particular, physical alteration of structures or the placement of new structures on open land is unlawful if such activity results in:

- 193.1.1 An increase in the total amount of space devoted to a nonconforming use; or
 - 193.1.2 Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements; or
 - 193.1.3 The increase in the height of a structure without a special use permit when due to a natural disaster.
- 193.2 Subject to sub-section 193.4, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this chapter, was manifestly designed or arranged to accommodate such use. However, subject to Section 197 (Completion of Nonconforming Projects), a nonconforming use may not be extended to additional buildings or to land outside the original building.
- 193.3 Subject to Section 197 (Completion of Nonconforming Projects), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot (e.g., a sand pit) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if ten percent or more of the earth products had already been removed on the effective date of this chapter.
- 193.4 The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this Section occur.
- 193.5 Any structure used for single-family residential purposes (including manufactured homes) and maintained as a nonconforming use may be enlarged or replaced with a similar structure of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to such matters as setback and parking requirements. This paragraph is subject to the limitations stated in Section 196 (Abandonment and Discontinuance of Nonconforming Situations).
- 193.6 Whenever:
- 193.6.1 there exists a lot with one or more structures on it; and
 - 193.6.2 a change in use that does not involve any enlargement of a structure is proposed for such lot; and

- 193.6.3 the parking or loading requirements of Article IX that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking or loading,
- 193.6.4 then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation.
- 193.6.5 However, the applicant shall be required to comply with all applicable parking and loading requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Section 166 (Satellite Parking) if:
 - 193.6.5.1 parking requirements cannot be satisfied on the lot with respect to which the permit is required; and
 - 193.6.5.2 such satellite parking is reasonably available.

Section 194. Repair, Maintenance and Reconstruction

- 194.1 Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation, i.e., work estimated to cost more than fifty percent of the appraised valuation of the structure to be renovated may be done only in accordance with a special use permit issued pursuant to this Section.
- 194.2 If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repair or replacement would exceed fifty percent of the appraised valuation of the damaged structure, then the damaged structure may be repaired or replaced only in accordance with a special use permit issued pursuant to this Section. This sub-section does not apply to structures used for single-family residential purposes (including manufactured homes), which structures may be reconstructed pursuant to a land use permit just as they may be enlarged or replaced as provided in Sub-section 193.5 (Extension or Enlargement of Nonconforming Situations).
- 194.3 For purposes of sub-sections 194.1 and 194.2:
 - 194.3.1 The “cost” of renovation or repair or replacement shall mean the fair market value of the materials and services necessary to accomplish such renovation, repair, or replacement; and shall further mean the total cost of all such intended work.
 - 194.3.1.1 No person may seek to avoid the intent of sub-sections 194.1 and 194.2 by doing such work incrementally.
 - 194.3.2 The “appraised valuation” shall mean either the appraised valuation for property tax purposes, updated as necessary by the increase in the consumer price index since the date of the last valuation, or the valuation

determined by a professionally recognized property appraiser, whichever is greater.

- 194.4 The Town Commissioners shall issue a special use permit authorized by this Section if they find that, in completing the renovation, repair or replacement work:
 - 194.4.1 There is no increase in the total amount of lot area devoted to the nonconforming use; and
 - 194.4.2 There is no greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations, density requirements or other requirements such as parking, loading and landscaping requirements; and
 - 194.4.3 There is no significant adverse impact on surrounding properties or the public health or safety.
- 194.5 In issuing a special use permit, the Town Commissioners may affix other reasonable and appropriate conditions such as, but not limited to, landscaping and buffering to separate dissimilar uses or to screen parking and loading areas.

Section 195. Change in Use of a Nonconforming Situation

- 195.1 A change in use of property that is sufficiently substantial to require a new land use or special use permit in accordance with Section 70 (Permits Required) may not be made except in accordance with sub-sections 195.2 and 195.3.
- 195.2 If the intended change in use is to a principal use that is permissible in the district where the property is located, and all of the other requirements of this chapter applicable to that use can be complied with, permission to make the change must be obtained in the same manner as permission to make the initial use of a vacant lot. Once conformity with this chapter is achieved, the property may not revert to its nonconforming status.
- 195.3 If the intended change in use is to a principal use that is permissible in the district where the property is located, but all of the requirements of this chapter applicable to that use cannot reasonably be complied with, then the change is permissible if the entity authorized by this chapter to issue a permit for that particular use (the Land Use Administrator or Town Commissioners) issues a permit authorizing the change. This permit may be issued if the permit-issuing authority finds, in addition to any other findings that may be required by this chapter, that:
 - 195.3.1 The intended change will not result in a violation of Section 193 (Extension or Enlargement of Nonconforming Situations); and
 - 195.3.2 All of the applicable requirements of this Section that can reasonably be complied with will be complied with. Compliance with a requirement of this Section is not reasonably possible if compliance cannot be achieved

without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation. Mere financial hardship caused by the cost of meeting such requirements as paved parking does not constitute grounds for finding that compliance is not reasonably possible. And in no case may an applicant be given permission pursuant to this sub-section to construct a building or add to an existing building if additional nonconformities would be created.

Section 196. Abandonment and Discontinuance of Nonconforming Situations

- 196.1 When a nonconforming use is discontinued for a consecutive period of 180 days, the property involved may thereafter be used only for conforming purposes.
- 196.2 If the principal activity on property where a nonconforming situation other than a nonconforming use exists is discontinued for a consecutive period of 180 days, then that property may thereafter be used only in conformity with all of the regulations applicable to the preexisting use unless the entity with authority to issue a permit for the intended use issues a permit to allow the property to be used for this purpose without correcting the nonconforming situations. This permit may be issued if the permit issuing authority finds that eliminating a particular nonconformity is not reasonably possible (i.e., cannot be accomplished without adding additional land to the lot where the nonconforming situation is maintained or moving a substantial structure that is on a permanent foundation). The permit shall specify which nonconformities need not be corrected.
- 196.3 For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this Section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.
- 196.4 When a structure or operation made nonconforming by this chapter is vacant or discontinued at the effective date of this chapter, the 180-day period for purposes of this Section begins to run on the effective date of this chapter.

Section 197. Completion of Non-conforming Projects

- 197.1 As provided in ~~NCGS §160-385(b)~~ NCGS §160D-108(b), neither this ordinance or any amendment to it shall, without the consent of the property owner, affect any lot with respect to which a building permit has been issued pursuant to ~~NCGS §160A-417~~ NCGS §160D-1110 prior to the enactment of the ordinance making the change so long as the building permit remains valid, unexpired, and unrevoked.

Sections 198 and 199 Reserved

ARTICLE XII. APPEALS, VARIANCES, INTERPRETATIONS

Section 200. Appeals

- 200.1 An appeal from any final order or decision of the Land Use Administrator or a designee may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the Land Use Administrator and the Board of Adjustment a written notice of appeal specifying the grounds therefore. A notice of appeal shall be considered filed with the Land Use Administrator and the Board of Adjustment when delivered to the town hall, and the date and time of filing shall be entered on the notice by the Land Use Administrator.
- 200.2 An appeal must be taken within thirty days after ~~the date of the decision or order appealed from~~ receipt of the written notice of the determination to be appealed. Notice sent by first-class mail is deemed received on the third business day following deposit of the notice for mailing with the United States Postal Service.
- 200.3 Whenever an appeal is filed, the Land Use Administrator shall transmit to the Board of Adjustment all the papers constituting the record relating to the action appealed from. These administrative materials shall also be provided to the appellant and to the property owner if they are a different person. These administrative materials shall become a part of the hearing record.
- 200.4 An appeal stays all actions by the Land Use Administrator seeking enforcement of or compliance with the order or decision appealed from, unless the Land Use Administrator certifies to the Board of Adjustment that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property. In that case, proceedings shall not be stayed except by order of the Board of Adjustment or a court, issued on application of the party seeking the stay, for due cause shown, after notice to the Land Use Administrator.
- 200.5 The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement or decision or determination appealed from and shall make any order, requirement, decision or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

Section 201. Variances

- 201.1 An application for a variance shall be submitted to the Board of Adjustment by filing a copy of the application with the Land Use Administrator. Applications shall be handled in the same manner as applications for special use permits.

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201.2 When unnecessary hardships would result from carrying out the strict letter of this chapter, a ~~A~~ variance may be granted by the Board of Adjustment if it concludes all of the following:

~~201.2.1 — There are practical difficulties or unnecessary hardships that would result from carrying out the strict letter of the Ordinance. The Board may reach this conclusion if it finds that:~~

~~201.2.1.1 — If the applicant complies with the provisions of this ordinance, the applicant can make no reasonable return, or make no reasonable use of his property; and~~

~~201.2.1.2 — The hardship results from the application of the ordinance to his property; and~~

~~201.2.1.3 — The hardship is not the result of the applicant's own actions; and~~

~~201.2.1.4 — The hardship is peculiar to the applicant's property;~~

and

~~201.2.2 — The variance is in harmony with the general purpose and intent of this Ordinance; and~~

~~201.2.3 — The granting of the variance assures the public safety and welfare and does substantial justice.~~

201.2.1 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.

201.2.2 The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

201.2.2.1 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.

201.2.3 The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.

201.2.4 The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

201.3 In granting variances, the Board of Adjustment may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

201.4 A variance may be issued for an indefinite duration or for a specified duration.

201.5 The nature of the variance and any conditions attached to it shall be entered on the face of the land use permit, or the land use permit may simply note the issuance of the variance and refer to the written record of the variance for further information. All such conditions are enforceable in the same manner as any other applicable requirement of this chapter.

201.6 Variances shall expire automatically if, within one year after the issuance of a building permit, the use authorized by the variance has not commenced.

Section 202. Interpretations

202.1 The Board of Adjustment is authorized to interpret the Growth Management Map and to pass upon disputed questions of district boundary lines and similar questions. If such questions arise in the context of an appeal from a decision of the Land Use Administrator, they shall be handled as provided in Section 200 (Appeals).

202.2 An application for a map interpretation shall be submitted to the Board of Adjustment by filing a copy of the application with the office of the Land Use Administrator in the town hall. The application shall contain sufficient information to enable the board to make the necessary interpretation.

202.3 Where uncertainty exists as to the boundaries of districts as shown on the Official Growth Management Map, the following rules shall apply:

202.3.1 Boundaries indicated as approximately following the centerlines of alleys, streets, highways, streams, or railroads shall be construed to follow such centerlines;

202.3.2 Boundaries indicated as approximately following lot lines of town limits shall be construed as following such lines or limits;

202.3.3 Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as following such changed shorelines;

202.3.4 Where a district boundary divides a lot or where distances are not specifically indicated on the Official Growth Management Map, the boundary shall be determined by measurement, using the scale of the Official Growth Management Map;

- 202.3.5 Where any street or alley is officially vacated or abandoned, the regulations applicable to each parcel of abutting property shall apply to that portion of such street or alley added by virtue of such vacation or abandonment.

Section 203. Requests to be Heard Expeditiously

- 203.1 As provided in Section 100 (Applications to be Processed Expeditiously), the Board of Adjustment shall hear and decide all appeals, variance requests, and requests for interpretations as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Article XIII (Hearing Procedures for ~~Appeals and Applications~~ Quasi-Judicial Decisions), and obtain the necessary information to make sound decisions.

Section 204. Burden of Proof in Appeals and Variances

- 204.1 When an appeal is taken to the Board of Adjustment in accordance with Section 200 (Appeals), the Land Use Administrator shall have the initial burden of presenting to the board sufficient evidence and argument to justify the order or decision appealed from. If the Land Use Administrator who made the appealed decision is no longer employed by the Town, the person currently occupying that position shall be present as a witness. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.
- 204.2 The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 201.2 (Variances), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

Section 205. Board Action on Appeals and Variances

- 205.1 With respect to appeals, a motion to reverse, affirm, or modify the order, requirement, decision, or determination appealed from shall include a statement of the specific reasons or findings of facts that support the motion. If a motion to reverse or modify is not made or fails to receive the ~~four-fifths~~ simple majority vote necessary for ~~adoption~~ approval (see Sub-section 22.3, Quorum and Voting), then a motion to uphold the decision appealed from shall be in order. This motion is adopted as the board's decision if supported by ~~more than one-fifth~~ a simple majority of the board's membership (excluding vacant seats).
- 205.2 In granting a variance, the board must vote affirmatively (by a 4/5 majority – See Sub-section 22.3, Quorum and Voting) on each of the ~~six~~ required findings stated in Section 201.2 (Variances). Insofar as practicable, a separate motion to make an affirmative finding on each of the requirements set forth in Section 201.2 (Variances) shall include a statement of the specific reasons or findings of fact supporting each motion.

205.3 A motion to deny a variance may be made on the basis that any one or more of the ~~six~~ criteria set forth in Section 201.2 (Variances) are not satisfied or that the application is incomplete. Such a motion shall include a statement of the specific reasons or findings of fact that support it. This motion is adopted as the Board's decision if supported by more than one fifth (1/5) of the Board's membership (excluding vacant seats).

Sections 206 through 210 Reserved

ARTICLE XIII. HEARING PROCEDURES FOR APPEALS AND APPLICATIONS
QUASI-JUDICIAL DECISIONS

Section 211. Evidentiary Hearing Required ~~on Appeals and Applications~~ for Quasi-Judicial Decisions

- 211.1 Before making a decision on an appeal or an application for a variance, special use permit, ~~or~~ a petition from the Land Use Administrator to revoke a special use permit, or any other quasi-judicial decision, the Town Commissioners or the Board of Adjustment, as the case may be, shall hold ~~a~~ an evidentiary hearing on the appeal or application. The board shall follow quasi-judicial procedure specified in NCGS 160D-406.
- 211.2 The evidentiary hearing shall be open to the public and ~~all persons~~ the applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing, including, including shall be given an opportunity to present evidence, oral or written, offer sworn testimony, and direct questions to the board regarding other evidence or testimony. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.
- 211.3 The Town Commissioners or the Board of Adjustment may place reasonable and equitable limitations on the presentation of evidence and arguments and the cross examination of witnesses so that the matter at issue may be heard and decided without undue delay.
- 211.4 The Town Commissioners or the Board of Adjustments hearing an appeal or application may continue the evidentiary hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.
- 211.5 Administrative Materials. If administrative materials are distributed to board members prior to an evidentiary hearing, a copy must also be provided to the appellant or applicant and to the property owner if they are a different person. These administrative materials shall become a part of the hearing record.

211.6 Objections. Objections regarding jurisdictional and evidentiary issues may be made to the board. The board chair shall rule on any objections, and the chair's rulings may be appealed to the full board.

Section 212. Notice of Hearing

212.1 The Land Use Administrator shall give notice of any evidentiary hearing required by Section 211 (Evidentiary Hearing Required ~~on Appeals and Applications~~ for Quasi-Judicial Decisions) as follows:

212.1.1 Notice shall be given to the appellant or applicant and any other person who makes a written request for such notice by mailing to such persons a written notice not less than ten days, but not more than 25 days, before the hearing.

212.1.2 Notice shall be given to neighboring property owners by mailing a written notice not less than ten days, but not more than 25 days, before the hearing to those persons who have listed for taxation any portion of real property that abuts the lot that is the subject of the application or appeal.

212.1.3 Notice shall be given to other potentially interested persons by publishing a notice in a newspaper having general circulation in the area once a week for two consecutive weeks. The notice shall be published for the first time not more than 25 days and not less than 10 days before the date fixed for the hearing.

212.1.4 The notice required by this Section shall state the date, time and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, give a brief description of the action requested or proposed, state that the full permit request application can be reviewed at the office of the Land Use Administrator; and state that substantial changes in the permit request may be made following the ~~public~~ evidentiary hearing.

212.1.5 Within the same time period as the mailed notice in this Section, notice of the hearing shall be prominently posted on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.

Section 213. Evidence

213.1 The provisions of this Section apply to all evidentiary hearings for which a notice is required by Section 211 (Evidentiary Hearing Required ~~on Appeals and Applications~~ for Quasi-Judicial Decisions).

213.2 All persons who present evidence or speak to the permit-issuing authority shall be sworn.

213.3 All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (crucial findings) shall be based upon sworn testimony and admitted evidence.

~~Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question is determined to be reliable, and the matter at issue is not seriously disputed.~~ Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record.

Section 214. Recommendations on Review of Special Use Permit Applications

- 214.1 When presented to the Town Commissioners at the meeting prior to an evidentiary hearing, the application for a special use permit shall be accompanied by a report setting forth the Planning Board's proposed findings concerning the application's compliance with Section 73 (Application to Be Complete) and the other requirements of this chapter, ~~as well as any recommendations for additional requirements to be imposed by the Town Commissioners.~~
- 214.2 If the Planning Board proposes a finding or conclusion that the application fails to comply with Section 73 (Application to Be Complete) or any other requirement of this chapter, it shall identify the requirement in question and specifically state supporting reasons for the proposed finding or conclusion.

Section 215. Town Commissioners' Action on Special Use Permits

- 215.1 In considering whether to approve an application for a special use permit, the Town Commissioners shall proceed according to the following format:
- 215.1.1 The Town Commissioners shall consider whether the application complies with all of the applicable requirements of this chapter. If a motion to this effect passes, the Town Commissioners need not make further findings concerning such requirements. If such a motion fails or is not made, a motion shall be made that the application be found not in compliance with one (1) or more of the requirements of this chapter. Such a motion shall specify the particular requirements the application fails to meet. Separate votes may be taken with respect to each requirement not met by the application. It shall be conclusively presumed that the application complies with all requirements not found by the Town Commissioners to be unsatisfied through this process.
- 215.1.2 If the Town Commissioners conclude that the application fails to comply with one (1) or more requirements of this chapter, the application shall be denied. If the Town Commissioners conclude that all such requirements are met, they shall issue the permit unless they adopt a motion to deny the application for one (1) or more reasons set forth in Section 86.1 (Special Use Permit Application). Such a motion shall propose specific findings, based upon the evidence submitted, justifying such a conclusion.

Section 216. Additional Requirements on Special Use Permits

216.1 In granting a special use permit, the Town Commissioners may attach to the permit such reasonable requirements, in addition to those specified in this chapter, as will ensure that the development in its proposed location:

216.1.1 Will not endanger the public health or safety;

216.1.2 Will not injure the value of adjoining or abutting property;

216.1.3 Will be in harmony with the existing development and uses within the area in which it is to be located; and

216.1.4 Will be in conformity with the land use plan, thoroughfare plan, or other plan, officially adopted by the Town Commissioners.

216.2 The Town Commissioners may not attach additional conditions that modify or alter the specific requirements set forth in this ordinance unless the development in question presents extraordinary circumstances that justify the variation from the specified requirements.

216.3 The Town Commissioners may attach to a permit a condition limiting the permit to a specified duration.

216.4 All additional conditions or requirements shall be entered on the permit.

216.5 All additional conditions or requirements authorized by this Section are enforceable in the same manner and to the same extent as any other applicable requirement of this chapter.

216.6 A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in Sections 86.1 (Special Use Permit Application).

216.7 Requirements for special use permits imposed under this section shall not include requirements for which the Town does not have authority to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by a local government.

216.8 Written consent. The additional requirements or conditions for a special use permit are not enforceable unless the applicant or landowner provide written consent.

Section 217. Modification of Application at Hearing

217.1 In response to questions or comments by persons appearing at the hearing or to suggestions or recommendations by the Town Commissioners or the Board of Adjustment, the applicant may agree to modify his application, including the plans and specifications submitted.

217.2 Unless such modifications are so substantial or extensive that the permit-issuing authority cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans review, the board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to and accepted by the Land Use Administrator.

Section 218. Record

218.1 A record shall be made of all hearings required by Section 211 (~~on Appeals and Applications~~ **Evidentiary Hearing Required for Quasi-Judicial Decisions**), and such recordings shall be kept as provided by state law, but a transcript need not be made. Minutes shall also be kept of all such proceedings, but a transcript need not be made.

218.2 Whenever practicable, all documentary evidence presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings.

Section 219. Written Decision

219.1 Any decision made by the Town Commissioners or the Board of Adjustment regarding an appeal or variance or issuance or revocation of a special use permit shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.

219.2 In addition to a statement of the board's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the board's findings **of fact** and conclusions **of law**, as well as supporting reasons or facts, whenever this chapter requires the same as a prerequisite to taking action.

Section 220. Reconsideration of Board Action

220.1 Whenever the Town Commissioners disapprove an application for a special use permit or the Board of Adjustment disapproves an application for a variance, on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board at a later time unless the applicant clearly demonstrates that:

220.1.1 Circumstances affecting the property that is the subject of the application have substantially changed; or

220.1.2 New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Land Use Administrator within the time period for an appeal to superior court (see Section 231, Judicial Review). However, such a request does not extend the period within which an appeal must be taken.

220.2 The Town Commissioners or the Board of Adjustment may at any time consider a new application affecting the same property as an application previously denied. A new application is one that differs in some substantial way from the one previously considered.

220.3 For purposes of determining fees, resubmission of an application shall be treated as a new application.

Sections 221 through 225 Reserved

ARTICLE XIV. ENFORCEMENT AND REVIEW

Section 226. Complaints Regarding Violations

226.1 Whenever the Land Use Administrator receives a written, signed complaint alleging a violation of this chapter, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

226.2 If investigating a complaint involves inspection of a premises, the Land Use Administrator shall:

226.2.1 conduct the inspection during reasonable hours; and

226.2.2 present proper credentials.

226.3 If investigating a complaint involves inspection an area of a premises not open to the public, the Land Use Administrator shall:

226.3.1 obtain appropriate consent; or

226.3.2 obtain an appropriate inspection warrant.

Section 227. Persons Liable

227.1 The owner, tenant, or occupant of any building or land and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of this chapter may be held responsible for the violation and suffer the penalties and be subject to the remedies provided.

Section 228. Procedures Upon Discovery of Violations

228.1 Informal warning. If the Land Use Administrator finds that any provision of this chapter is being violated, he shall send a written ~~notice~~ informal warning to the person responsible for such violation, indicating the nature of the violation and ordering the

action necessary to correct it. Additional written **notices** informal warnings may be sent at the Land Use Administrator's discretion.

- 228.2 Notice of violation. If the violation is not remedied by a written informal warning, the Land Use Administrator shall issue a notice of violation. The ~~final~~ written notice (~~and the initial written notice may be the final notice~~) shall state what action the Land Use Administrator intends to take if the violation is not corrected and shall advise that the Land Use Administrator's decision or order may be appealed to the Board of Adjustment in accordance with Section 200 (Appeals). The notice of violation shall be issued to the holder of the development approval and the property owner if different. The notice may be delivered by email, first-class mail, or in person.
- 228.3 In cases when delay would seriously threaten the effective enforcement of this chapter or pose a danger to the public health, safety, or welfare, the Land Use Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 229 (Penalties and Remedies for Violations).
- 228.4 Certification required. The Land Use Administrator shall certify to the Town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.

Section 229. Penalties and Remedies for Violations

- 229.1 Violations of the provisions of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits, shall constitute a misdemeanor, punishable by a fine of up to fifty dollars, or a maximum thirty days imprisonment.
- 229.2 Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use permits, shall also subject the offender to a civil penalty of fifty dollars. If the offender fails to pay this penalty within ten days after being cited for a violation, the penalty may be recovered by the Town in a civil action in the nature of a debt. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with Section 228 (Procedures Upon discovery of Violations) and did not take an appeal to the Board of Adjustment within the prescribed time.
- 229.3 This chapter may also be enforced by any appropriate equitable action.
- 229.4 Each day that any violation continues after notification by the Land Use Administrator that such violation exists shall be considered a separate offense for purposes of the penalties and remedies specified in this Section.
- 229.5 The Town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an

injunction and order requiring the offending party to comply with the subdivision Section of the Growth Management Ordinance.

- 229.6 Building permits required pursuant to ~~GS 160A-417~~ NCGS§160D-403; 1110 may be denied for lots that have been illegally subdivided.
- 229.7 Nothing in this Article shall be construed to limit the use of remedies available to the Town. The Town may seek to enforce this ordinance by pursuing any one, all, or a combination of remedies authorized by NCGS 160A-175.

Section 230. Permit Revocation

- 230.1 A land use or special use permit may be revoked by the permit-issuing authority (in accordance with the provisions of this Section) if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this chapter, or any additional requirements lawfully imposed by the permit-issuing authority.
- 230.2 Before a special use permit may be revoked, all of the notice and hearing and other requirements of Article V shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.
- 230.3 The burden of presenting evidence sufficient to authorize the Town Commissioners to conclude that a permit should be revoked for any of the reasons set forth in sub-section (1) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.
- 230.4 A motion to revoke a permit shall include a statement of the specific reasons or findings of fact that support the motion.
- 230.5 Before a land use permit may be revoked, the Land Use Administrator shall give the permit recipient ten days' notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain a hearing on the allegations. If the permit is revoked, the Land Use Administrator shall provide to the permittee a written statement of the decision and the reasons for the revocation.
- 230.6 No person may continue to make use of land or buildings in the manner authorized by any land use or special use permit after such permit has been revoked in accordance with this Section.

Section 231. Judicial Review

- 231.1 Every decision of the Town Commissioners granting or denying a special use permit and every final decision of the Board of Adjustment shall be subject to review by the Superior Court of Pamlico County by proceedings in the nature of certiorari.
- 231.2 The petition for the writ of certiorari must be filed with the Pamlico County Clerk of Court within 30 days after the later of the following occurrences:

- 231.2.1 A written copy of the board’s decision (see Section 208, Written Decision) has been filed in the office of the Land Use Administrator; and
- 231.2.2 A written copy of the board’s decision (see Section 208, Written Decision) has been delivered, by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.
- 231.3 A copy of the writ of certiorari shall be served upon the Town of Oriental.

Sections 232 through 234 Reserved

ARTICLE XV. AMENDMENTS

Section 235. Amendments in General

- 235.1 Amendments to the text of this chapter or to the Official Growth Management Map may be made in accordance with the provisions of this Article.
- 235.2 As provided in ~~NCGS 160A-385(b)~~ NCGS§160D-108(b), amendments, modifications, supplements, repeal or other changes in land use regulations and restrictions and development boundaries shall not be applicable or enforceable without consent of the owner with regard to building and uses for which either:
 - 235.2.1 Any building permit which has been issued pursuant to ~~NCGS 160A-417~~ NCGS§160D-1110 prior to the enactment of the ordinance making the change or changes as long as the permit remains valid and unexpired pursuant to ~~NCGS 160A-418~~ NCGS§160D-1111 and unrevoked pursuant to ~~NCGS 160A-422~~ NCGS§160D-1115; or
 - 235.2.2 A vested right which has been established pursuant to ~~NCGS 160A-385.1~~ NCGS§§160D-108; 108.1 and the provisions of Section ~~237~~ 242 (Vested Right) prior to the enactment of this chapter remains valid and unexpired.
- 235.3 Any amendment to the text of this chapter or to the Official Growth Management Map shall be adopted by ordinance.
- 235.4 Third-party down-zoning prohibited. No zoning map amendment that down-zones property shall be initiated nor is enforceable without the written consent of all affected property owners unless the amendment is initiated by the Town. Down-zoning affects an area of land in either of the following ways:
 - 235.3.1 By decreasing the development density of the land; or
 - 235.3.2 By reducing the permitted uses of the land.

Section 236. Initiation of Amendments

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- 236.1 Any person may petition the Town Commissioners to amend this chapter and/or the Official Growth Management Map. For this purpose, a petition shall be filed with the Land Use Administrator and shall include, among the information deemed relevant by the Land Use Administrator:
- 236.1.1 The name, address, and phone number of the petitioner;
 - 236.1.2 If a change in development district classification is proposed, a legal description and a scaled map of the land affected by the proposed amendment; and
 - 236.1.3 A description of the proposed map change or a summary of the specific objective of any proposed change in the text of this chapter.
- 236.2 Petitions for amendments to this chapter or the Official Growth Management Map shall be submitted to the Land Use Administrator at least fifteen (15) days prior to the date of a regularly scheduled Planning Board meeting. Upon written confirmation from the Land Use Administrator that the application is complete, the request will be placed on the agenda of the next Planning Board meeting occurring fifteen (15) days or more thereafter.
- 236.3 The Town Commissioners, at their next regularly scheduled meeting following the Planning Board's meeting at which time the petition is first considered, shall schedule a **public legislative** hearing concerning the petition.
- 236.4 Whenever a request to amend this chapter or the Official Growth Management Map is initiated by the Town Commissioners, the Planning Board, or the Land Use Administrator, time limits imposed by this article do not apply.
- 236.5 If a petition for any amendment(s) to this chapter or to the Official Growth Management Map has previously been denied by the Town Commissioners or withdrawn by the petitioner after a recommendation of denial by the Planning Board or after a **public legislative** hearing has been scheduled by the Town Commissioners, such petition shall be rejected by the Land Use Administrator unless;
- 236.5.1 It is determined by the Land Use Administrator, in consultation with and in agreement of the Planning Board, to be materially different from the previously denied or withdrawn petition; or
 - 236.5.2 Special approval is granted by the Town Commissioners under the provisions of sub-section (6) below; or
 - 236.5.3 Twelve months have elapsed from the time of such previous denial or withdrawal, which twelve-month period shall commence as follows:
 - 236.5.3.1 if the previous petition was denied by the Town Commissioners, on the date of that denial; or

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- 236.5.3.2 if the previous petition had been recommended for denial by the Planning Board and withdrawn by the petitioner prior to final action by the Town Commissioners, on the date of the recommended denial by the Planning Board; or
- 236.5.3.3 if the date of withdrawal by the petitioner is after a **public legislative** hearing has been scheduled but before action (other than the setting of the public hearing) is made by the Planning Board or the Town Commissioners, on the date of that withdrawal.

236.6 Special approval of the Town Commissioners to consider a petition that has been previously denied or withdrawn and that has been rejected under the provisions of Section 236.5, may be granted, upon a finding by the Town Commissioners of any of the following grounds:

- 236.6.1 Materially changed conditions;
- 236.6.2 Clerical error was the basis for the previous development district designation;
- 236.6.3 Newly discovered evidence of adverse impact of the current development district designation which by due diligence could not have been discovered in time for the earlier hearing; or
- 236.6.4 Substantively and materially changed amendment of petition is submitted.

Section 237. Planning Board Consideration of Proposed Amendments

- 237.1 The Planning Board, after allowing for public comment at a Planning Board meeting, shall, within thirty-five (35) days of its first appearance on the Planning Board's agenda, render a written recommendation for approval, denial, or modification of the petition to the Town Commissioners.
- 237.2 The Planning Board shall advise and comment in writing on whether the proposed amendment is consistent with any comprehensive plan or long-range plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board. A written comment by the Planning Board that a proposed amendment is inconsistent with any such plans shall not preclude consideration or approval of the proposed amendment by the Town Commissioners.
- 237.3 Whenever the Planning Board is called upon to make a recommendation concerning an amendment to the Official Growth Management Map, the Land Use Administrator shall post on or near the subject property one or more notices that are sufficiently conspicuous in terms of size, location and content to provide reasonably adequate notice to potentially interested persons of the matter that will appear on the Planning Board's agenda at a

specified date and time. Such notice(s) shall be posted at least seven (7) days prior to the meeting at which the matter is to be considered.

237.4 If no written report is received from the Planning Board within thirty-five (35) days of its first appearance on the Planning Board's agenda, the Town Commissioners may proceed in consideration of the proposed amendment without the Planning Board report. The Town Commissioners are not bound by the recommendations, if any, of the Planning Board.

237.5 Separate board required. For amendments to zoning regulations, the review and comment responsibility of this subsection shall not be handled by the Town Commissioners.

Section 238. Hearing Required – Notice

238.1 No amendment to any of the provisions of this chapter or to the Official Growth Management Map may be adopted until a **public legislative** hearing has been held on such proposed amendment.

238.2 The Land Use Administrator shall publish a notice of the **public legislative** hearing on any proposed amendment to the provisions of this chapter once a week for two successive weeks in a newspaper having general circulation in the area. The notice shall be published for the first time not less than ten (10) days nor more than twenty-five (25) days before the date fixed for the hearing. In computing this period, the date of publication shall not be counted but the date of the hearing shall be counted.

238.3 With respect to proposed amendments to the Official Growth Management Map, the Land Use Administrator shall mail written notice of the **public legislative** hearing to the record owners for tax purposes of all properties whose development classifications are changed by the proposed amendment, as well as the owners of all properties which are within 150 feet of the properties so affected by the proposed amendment and any other properties separated by a street, railroad, or other transportation corridor from the properties so affected by the proposed amendment. The notice shall be mailed within the same time period specified in subsection 238.2.

238.4 The first-class mail notice required under sub-section 238.3 of this Section shall not be required if the proposed amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Land Use Administrator elects to use the expanded published notice provided for in this sub-section. In this instance, the Land Use Administrator may elect to either make the mailed notice provided for in sub-section 238.3 of this Section or may as an alternative elect to publish notice of the hearing as required by **NCGS 160A-364 NCGS 160D-602(b)**, but each advertisement shall not be less than one-half of a newsletter page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property shall be notified according to the provisions of sub-section 238.3 of this Section.

- 238.5 The public notice required by this Section shall:
- 238.5.1 State the date, time, and place of the **public legislative** hearing.
 - 238.5.2 Summarize the nature and character of the proposed change.
 - 238.5.3 State that the full text of the proposed amendment can be obtained from the Land Use Administrator, and
 - 238.5.4 State that substantial changes in the proposed amendment may be made following the **public legislative** hearing.
- 238.6 The person or persons mailing notices to adjoining property owners, as defined in **NCGS 160A-384 NCGS 160D-602**, shall certify to the Town Commissioners that fact.
- 238.7 When an Official Growth Management Map amendment is proposed, the Land Use Administrator shall prominently post a notice of **public legislative** hearing on the site proposed for reclassification or on an adjacent public street or highway right-of-way. **The notice shall be posted within the same time period specified in subsection 238.2.** When multiple parcels are included with the proposed map amendment, a posting on each individual parcel is not required, but the Land Use Administrator shall post sufficient notices to provide reasonable notice to interested persons.

Section 239. Town Commissioners' Action on Amendments

- 239.1 The Town Commissioners may consider the petition or refer it to a committee for further study or take any other action consistent with its usual rules of procedure.
- 239.2 The Town Commissioners should, in most cases, take final action on a proposed amendment within sixty-five (65) days after the date of the meeting at which the **Public Legislative** Hearing is set. In the event the Town Commissioners determine that additional time is necessary and reasonable in connection with any petition for amendment hereunder, the Board shall state the specific reason(s) for the additional time required and the estimated additional time likely to be required. Such statements shall be made a part of the official minutes and records of the Town Commissioners. The Town Commissioners, when making the determination that additional time is required, shall bear in mind the interests of both the petitioner and the members of the general public who have expressed opposition to or concerns about the proposed amendment. The Town Commissioners shall endeavor in all cases to take final action in as expeditious a manner as practicable. If, for any reason, the final action on a proposed amendment hereunder is delayed more than sixty (60) days after the public hearing on the proposed amendment was closed, the Town Commissioners shall, before taking such final action, schedule such final action for a meeting (regular or special) and give not less than seventy-two (72) hours advance public notice (in the same manner as for a special meeting) of the meeting at which such final action will be on the agenda and shall, at such meeting, give the public the opportunity to be heard on the matter, prior to voting thereon.

239.3 Governing board statement.

239.3.1 Consistency statement. Prior to adopting or rejecting any proposed amendment to this chapter, the Town Commissioners shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan or long-range plan ~~and explaining why the Town Commissioners consider the action taken to be reasonable and in the public interest.~~ That statement is not subject to judicial review. If an amendment to the Official Growth Management Map is adopted and deemed inconsistent, the Town must abide by Section 243 of this chapter (Effect on Land use and Comprehensive Plan).

239.3.2 Statement of reasonableness. Prior to adopting or rejecting any proposed amendment to the Official Growth Management Map, the Town Commissioners shall adopt a statement analyzing the reasonableness of the proposed map amendment. This statement of reasonableness may consider, among other factors:

239.3.2.1 the size, physical conditions, and other attributes of the area proposed to be rezoned;

239.3.2.2 the benefits and detriments to the landowners, the neighbors, and the surrounding community;

239.3.2.3 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;

239.3.2.4 why the action taken is in the public interest; and

239.3.2.5 any changed conditions warranting the amendment.

239.3.3 Single statement allowed. The statement of reasonableness and the plan consistency statement required by this subsection may be approved as a single statement.

239.3.4 If a zoning map amendment qualifies as a "large-scale rezoning" under NCGS§160D-602(b) and subsection 238.4 of this chapter, the governing board statement on reasonableness in this subsection may address the overall rezoning.

239.4 Voting on proposed amendments to this chapter shall be allowed on first reading by simple majority ~~proceed in the same manner as other ordinances, subject to Section 241 (Protests to Development District Changes).~~

239.5 ~~Any town commissioner who believes that the commissioner himself or any other town commissioner has such a financial interest in any proposed amendment to this chapter or to the Official Growth Management Map as to warrant excusing such~~

~~commissioner from voting upon the proposed amendment under the provisions of NCGS 160A-381(d), shall bring the issue before the Town Commissioners for consideration. The Town Commissioners shall determine whether the financial interest of a commissioner is one that prohibits voting by such commissioner and, if it so finds, the Town Commissioners shall vote to excuse such commissioner in accordance with NCGS 160A-75.~~ The Town Commissioners shall abide by the conflicts of interest standards in Section 12 and NCGS§160D-109 when voting on amendments to the text of this Ordinance or the Official Growth Management Map. Any potential conflict of interest identified by a commissioner shall be considered by the Town Commissioners. An objection to participation due to conflict of interest shall be resolved by recusal or by vote as specified in Section 12.3 and NCGS§160D-109(e).

Section 240. Ultimate Issue Before Town Commissioners on Amendments

240.1 In deciding whether to adopt a proposed amendment to this chapter, the central issue before the Town Commissioners is whether the proposed amendment advances the public health, safety or welfare. All other issues are irrelevant, and all information related to other issues at the public hearing may be declared irrelevant by the mayor and excluded. When considering proposed amendments to the Official Growth Management Map:

240.1.1 The Town Commissioners shall not consider any representations made by the petitioner that, if the change is granted, the property in question will be used for only one of the possible range of uses permitted in the requested classification. Rather, the Town Commissioners shall consider whether the entire range of permitted uses in the requested classification is more appropriate than the range of uses in the existing classification.

240.1.2 The Town Commissioners shall not regard the advantages or disadvantages to the petitioner requesting the change but shall consider the impact of the proposed change on the public at large.

Section 241. ~~Protests to Development District Changes~~ Citizen Comments for Zoning Regulations

~~241.1 If a petition opposing a change in the development district classification of any property is filed in accordance with the provisions of this Section, then the proposed amendment may be adopted only by a favorable vote of four-fifths of the Town Commissioners membership. For the purposes of this sub-section, vacant positions on the board and members who are excused from voting shall not be considered ‘members of the board’ for calculation of the requisite supermajority. In accordance with NCGS 160A-385(a), provisions concerning protests shall not be applicable to any amendment which initially regulates property added to the territorial coverage of this chapter as a result of annexation or otherwise.~~

~~241.2 To invoke the four-fifths vote requirement:~~

~~241.2.1 The petition must be signed by the owners of either~~

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~~241.2.1.1 — twenty percent (20%) or more of the area included in the proposed classification change; or~~

~~241.2.1.2 — five percent (5%) of a 100-foot wide buffer extending along the entire boundary of each discrete or separate area proposed to be reclassified.~~

~~241.2.1.2.1 — A street right-of-way shall not be considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less.~~

~~241.2.1.2.2 — When less than an entire parcel is subject to the proposed Official Growth Management Map amendment, the 100-foot buffer shall be measured from the property line of that parcel. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine the ‘owners’ of potentially qualifying areas.~~

~~241.2.2 — The petition must be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.~~

~~241.2.3 — The petition must be received by the Land Use Administrator at least two (2) normal working days before the date established for a public hearing on the proposed amendment to allow the Land Use Administrator the opportunity to determine the sufficiency and accuracy of the petition.~~

~~241.3 — A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed growth management amendment. Only those protest petitions that meet the qualifying standards set forth in NCGS 160A-385 at the time of the vote on the proposed amendment shall trigger the supermajority voting requirement.~~

~~241.4 — The foregoing provisions concerning protests shall not be applicable to any amendment which initially classifies property added to the territorial coverage of this chapter as a result of annexation or otherwise.~~

241.1 If any person submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation within this ordinance to the clerk to the Town Commissioners at least two business days prior to the proposed vote on such change, the clerk shall deliver such written statement to the Town Commissioners.

241.2 If the proposed change is the subject of a quasi-judicial proceeding, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting.

Section 242. Vested Right

242.1 Requests to establish vested rights according to **NCGS §160A-385.1** **NCGS §§160D-108; 108.1** shall provide the information required for a Special Use Permit request and shall follow the **amendment procedure** **same notice and hearing procedures for amendments** **as** outlined in this Article. **Though not an amendment to this ordinance, the decision to establish this vested right is a legislative decision and shall follow the notice requirement in NCGS §160D-602.**

242.2 Vested rights may be terminated in any of the following ways:

242.2.1 The landowner agrees, in writing, to relinquish the vested right.

242.2.2 After notice and hearing, the Town Commissioners determine that there are natural or manmade hazards that would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific development plan.

242.2.3 Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant fees incurred after approval by the Land Use Administrator, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property, which is caused by such action.

242.2.4 Upon findings by the Town Commissioners, after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval of the site-specific development plan.

242.2.5 Upon the enactment or promulgation of a state or federal law or regulation that precludes development as contemplated in the site-specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in state or federal law has a fundamental effect on the plan, by ordinance after notice and hearing.

242.2.6 At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

Section 243. Effect on Land Use and Comprehensive Plan

243.1 **If an amendment to the Official Growth Management Map is adopted and the action was deemed inconsistent with an adopted plan, the map amendment has the effect of also amending any future land-use map in this plan. This inconsistency shall be noted on the adopted plan.**

243.2 If a future land-use map in an adopted plan is amended due to subsection 243.1, no additional request, application, or fee for a plan amendment is required by the petitioner.

243.3 If a future land-use map in an adopted CAMA plan is amended due to subsection 243.1, this plan amendment shall not be effective until the CAMA plan-amendment process is completed.

Sections ~~243~~ 244 through 249 Reserved

ARTICLE XVI. WORD INTERPRETATIONS AND BASIC DEFINITIONS

Section 250. Word Interpretation

250.1 For the purpose of the ordinance, certain words shall be interpreted as follows:

250.1.1 The word “may” is permissive.

250.1.2 The words “shall” and “will” are mandatory.

250.1.3 The present tense includes the future tense, and the future tense includes the present tense.

250.1.4 The singular includes the plural and the plural includes the singular.

Section 251. Definitions of Basic Terms (Updated June 2021)

Unless otherwise specified, the words, terms, and phrases defined in this Section shall have the meaning indicated, when used in the GMO.

251.1 A-frame board: A freestanding a-frame shaped board and shall be considered temporary.

251.2 Abandoned sign: A sign or sign structure, which has not been utilized for a period of ninety (90) days or more, or a sign, the contents of which pertain to a place, time, event or purpose which no longer exists, applies or which has occurred. Such signs shall be considered a public nuisance.

251.3 Accessory Use: A use or activity that is customarily incidental to a specific principal use and is located on the same lot as the associated principal use.

251.4 Adjacent: Adjacent shall mean a tract of real property contiguous to another tract of real property, including a tract separated by a road, easement or right-of-way.

251.4a Administrative Decision: Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in NCGS Chapter 160D or local

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government development regulations. These are sometimes referred to as ministerial decisions or administrative determinations.

- 251.5 Administrator or Land Use Administrator: The person designated to administer the Oriental Growth Management Ordinance (see Article II, Section 40, Land Use Administrator).
- 251.6 Adult Bookstore: An adult bookstore is any business, building, structure, or place, located in Oriental, whose predominant purpose is the selling or renting of magazines, books, videos, computer software, pay per view videos, adult programs, which are characterized by their emphasis on matter depicting or describing “specified anatomical areas” as defined in NCGS 14-202.10(10), or “specified sexual activities”, as defined in NCGS 14-202.10(11). (Dec 2015)
- 251.7 Adult Care Home: is a residential facility for senior/elderly and disabled adults who may require 24-hour supervision and assistance with personal care needs to two or more residents, either directly or, for scheduled needs, through formal written agreement with licensed home care or hospice agencies. Some Licensed adult care homes provide supervision to people with cognitive impairments whose decisions, if made independently, may jeopardize the safety or well-being of themselves or others and therefore require supervision. Medication in an adult care home may be administered by designated, trained staff. Adult care homes that provide care to two to six unrelated residents are commonly called family care homes. These facilities differ from nursing homes in the level of care and qualification of staff.
- 251.8 Adult Entertainment: This shall mean an adult bookstore, adult motion picture theatre, adult mini-motion picture theatre, or adult live-entertainment business as defined in NCGS 14-202.10~~(8)~~(3).
- 251.9 Agricultural Operations: Agricultural operations (use classification 14.000) include commercial establishments which are primarily engaged in the commercial production of crops, plants, vines, trees and/or the keeping, grazing, or feeding of livestock; , such as, but not limited to, farms, ranches, dairies, orchards, hatcheries, broiler houses. Livestock as used here includes cattle, sheep, goats, hogs, and poultry as well as animal specialties such as horses, rabbits, bees, (Dec 2015) pets, fur-bearing animals in captivity, and fish in captivity. Agricultural operations also include establishments primarily engaged in the commercial operation of timber tracts, tree farms, forest nurseries, and related activities. Commercial greenhouses and nurseries are classified separately for purposes of this ordinance (see commercial greenhouse definition). Examples given in this paragraph are examples only and not intended to be an exclusive or exhaustive list.
- 251.10 Alley: A public thoroughfare, which affords only a secondary means of access to abutting property.

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- 251.11 Alterations: Any addition to the height, width, or depth of a building; any change in the location of exterior walls of a building; or any increase in the interior accommodations of a building.
- 251.12 Animated sign: Any sign using flashing or intermittent lights, sound, color changes or other mechanical or electrical means to give motion to the sign or the impression of motion or movement to the sign or any sign with visible moving, revolving or relocating parts.
- 251.13 Antenna: Equipment designed to transmit or receive electronic signals which is attached to land or to a structure or building.
- 251.14 Area of sign: The area of a sign shall be considered to be that of the smallest linear figure, which encompasses all lettering, wording, frame design or symbols, together with any background on which the sign is located and any illuminated part of the sign, if such background or such illuminated part of the sign is designed as an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of the sign but supports and bracing which are not intended as part of the sign shall be excluded.
- 251.15 Assisted Living Facilities: A facility consisting of a building or buildings maintained for the purpose of providing accommodations for functionally independent occupants needing occasional medical care and supervision at a lower level than that provided in a skilled nursing care facility, but at a higher level than that provided in Rest Homes. Rest Homes may serve meals to its residents by a licensed kitchen as part of their rent.
- 251.16 Automotive Repair and Maintenance: A commercial establishment engaged in providing mechanical and automotive electrical maintenance and repair; truck and automotive service stations, bodywork, or painting.
- 251.17 Awning: A shelter projecting from and supported by the exterior wall of a building constructed of non-rigid materials on a supporting framework. An 'awning sign' is a sign that is attached to or part of such structure.
- 251.18 Banner: A temporary unframed sign not permanently affixed to the ground, a pole or building, which advertises a product, service(s) event, job or purpose.
- 251.19 Bed and Breakfast or Inn: 'Bed and Breakfast' or 'Inn' means a building or building complex which is used as a business establishment used for renting not more than 12 guest rooms for not more than 24 persons per night and for a period of one week or less, and that:
- 251.19.1 Does not serve food or drink to the general public for pay, but serves only the breakfast meal, which is only served to overnight guests of the establishment.
- 251.19.2 Includes the price of breakfast in the room rate; and

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251.19.3 Is the permanent residence of the owner or the manager of the establishment.

See also, Boarding House, Hotel, and Tourist Home. (Dec 2015)

251.20 Boarding House: A building or building complex which is used as a business establishment used for renting residential habitation, consisting of at least one dwelling unit together with more than two other rooms that are rented or are designed or intended to be rented indefinitely. A Boarding House is distinguished from a Tourist Home in that a Boarding House is designed to be occupied by longer-term residents (such as month-to-month tenants) as opposed to overnight or weekly guests. A Boarding House may not provide food or drink to its boarders.

See also, Bed and Breakfast or Inn, Hotel, and Tourist Home. (Dec 2015)

251.20 Board of Adjustment: A quasi-judicial board, appointed by the Oriental Town Commissioners, composed of residents of Oriental residing in the regulatory jurisdiction.

251.21 Board of Commissioners: Shall mean the duly elected Board of Commissioners of the Town of Oriental, North Carolina, composed of residents of Oriental residing in the regulatory jurisdiction.

251.22 Building: ~~Any structure designed to be used as a place of occupancy, business, assembly, storage or shelter which, by nature of its size, scale, dimensions, bulk or use, tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Gas pumps with overhead canopies or roofs shall be deemed to fall within this description.~~ Any structure used or intended for supporting or sheltering any use or occupancy.

251.23 Building, Accessory: A minor building that is located on the same lot as a principal building and that is used incidentally to a principal building or that houses an accessory use.

251.24 Building, Principal: The primary building on a lot or a building that houses a principal use.

251.25 Building artwork: The decoration of a building that advertises a business, service or product, which answers to aesthetics rather than to practical criteria.

251.26 Building Setback Line: A line parallel to a property line that, along with the property line, bounds an area within which no structure, or part thereof, shall be erected.

251.27 Burgee: An identifying or signaling flag associated with boats, boating organizations and nautical-related activities.

251.28 Business sign: A sign located on or off the business premise that directs attention to a business, profession, commodity, service, or entertainment.

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- 251.29 Business complex sign: Any sign identifying a group of buildings intended for nonresidential use, residential/non-residential mix, or a single building containing more than one non-residential use or residential/non-residential mix, located at the major entrance point or points to such development.
- 251.30 Business directional sign: A non-advertising sign used solely for the purpose of directing traffic to a business embedded in a residential zone.
- 251.31 Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold at the campsite to provide temporary living quarters for recreational, camping, or travel use.
- 251.32 Canopy: A structure, either detached from or attached to and extending from the enclosed portion of a building. Such structure is supported independently by posts or columns, is open on all sides, and is intended only for shelter or ornamentation. A 'canopy sign' is a sign that is attached to or part of the roof of such a structure.
- 251.33 Car Wash: A facility where motor vehicles are washed, cleaned and/or waxed by hand or with manually operated equipment or automatic machinery.
- 251.34 Certify: Whenever this ordinance requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, the Town may accept certification by telephone from some agency when the circumstances warrant it, or the Town may require that the certification be in the form of a letter or other written document or form.
- 251.35 Changeable sign: Any sign, whether free-standing or attached, intended to display changeable (moveable) copy. However, a changeable sign is not an animated sign or marquee as herein defined.
- 251.36 Changeable Electronic Variable Message Sign (CEVMS): A sign that permits light to be turned on or off intermittently or which is operated in a way whereby light is turned on or off intermittently, including any illuminated sign on which such illumination is not kept stationary or constant in intensity and color at all times when such sign is in use, including an LED (light emitting diode), LCD (liquid crystal display) or digital sign, and which varies in intensity or color. A CEVMS sign shall include digital signs as defined in this Section. A CEVMS shall include digital signs as defined in this Section.
- 251.37 Child Care Home: A home for not more than nine orphaned, abandoned, dependent, abused, or neglected children, together with not more than two adults who supervise such children, all of whom live together as a single housekeeping unit.
- 251.38 Child Care Institution: An institutional facility housing more than nine orphaned, abandoned, dependent, abused, or neglected children.

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- 251.39 Cluster Development: A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.
- 251.40 Commercial Boat/Ship Yards. This Medium Industry use comprises establishments engaged in operating docking facilities for marine craft, with one or more of the following related activities: (i) commercial use or sale of marine fuel, (ii) maintenance and repair services, boat and ship painting, scaling (above or below the water line) which must all be contained in an enclosed, fixed roof facility. Boat repair services such as filter changes, engine repairs, boat maintenance, etc. need not be in a contained facility if these operations pose no risk in emitting pollutants into the surrounding air, land or water. Spray washing of boat bottoms or bottom cleaning in the water need not necessarily be in a contained facility, but must comply with Local, State and Federal regulations. Operations may not emit sound levels that violate the Code of Ordinances of the Town of Oriental. Such activities may also have a commercial travel lift for the purpose of removing and replacing marine craft from the water.
- 251.41 Commercial Fishing Operation. This Light Industry Use comprises establishments engaged in operating commercial fishing craft with docking facilities for commercial fishing craft, that may include one or more of the following related activities: commercial proprietary use of marine fuel; commercial proprietary use of marine supplies; loading of fishing equipment, fishing implements, fishing boat crew and docking personnel; onsite proprietary repair of fishing boats; the offloading and processing of catch. Such operations may not include boat or ship painting or scaling (above or below the water line), or a commercial travel lift for the purpose of removing and replacing marine craft from the water. Operations may not emit sound levels that violate the Code of Ordinances of the Town of Oriental.
- 251.42 Commercial Greenhouses and Nurseries: Establishments primarily engaged in the production of ornamental plants and other nursery products such as bulbs, flowers, shrubbery, flower and vegetable seeds and plants, agricultural plants and sod. Such products may be grown under cover or outdoors (use classification 25.000).
- 251.43 Commemorative Sign: Any sign, marker, tablet or monument which denotes, honors, celebrates or acknowledges an historic person, place or event as long as sign meets N.C. Department of Cultural Resources standards.
- 251.44 Commercial Travel Lift. Mobile equipment designed for the limited purpose of removing and replacing marine craft from the water. Travel Lifts may not exceed lift capacity of thirty-five (35) tons.
- 251.45 Communication (Transmission) Tower: A structure, either freestanding or attached to a building, principally intended to support and/or radiate or receive a source of non-ionizing electromagnetic radiation (NIER) and accessory equipment related to broadcast services, private radio services, cellular telephone services and common carriers (as regulated by the Federal Communications Commission), including AM,

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FM, two-way radio, television and cable antenna television transmission and reception and microwave transmission. The term transmission tower does not include electrical or conventional telephone transmission lines or supporting structures, antennas of amateur radio (ham) operators or of amateur club services licensed by the Federal Communications Commission, satellite dishes and antennas less than seventy-five (75) feet in height with transmitting power of 250 watts or less. The term transmission tower does not include handheld transmitting devices. (Nov 2015)

- 251.46 Condominium: A structural unit, being part of a multi-unit development; portions of which are designated for separate ownership and the remainder of which, including the parcel of land on which the units are located; are designated for common ownership solely by the owners of the units. A development is not considered a condominium unless the undivided interests in the common elements are vested in the unit owners.
- 251.47 Construction sign: Any sign that identifies firms and/or builders and which is erected on the premises of the construction site during the period of construction.
- 251.48 Continuing Care Retirement Communities, also known as continuing care facilities and lifecare communities, differ from other retirement options by providing housing and health-related services either for life or for a period in excess of one year. Continuing Care is defined by North Carolina General Statutes as, the furnishing to an individual other than an individual by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services pursuant to an agreement effective for the life of the individual or for a period in excess of one year.
- 251.49 Convenience Store: A one story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a “supermarket”). It is designed to attract and depend upon a large volume of “stop and go” traffic.
- 251.50 Corner Lot: A lot abutting upon two or more streets at their intersection.
- 251.51 Dangerous sign: Any sign, which the Land Use Administrator determines to be dangerous or prejudicial to the public health or safety.
- 251.52 Day Care Center: A child day care facility as defined in NCGS 110-86 as well as a center providing day care on a regular basis for more than two hours per day for more than five adults.
- 251.53 Dedication: A gift, by the owner, of a right to use of land for a specified purpose or purposes. Because a transfer of property rights is entailed, dedication must be made by written instrument, and is completed with an acceptance.
- 251.54 Density: The ratio of units permitted on a lot to the area of the lot.

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- 251.54a** Determination: A written, final, and binding order, requirement, or determination regarding an administrative decision.
- 251.55 Developer: ~~A person who is responsible for any undertaking that requires a Land Use Permit or a Special Use Permit.~~ 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. This includes an entity who is responsible for any undertaking that requires a Land Use Permit or a Special Use Permit.
- 251.56 Development: ~~That which is to be done pursuant to a Land Use Permit or a Special Use Permit.~~ Any of the following:
- 251.56.1** The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.
 - 251.56.2** The excavation, grading, filling, clearing, or alteration of land.
 - 251.56.3** The subdivision of land as defined in NCGS§160D-802.
 - 251.56.4** The initiation or substantial change in the use of land or the intensity of use of land.
- 251.56a** Development Approval: An administrative or quasi-judicial approval made pursuant to NCGS 160D 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, Land Use Permits, Special Use Permits, and variances. The term also includes all other regulatory approvals required by regulations adopted pursuant to NCGS 160D, including plat approvals, permits issued, development agreements entered into, and building permits issued.
- 251.56b** Development Regulation: A regulation adopted pursuant to NCGS 160D, or a local act or charter that regulates land use or development. This Growth Management Ordinance is a development regulation.
- 251.57 Development sign: Any ground sign or wall sign that is erected for a limited period on a development or building project for the purpose of identification of the project.
- 251.58 Digital sign: An electronic display that shows information, advertising and/or other messages.
- 251.59 Dimensional Nonconformity: A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.
- 251.60 Directional sign: A sign that indicates the location of public buildings, parks, schools, hospitals, scenic or historic places and places of worship.

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- 251.61 Domiciliary Home: A facility, by whatever name called, which provides residential care for aged or disabled persons whose principal need is a home that provides the supervision and personal care appropriate to their age or disability. Domiciliary homes are to be distinguished from nursing care homes. The three types of domiciliary homes are handicapped or infirm homes, child-care homes, and intermediate care homes.
- 251.62 Dormer: Small roof Sections covering only windows inserted into the roofing structure that allows light and ventilation to another existing space covered by a roof and its accompanying eave.
- 251.63 Double Frontage Lot: A continuous (through) lot of the same depth as the width of the block containing two tiers of lots and which is accessible from both of the streets upon which it fronts.
- 251.64 Double-faced sign: A sign with two (2) parallel or nearly parallel faces back to back and located not more than twelve (12) inches from each other are considered as one (1) sign.
- 251.64a Down-Zoning: A map amendment that affects an area of land in either of the following ways:
- 251.64a.1 By decreasing the development density of the land; or
- 251.64a.2 By reducing the permitted uses of the land.
- See also, subsection 235.4.
- 251.65 Driveway: That portion of the parking area that consists of a travel lane bounded on either side by an area that is not part of the parking area.
- 251.65a Dwelling: A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.
- 251.66 Dwelling Unit: ~~An enclosure containing sleeping, kitchen, and bathroom facilities that meet the necessary rules, laws and regulations on proper sanitary systems for water, sewerage and power designed for and used or held ready for use as a permanent residence for a single family. Habitation and occupancy of a structure is for the purpose of making it a residence.~~ A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.
- 251.67 Easement: A grant by the property owner for use by the public, a corporation or person(s) of a strip of land for specific reasons.

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- 251.68 Eave: Any projecting overhanging of a roof over living/ working space of a structure. By definition, eaves over dormers, cupolas, or other ornamental additions are not used in calculating the height restrictions.
- 251.69 Electronic Gaming: 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 cafés, internet sweepstakes, beach sweepstakes or cyber cafes. This does not include any lottery approved by the State of North Carolina.
- 251.70 Entrance sign: Any sign identifying a subdivision or other large development and located at the major entrance point or points to such development.
- 251.70a 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 NCGS 160D.
- 251.71 Exempt sign: Any sign that is specifically listed as exempt from this ordinance.
- 251.72 Expenditure: A sum of money paid out in return for some benefit or to fulfill some obligation. The term also includes binding contractual commitments to make future expenditures, as well as any other substantial changes in financial position.
- 251.73 Family: One or more persons living together as a single housekeeping unit.
- 251.74 Family Care Home: means an adult care home having two to six residents. The structure of a family care home may be no more than two stories high and none of the aged or physically disabled persons being served there may be housed in the upper story without provision for two direct exterior ground-level accesses to the upper story. (G.S. 131D-2.1 , G.S. 131D-20)
- 251.75 Feather/flutter/scooper banner or flag: Light weight material attached to a pole that flutters in a breeze that is used to advertise or draw attention to a business.
- 251.76 Fifth-wheel trailer: A vehicular unit mounted on wheels designed to provide temporary living quarters for recreational, camping, or travel use, of a size and weight that does not require a special highway movement permit and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.
- 251.77 Flag sign: A piece of fabric such as, but not limited to, cloth, plastic or canvas, often flown from a pole or mast, generally used symbolically for signaling, identification or advertisement.
- 251.78 Flags - Patriotic: Flags or insignias of any governmental entity.

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- 251.79 Floor: The top surface of the bottom or base of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in a frame construction. The term does not include the floor of a garage used solely for parking vehicles.
- 251.80 Footprints: The area covered by the roof of a building.
- 251.81 Freestanding sign: A sign that is supported by a sign structure placed in the ground and which is wholly independent of any building, fence, vehicle or object other than the structure for support.
- 251.82 Game Room: A use providing video games or other games for playing for amusement and recreation. Any table games such as air hockey, football, pinball, or the like shall be included under this definition.
- 251.83 Generic sign: A sign identifying a common category of product sold on the premises, but which does not denote a brand name, patented or copyrighted item.
- 251.84 Government Offices: The offices of the executive, legislative, judicial, administrative and regulatory branches of federal, state, and local government.
- 251.85 Gross Floor Area: The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy or storage.
- 251.86 Ground Mounted Solar Energy System is an SES that is permanently affixed to the ground. The Footprint of a Ground Mounted SES is calculated by drawing a perimeter around the outermost SES panels and any equipment necessary for the functioning of the SES, such as transformers and inverters.
- 251.87 Ground sign: A freestanding sign flush to the ground and not elevated upon poles or stanchions and not attached to a building.
- 251.88 Group Development: A development comprising two or more buildings such as a group of apartments, townhouses, or a condominium where the land is not subdivided into the customary streets and lots.
- 251.89 Group Home for developmentally disabled adults means an adult care home which has two to nine developmentally disabled adult residents.
- 251.90 Halfway House: A dwelling unit designed as a temporary, supervised residences for: (i) persons with current illegal use of or addiction to a controlled substance; (ii) persons convicted of crimes involving the manufacture or sale of illegal drugs; or (iii) persons_ who are "dangerous to others" as defined in N.C.G.S. § 122C-3(1 l)(b). Temporary, supervised dwelling units intended only for the recovery of substance abuse patients or intended only for treatment and care for persons with defined disabilities under the federal Fair Housing Act are not Halfway Houses.

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- 251.91 Handicapped or Infirm Home: A residence within a single dwelling unit for at least two but not more than nine persons who are physically or mentally handicapped or infirm, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.
- 251.92 Handicapped or Infirm Institution: An institutional facility housing and providing care or assistance for more than nine persons who are physically or mentally handicapped or infirm. Persons residing in such homes, including the aged or disabled, principally need residential care rather than medical treatment.
- 251.93 Handicapped Person: A person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in NCGS §122C-3(11)b.
- 251.94 Height of sign: The distance as measured from the general grade of the lot.
- 251.95 High Volume Traffic Generation: All uses in the 2.000 classification other than low volume traffic generation uses.
- 251.96 Highest Adjacent Grade: The highest natural elevation of the ground surface, prior to construction, next to proposed walls of the structure.
- 251.97 Holiday Decoration: Decoration normally associated with a recognized holiday season.
- 251.98 Home Occupation Sign: A sign in association with a legitimate home occupation conducted on the premises of a single-family dwelling occupied by the operator of the business.
- 251.99 Homeless Shelter: A facility owned or operated by an agency for persons who are in need of temporary housing due to various unusual circumstances.
- 251.100 Home Occupation: The use of a dwelling unit located in a residential district for commercial activities that are clearly subordinate to the principal residential use of the dwelling.
- 251.101 Hospital means a public or private institution which is primarily engaged in providing inpatients, by or under supervision of physicians, diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or rehabilitation services for the rehabilitation of injured, disabled, or sick persons. The term includes all facilities licensed pursuant to G.S. 131E-77 of the General Statutes, except long-term care hospitals. (G.S. 131E-176)

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251.102 Hotel: 'Hotel' means a building or building complex which is a business establishment renting rooms for nightly or weekly habitation, for the accommodation of for a period less than a month and is licensed to serve food or drink to overnight guests. A Hotel may also sell licensed meals, service of food and drink, to the general public.

See also, Bed and Breakfast or Inn, Boarding House, and Tourist Home. (Dec 2015)

251.103 Illuminated Sign: Any sign which is directly lighted by any electrical light source, internal or external, except light sources specifically and clearly operated for the purpose of lighting the general area in which the sign is located rather than the sign itself.

251.104 Impervious Surface: Any material, such as asphalt, concrete, crushed stone, wood, metal, or other similar material with a solid surface, including gravel which contains pieces averaging less than (three-quarter) $\frac{3}{4}$ inch in diameter, which reduces or prevents absorption of storm water into the land upon which it rests. Decking and planking which does not exceed 10 nominal inches and which provides at least a one-eighth inch space between its planks shall be considered pervious. (Dec 2015)

251.105 Industrial Boat/Ship Yards. This Heavy Industry Use comprises establishments engaged in operating, building, and/or repairing commercial marine craft, providing docking facilities for commercial or pleasure craft longer than 49 feet, that may include one or more of the following related activities: commercial proprietary use of marine fuel; commercial proprietary use of marine supplies; fabrication equipment capable of building a ship, boat or barge, all of which are defined as watercraft typically suitable or intended for commercial use or uses other than personal or recreational use.

251.106 Industry, Heavy. Heavy Industry Uses include industrial uses that, due to their appearance, risk of noise, odor, risk of toxic emissions, or fire and explosion hazards, are incompatible with residential, commercial, and other land uses.

251.107 Industry, Light. Light Industry Uses include wholesale, warehouse, and other uses that carry out their operations such that no nuisance is created, and all operations are conducted inside an enclosed building. This group of Uses is primarily intended to describe limited manufacturing, wholesaling, warehousing, research and development, and related commercial/service activities which in their normal operations, have little or no adverse effect upon adjoining properties. Light Industry Uses are not permitted in any Flood Risk Information System (FRIS) designated Flood Zones.

251.108 Industry, Medium. Medium Industry Uses is primarily intended to accommodate a wide range of assembling, fabricating, and manufacturing activities. The allowable zone (s) is(are) established for the purpose of providing appropriate locations and development regulations for uses which may have significant environmental impacts or require special measures to ensure compatibility with adjoining properties. This

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Use includes manufacturing, processing, assembly, distribution, service and repair uses that carry out part of their operation outdoors or require outdoor storage areas. Any pollution, noise, light, odor, or other nuisances associated with these uses will not extend beyond the site. Medium Industrial uses are not permitted in any Flood Risk Information System (FRIS) designated Flood Zones.

- 251.109 Integrated Solar Energy System is a SES where solar materials are incorporated into building materials, such that the two are reasonably indistinguishable, or where solar materials are used in place of traditional building components, such that the SES is structurally an integral part of a house, building, or other structure. An Integrated SES may be incorporated into, among other things, a building facade, skylight, shingles, canopy, light, or parking meter.
- 251.110 Intermediate Care Facility for the Mentally Retarded means facilities licensed pursuant to Article 2 of Chapter 122C of the General Statutes for the purpose of providing health and habilitative services based on the developmental model and principles of normalization for persons with mental retardation, autism, cerebral palsy, epilepsy or related conditions. G.S. 131E-176)
- 251.111 Junkyard: An establishment or place of business that is maintained, operated or used for storing, keeping, buying or selling junk, including but not limited to a vehicular junkyard or sanitary landfills.
- 251.112 Kennel: A commercial operation that:
- 251.112.1 provides food and shelter and care of animals for temporary boarding purposes not primarily related to medical care (a kennel may or may not be run by or associated with a veterinarian), which may
 - 251.112.2 engage in the breeding of animals for sale, or may
 - 251.112.3 engage in the training or breeding of animals, or which may
 - 251.112.4 engage in providing animal grooming services. (Dec 2015)
- 251.113 Kiosk sign: An attached sign advertising a permanent freestanding service.
- 251.114 Land Use Administrator: See, 'Administrator'.
- 251.115 Land Use Permit: A permit issued by the Land Use Administrator that authorizes the recipient to make use of property in accordance with the requirements of this ordinance.
- 251.115a Legislative Decision: The adoption, amendment, or repeal of a regulation under NCGS 160D 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 NCGS 160D.

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- 251.115b** **Legislative Hearing: A hearing to solicit public comment on a proposed legislative decision.**
- 251.116 Level 1 SESs are systems that are an accessory to a principal use (see Sections 251.3 and 64). These include Integrated, Roof Mounted, and Ground Mounted Systems.
- 251.117 Level 2 SESs are Ground Mounted Systems that are an accessory to a principal use and exceed 50% of the primary structure footprint or are the principal use of the property (e.g., a Solar Farm).
- 251.118 Light Cranes. Light cranes are fixed cranes designed or installed for the limited purpose of removing and replacing marine craft from the water. Light Cranes may not exceed a lifting capacity over 20 tons. This definition of Light Cranes does not apply to mobile travel lifts. Rented mobile light cranes on wheels are permitted for a specific requirement/limited duration use and shall be removed from the property when the requirement/limited duration use is completed. Temporary mobile cranes may not exceed a lifting capacity over 20 tons.
- 251.119 Light Emitting Diode (LED)/Liquid Crystal Display (LCD) sign: a sign that possesses alphabetic, pictographic, or symbolic content that can be changed or altered on a display screen using light-emitting diode technology, liquid crystal technology, or other technology that produces an electronic image on a display screen.
- 251.120 Logotype sign: A freestanding or attached sign that depicts a distinctive company signature, trademark, nameplate, etc. However, a logotype sign is not sign artwork or a business sign or a directional sign as herein defined.
- 251.121 Lot: A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded plat or map and which is recognized as a separate legal entity for purposes of transfer of title of real estate.
- 251.122 Lot Boundary Line: The outer edges of a Lot.
- 251.123 Lot Width: The distance between the side lot lines at the front minimum building line.
- 251.124 Low Volume Traffic Generation: Commercial use of a building for sale of items such as furniture stores, carpet stores, major appliance stores, etc. that sell items that are large and bulky, that need a relatively large amount of storage or display area for each unit offered for sale, and that therefore generate less customer traffic per square foot of floor space than stores selling smaller, everyday items.
- 251.125 Manufactured Home: A dwelling unit transportable in one or more Sections, which is built on a permanent chassis and designed to be used as a dwelling with or without permanent foundation when connected to the required utilities, and includes the plumbing, heating, and electrical systems contained therein. This definition should not be interpreted to include any types of Recreational Vehicles (RVs) which may equal or exceed the body length, width, or area specified herein: (June 2021)

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- 251.125.1 Has a minimum width of sixteen (16) feet;
 - 251.125.2 Has a continuous, permanent brick, stone or stucco curtain wall or foundation, or vinyl underpinning, unpierced except for ventilation and access, installed under the home;
 - 251.125.3 Has a roof finished with roofing material with a fire rating of Class C or better and that is commonly used in standard residential construction;
 - 251.125.4 Has a roof structure that provides an eave projection of no less than six (6) inches, which may include a gutter;
 - 251.125.5 Is set up in accordance with the standards set by the North Carolina Department of Insurance;
 - 251.125.6 Has stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home installed or constructed in accordance with the standards set by the North Carolina Department of Insurance and attached firmly to the primary structure and anchored securely to the ground;
 - 251.125.7 The moving hitch, wheels and axles and transporting lights have been removed.
 - 251.125.8 Is rated for Wind II Zone (unless constructed prior to June 15, 1976).
- 251.126 Manufactured Structure, Commercial: A prefabricated building constructed and designed for transportation on its own chassis or by truck after fabrication and intended for other than residential use. These structures shall be constructed to meet the standards of the North Carolina Building Code. A converted manufactured home does not meet these criteria. A commercial manufactured structure meeting these standards shall be allowed for permanent placement for commercial and industrial uses.
- 251.127 Marquee sign: A projecting sign attached to or hung from a canopy or covered structure projecting from and supported by a building.
- 251.128 Menu-board/specials board: A sign affixed to the building and shall be considered temporary.
- 251.129 Merchandise: Goods and commodities that sit upon the premises and are bought and sold within a business's premises and not to be construed as signage or advertising.
- 251.130 Mixed Use Building: Any structure that combines residential use with non-residential use.
- 251.131 Modular Home: A dwelling unit constructed in accordance with the standards set forth in the State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final

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- assembly on a permanent foundation. Among other possibilities, a Modular Home may consist of two or more Sections transported to the site in a manner similar to a manufactured home or a series of panels or room Sections transported on a truck and erected or joined together on the site. For purposes of the GMO, a Modular Home is treated as a site-built building.
- 251.132 Motor Home: Motor home or house car: A vehicular unit, designed to provide temporary living quarters, built into as an integral part, or permanently attached to, a self-propelled motor vehicle chassis or van. The vehicle must provide at least four of the following facilities: cooking, refrigeration or icebox, self-contained toilet, heating or air conditioning, a portable water supply system including a faucet and sink, separate 110-125-volt electrical power supply, or an LP gas supply.
- 251.133 Multi-unit development: A parcel of land upon which is located or is to be located either one (1) structure containing two (2) or more units or two (2) or more structures each of which contains one (1) or more units.
- 251.134 Mural: A large picture or graphic illustration that is painted or mounted directly to the surface of an existing building and covers more than thirty percent (30%) of the building face on which it is displayed.
- 251.135 Nonconforming Lot: A lot existing at the effective date of this ordinance (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area or dimensional requirement of the district in which the lot is located.
- 251.136 Nonconforming Project: Any structure, development, or undertaking that is incomplete on the effective date of this ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.
- 251.137 Nonconforming sign. Any sign that is erected and in place prior to the adoption of this ordinance and which does not conform to the provisions of this ordinance is declared a non-conforming sign. A sign that is erected and that is in place and which conforms to the provision of the sign ordinance at the time it is erected, but which does not conform to an amendment to this ordinance enacted subsequent to the erection of said sign is declared a nonconforming sign.
- 251.138 Nonconforming Situation: A situation that occurs when, on the effective date of this ordinance, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. This includes but is not limited to other non-conforming possibilities, such as a lot that does not meet minimum acreage requirements, structures which exceed maximum height limitations, or the relationship between existing buildings and the land (in such matters as density and set-back requirements) are not in conformity with the GMO, or because land or buildings are used for purposes made unlawful by the GMO.

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- 251.139 Nonconforming Use: A situation occurring when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use). The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with operating a bakery in a residentially designated area constitutes a nonconforming use.)
- 251.140 Nursing Home means a facility which is advertised, announced, or maintained for the express or implied purpose of providing nursing or convalescent care for three or more persons unrelated to the licensee. A nursing home is a home for chronic or convalescent patients, who, on admission, are not as a rule, acutely ill and who do not require special facilities such as an operating room, X-ray facilities, laboratory facilities, and obstetrical facilities. A nursing home provides care for persons who have remedial ailments or other ailments, for which medical and nursing care are indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. (G.S. 131E-101)
- 251.140.1 An intermediate care facility is licensed by the state to provide 24-hour basic medical care under the supervision of a registered nurse who may be on call and not necessarily on duty. Basic medical care includes rehabilitative and recuperative care, but not more intensive medical procedures such as intravenous therapy and feeding tubes. The staff-to patient ratio is lower than in a skilled nursing facility.
- 251.140.2 A skilled nursing facility is also licensed by the state and provides 24-hour nursing care with at least one registered nurse on duty during the day. Care is provided under the supervision of a licensed physician who is on call. The facility is equipped to provide more intensive medical procedures such as intravenous therapy and feeding tubes. This is subacute care, which is the highest degree of nursing care outside of a hospital.
- 251.141 Nursing Care Institution: A Skilled Nursing Facility: which can have more than nine residential patients. (Dec 2015)
- 251.142 Obscene sign: Signs which contain obscene, suggestive, or offensive words, or words and pictures, which would be inconsistent with a family-oriented community.
- 251.143 Occupant/street number sign: A sign bearing only the name of the principal occupant of a residence or street number of any residential, commercial or other structure.
- 251.144 Off-premise sign: A sign as herein defined which is associated with the purpose of the activity or structure which occupies a lot other than the lot on which it is located.
- 251.145 On-premise sign: A sign as herein defined which is associated with the purpose of the activity or structure which occupies the lot on which it is located.

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- 251.146 Open/closed or vacancy sign: A sign that directs attention to the fact that an establishment is open or closed for business or that rental units are available.
- 251.147 Parking Space: A portion of parking area set aside for the parking of one vehicle, not less than twenty (20) feet long by nine (9) feet wide.
- 251.148 Person: An individual, trustee, executor, or other fiduciary, a corporation, firm, partnership, association, organization, or other legal entity acting as, or on behalf of, an individual, acting as an agent or as a fiduciary.
- 251.149 Pervious Surface: Any material such as stone, marl or gravel, or other similar material (three-quarter) $\frac{3}{4}$ inch or larger in diameter which enhances or allows absorption of storm water into the land upon which it rests. This includes decking and planking which does not exceed 10 nominal inches and which provides at least a one-eighth inch space between its planks.
- 251.150 Planned Residential Development: A development constructed on a tract of at least five acres under single ownership, planned and developed as an integral unit a neighborhood, and consisting of single-family detached residences combined with either two-family residences or multi-unit residences.
- 251.151 Planned Unit Development: A development constructed on a tract of at least twenty-five acres under single ownership, planned and developed as an integral unit a neighborhood, and consisting of a combination of residential and nonresidential uses on land. All planned unit developments are subject to the provisions of Section 127 (Planned Unit Developments).
- 251.152 Planning and Development Regulation Jurisdiction: The geographic area defined in Part 2 of NCGS 160D within which a city or county may undertake planning and apply the development regulations authorized by NCGS 160D.
- 251.152³ Planning Board: The body appointed by the Oriental Town Commissioners whose purpose is to make recommendations regarding land use matters.
- ~~251.153 **Planning Jurisdiction: The area within the town limits and the area beyond the town limits within which the Town is authorized to plan for and regulate development.**~~
- 251.154 Plat: A map or plan of a parcel which is to be or has been subdivided.
- 251.155 Pleasure Craft Only Marinas: This Commercial Business Use comprises establishments commonly known as marinas, engaged in operating docking facilities for pleasure marine craft, and mooring pleasure craft on a temporary or permanent basis. Pleasure Craft Marinas may or may not include one or more of the following related activities: retail sale of fuel, retail sale of marine supplies, pump-outs, fuel stations, and dinghy storage. Pleasure Craft Only Marinas may not have travel lifts or light cranes.

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- 251.156 Political or campaign sign: Refers only to the issues or candidates involved in religious, charitable, civic, fraternal, political and similarly organized elections.
- 251.157 Portable sign: A sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes and shall include trailer and A-frame signs.
- 251.158 Premise: A tract of real property in single ownership, which is not divided by a public street or right-of-way.
- 251.159 Product name sign: A sign that depicts a brand-named product.
- 251.160 Professional Offices: An establishment primarily engaged in providing: engineering, architectural and surveying services; accounting, auditing and bookkeeping services; consulting, public relations services; legal services; real estate services; the services of insurance agents, brokers and carriers; the services of security and commodity brokers; and the services of bank holding companies.
- 251.160a Public Hearing: The term 'Public Hearing' has been replaced with the terms 'Evidentiary Hearing' and 'Legislative Hearing'.
- See also, Evidentiary Hearing and Legislative Hearing.
- 251.161 Public Water Supply System: Any water supply system furnishing potable water to ten or more dwelling units or businesses or any combination thereof.
- 251.161a Quasi-Judicial Decision: A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.
- 251.162 Real estate sign, temporary: A sign that advertises the sale and/or lease of the property. Any other type of sign advertising real estate, except a perpetual real estate sign, shall conform to the types of signs defined in this Section and as restricted in Section 111 (Exempt Signs, Prohibited Signs, and Signs Requiring a Permit).
- 251.163 Recreational Vehicle: A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motive power or is mounted on, or towed by, another vehicle. The basic entities are camping trailer, fifth-wheel travel trailer, motor home, travel trailer, and truck camper.

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- 251.164 Residence, Multi-Unit: A residential use consisting of a building containing two or more dwelling units. For the purposes of this definition, a building including all dwelling units that are enclosed within that building or attached to it by a common floor or wall (including without limitation the wall of an attached garage or porch).
- 251.165 Residence, Primary with Accessory Apartment: A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than twenty-five percent of the gross floor area of the building nor more than a total of 750 square feet.
- 251.166 Residence, Single-Family Detached, More Than One Dwelling Per Lot: A residential use consisting of two or more single-family detached dwelling units on a single lot.
- 251.167 Residence, Single-Family Detached, One Dwelling Unit Per Lot: A residential use consisting of a single detached building containing one dwelling unit and located on a lot containing no other dwelling units.
- 251.168 Residence, Temporary Dependent Care: A temporary residence on the same lot as a principal dwelling. Such temporary residence, which may be an apartment or manufactured home (if permitted in the district in which proposed to be located), is intended for short-term occupancy by a person or persons receiving care and/or supervision by a related person or persons occupying the principal dwelling.
- 251.169 Residential sign: Small uniform signs denoting private property or private piers.
- 251.170 Residential Treatment Facility: A residential treatment or rehabilitation facility which provides active treatment and a structured living environment for individuals with mental health or substance abuse disorders in a group setting.
- 251.171 Rest Home: A facility consisting of a building or buildings maintained for the purpose of providing accommodations for functionally dependent occupants not needing residential medical care, continuous supervision at a lower level than those levels of care provided in skilled nursing care facilities or Assisted Living Facilities. Rest Homes may serve meals to its residents by a licensed kitchen as part of their rent. (Dec 2015)
- 251.172 Restaurant: An establishment, which serves food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas.
- 251.173 Right-of-way signs: Signs which are erected or placed in a street right-of-way.
- 251.174 Road: All private ways used to provide motor vehicle access to two or more lots or two or more distinct areas or buildings in unsubdivided developments.
- 251.175 Roof sign: A sign affixed to the roof of a building.
- 251.176 Rooftop Solar Energy System is an SES that is permanently affixed to a roof.

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- 251.177 Rooming House: (See Boarding House) (Dec 2015)
- 251.178 Safety imitation signs: Signs which imitate, or in any way approximate, official highway signs, or which are erected in a way that obscures a sign displayed by a public authority.
- 251.179 Satellite Dish Antenna or Satellite Earth Station: An antenna and attendant processing equipment for reception of electronic signals from satellites. Antennas and dishes exempted from local land use regulations by the Telecommunications Act of 1996 are not subject to these provisions.
- 251.180 Secured Residential Treatment Facility. A residential treatment or rehabilitation facility which provides treatment and a structured living environment for individuals with mental health or substance abuse disorders in a group setting. Secure facilities will house residents who 1) have been convicted of crimes involving the use, manufacture, or sale of illegal drugs; or 2) persons who are "dangerous to themselves or others" as defined in N.C.G.S. § 122C-3. Secure facilities limit access into or out of the facility to minimize risk to the public.
- 251.181 Shopping Center: A group of commercial establishments planned, developed, and managed as a unit with a unified design of buildings and with coordinated parking and service areas all located on a parcel of land.
- 251.182 Shoreline sign: A sign that is intended to be read from the water.
- 251.183 Side Street: The street other than the front street of a corner lot.
- 251.184 Sign: Any object, device, structure or part thereof used to advertise, identify, display or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.
- 251.185 Special Events: Circuses, fairs, carnivals, festivals, or other types of special events that;
- 251.185.1 run for longer than two days but not longer than two weeks,
 - 251.185.2 are intended to or likely to attract substantial crowds, and
 - 251.185.3 are unlike the customary or usual activities generally associated with the property where the special event is to be located.
- 251.186 Special Use Permit: A permit issued by the Town Commissioners that authorizes the recipient to make use of property in accordance with the requirements of this chapter as well as any additional requirements imposed by the Town Commissioners.
- 251.187 Street: A public street or a street with respect to which an offer of dedication has been made.

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- 251.188 Street pavement signage: Markings, drawing and/or writing on streets using any kind of medium.
- 251.189 Structure: Anything constructed or erected.
- 251.190 Subdivider: Any person, firm, or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.
- 251.191 Subdivision: The division of a tract of land into two or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and including all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations of this ordinance applicable strictly to subdivisions:
- 251.191.1 the combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the minimum standards set forth in this ordinance; or
 - 251.191.2 the division of land into parcels greater than ten acres where no street right-of-way dedication is involved; or
 - 251.191.3 the public acquisition by purchase of strips of land for widening or opening streets; or
 - 251.191.4 the division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this ordinance.
- 251.192 Subdivision, minor: A division of a tract of land as in the definition of ‘Subdivision’ above and also meets all of the following criteria:
- 251.192.1 no new public or private streets, access easements, or right-of way dedication are proposed;
 - 251.192.2 no changes in existing streets are proposed;
 - 251.192.3 no extension of utility infrastructure is proposed;
 - 251.192.4 the entire tract to be subdivided is five acres or less in size;
 - 251.192.5 a total of six or fewer lots will result after the subdivision is complete.
- 251.193 Tattoo Parlor: Any premises where a Tattoo artist does tattooing for a fee or for other consideration. A Tattoo Artist means one who engages in tattooing with a mark or to color the skin by pricking and introducing subcutaneously, non-toxic dyes, pigments, or by the production of scars to form indelible marks or figures.

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- 251.194 Temporary Emergency, Construction and Repair Residences. These are temporary residences, introduced or erected following a weather, earthquake, fire or other calamity event. They are to be dwellings for the person, persons or family who resided in such property immediately prior to the weather earthquake, fire or other calamity event which made their dwelling uninhabitable. The temporary emergency, construction and repair residence must be located upon the property where such person(s) resided immediately prior to the weather earthquake, fire or other calamity event. Temporary emergency, construction and repair residences are permitted for the limited period of time during which the construction and repair of such dwelling continues, until: (i) the re-constructed property is ready for a certificate of occupancy; (ii) when any permit issued by the Town expires; or (iii) the temporary emergency, construction and repair residence is removed from the premises, whichever period of time is shortest. See also, Section 60.2.3.4 and category 23.000 in the Table of Permissible Uses of GMO Section 66.
- 251.195 Temporary pole sign: Signs identifying commercial interest or advertising signs placed on public utility poles, telephone poles, trees, parking meter poles, benches, and refuse containers.
- 251.196 Temporary sign: A sign with or without a structural frame and intended for a limited period of display.
- 251.197 Thoroughfare Plan: The Thoroughfare Plan adopted by the Town of Oriental and the North Carolina Department of Transportation as the basis for the development of the street and highway system in the Town.
- 251.198 Time/temperature sign: A sign that displays time and temperature in alternating light cycles.
- 251.199 Tourist Home: A residential home used, designed or intended to be rented out as a single dwelling unit for short-term periods of time, for temporary habitation by tourists and visitors. A Tourist Home may not provide food or drink to its renters.
- See also, Bed and Breakfast or Inn, Boarding House, and Hotel. (Dec 2015)
- 251.200 Tower: See Communications Tower.
- 251.201 Townhouse: A structural unit, being part of a townhouse development, in which each unit fully or partially abuts one or more units. Each unit shall be conveyed with an underlying parcel of land being designated as a lot within the townhouse development.
- 251.202 Townhouse development: A multi-unit development that is to be or has been divided into individual lots with each lot containing or to contain a townhouse unit.
- 251.203 Tract: (See Lot definition) The term tract is used interchangeably with the term lot, particularly in the context of subdivisions, where one “tract” is subdivided into several “lots.”

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- 251.204 Travel trailer: A vehicular unit mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of a size or weight that does not require a special highway movement permit when towed by a motorized vehicle.
- 251.205 Truck camper: A portable unit that is constructed to provide temporary living quarters for recreational, camping, or travel use, consisting of a roof, floor, and sides and is designed to be loaded onto and unloaded from the bed of a pickup truck.
- 251.206 Unit: An enclosed space consisting of one or more rooms occupying all or part of a building whether it be designed for residence, for office, for the operation of any industry or business, or for any other type of independent use or combination of uses.
- 251.207 Use: The activity or function that actually takes place or is intended to take place on a lot.
- 251.208 Use, Principal: A use listed in the Table of Permissible Uses, Section 66.
- 251.209 Utility Facilities: Any above-ground structures or facilities (other than buildings, unless such buildings are used as storage incidental to the operation of such structures or facilities) owned by a governmental entity, a nonprofit organization, corporation, or any entity defined as a public utility for any purpose by NCGS 62-3 and used in connection with the production, generation, transmission, delivery, collection, or storage of water, sewage, electricity, gas, oil, or electronic signals. Excepted from this definition are utility lines and supporting structures.
- 251.210 Utility Facilities, Community or Regional: All utility facilities other than neighborhood facilities.
- 251.211 Utility Facilities, Neighborhood: Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.
- 251.212 Variance: A grant of permission by the Board of Adjustment that authorizes the recipient to do that which, according to strict interpretation, he could not otherwise legally do.
- 251.213 Warning or danger sign: A sign erected by a public utility or construction company to warn of hazardous conditions.
- 251.214 Wholesale Sales: On-premises sales of goods primarily to customers engaged in the business of reselling the goods.
- 251.215 Wind Device: Any flag, banner, feather banner, burgee, pennant, streamer or similar device that moves freely in the wind.

- 251.216 Window sign: A sign with or without a structural frame located in the window of a business establishment.
- 251.217 Yard sale sign: A sign with or without a structural frame and intended for the express advertisement of a sale of personal goods by an individual or organization during a limited period of time.

ARTICLE XVII. FLOOD DAMAGE PREVENTION ORDINANCE

Section 260 Statutory Authorization, Findings of Fact, Purpose and Objectives

Section 260.1 Statutory Authorization

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D (Effective January 1, 2021) of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Board of Commissioners of the Town of Oriental, North Carolina, does ordain as follows:

Section 260.2 Findings of Fact

- 260.2.1 The flood prone areas within the jurisdiction of the Town of Oriental are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- 260.2.2 These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

Section 260.3 Statement of Purpose

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- 260.3.1 Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

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- 260.3.2 Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- 260.3.3 Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- 260.3.4 Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- 260.3.5 Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section 260.4 Objectives

The objectives of this ordinance are to:

- 260.4.1 Protect human life, safety, and health;
- 260.4.2 Minimize expenditure of public money for costly flood control projects;
- 260.4.3 Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- 260.4.4 Minimize prolonged business losses and interruptions;
- 260.4.5 Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- 260.4.6 Minimize damage to private and public property due to flooding;
- 260.4.7 Make flood insurance available to the community through the National Flood Insurance Program;
- 260.4.8 Maintain the natural and beneficial functions of floodplains;
- 260.4.9 Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- 260.4.10 Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

Section 261 Definitions

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Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

“Accessory Structure (Appurtenant Structure)” means a structure located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban accessory structures. Pole barns, hay sheds and the like qualify as accessory structures on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

“Addition (to an existing building)” means an extension or increase in the floor area or height of a building or structure.

“Alteration of a watercourse” means a dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

“Appeal” means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

“Area of Shallow Flooding” means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

“Area of Special Flood Hazard” see “Special Flood Hazard Area (SFHA)”.

“Base Flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

“Base Flood Elevation (BFE)” means a determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a “Special Flood Hazard Area”, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the “Freeboard”, establishes the “Regulatory Flood Protection Elevation”.

“Basement” means any area of the building having its floor subgrade (below ground level) on all sides.

“Breakaway Wall” means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

“Building” see “Structure”.

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“Chemical Storage Facility” means a building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

“Coastal Area Management Act (CAMA)” means North Carolina’s Coastal Area Management Act, this act, along with the Dredge and Fill Law and the Federal Coastal Zone Management Act, is managed through North Carolina Department of Environmental Quality (NCDEQ) Division of Coastal Management (DCM).

“Coastal A Zone (CAZ)” means an area within a special flood hazard area, landward of a V zone or landward of an open coast without mapped V zones. In a Coastal A Zone, the principal source of flooding must be astronomical tides, storm surges, seiches, or tsunamis, not riverine flooding. During the base flood conditions, the potential for wave heights shall be greater than or equal to 1.5 feet. Coastal A Zones are not normally designated on FIRMs. (see Limit of Moderate Wave Action (LiMWA))

“Coastal Barrier Resources System (CBRS)” consists of undeveloped portions of coastal and adjoining areas established by the Coastal Barrier Resources Act (CoBRA) of 1982, the Coastal Barrier Improvement Act (CBIA) of 1990, and subsequent revisions, and includes areas owned by Federal or State governments or private conservation organizations identified as Otherwise Protected Areas (OPA).

“Coastal High Hazard Area” means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Section 262.2 of this ordinance, as Zone VE.

“Design Flood” See “Regulatory Flood Protection Elevation.”

“Development” means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

“Development Activity” means any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

“Digital Flood Insurance Rate Map (DFIRM)” means the digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

“Disposal” means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

“Elevated Building” means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

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“Encroachment” means the advance or infringement of uses, fill, excavation, buildings, structures or development into a special flood hazard area, which may impede or alter the flow capacity of a floodplain.

“Existing building and existing structure” means any building and/or structure for which the “start of construction” commenced before December 4, 1985, the effective date of the initial FIRM.

“Existing Manufactured Home Park or Manufactured Home Subdivision” means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before August 5, 1985, the effective date of the initial floodplain management regulations (Pamlico County) adopted by the community.

“Flood” or “Flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (a) The overflow of inland or tidal waters; and/or
- (b) The unusual and rapid accumulation or runoff of surface waters from any source.

“Flood Boundary and Floodway Map (FBFM)” means an official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

“Flood Hazard Boundary Map (FHBM)” means an official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

“Flood Insurance” means the insurance coverage provided under the National Flood Insurance Program.

“Flood Insurance Rate Map (FIRM)” means an official map of a community, issued by the FEMA, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated. (see also DFIRM)

“Flood Insurance Study (FIS)” means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

“Flood Prone Area” see “Floodplain”

“Flood Zone” means a geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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“Floodplain” means any land area susceptible to being inundated by water from any source.

“Floodplain Administrator” is the individual appointed to administer and enforce the floodplain management regulations.

“Floodplain Development Permit” means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

“Floodplain Management” means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

“Floodplain Management Regulations” means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes federal, state or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

“Floodproofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

“Flood-resistant material” means any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

“Floodway” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

“Floodway encroachment analysis” means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirement of the National Flood Insurance Program.

“Freeboard” means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and

floodway conditions, such as wave action, blockage of bridge or culvert openings, storm surge or precipitation exceeding the base flood, and the hydrological effect of urbanization of the watershed. The BFE plus the freeboard establishes the “Regulatory Flood Protection Elevation”.

“Functionally Dependent Facility” means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

“Hazardous Waste **Management** Facility” means, as defined in NCGS 130A-290(a)(9), Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste. This definition does not include a hazardous waste transfer facility that meets the requirements of 40 Code of Federal Regulations § 263.12.

“Highest Adjacent Grade (HAG)” means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

“Historic Structure” means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a local inventory of historic landmarks in communities with a “Certified Local Government (CLG) Program”; or
- (d) Certified as contributing to the historical significance of a historic district designated by a community with a “Certified Local Government (CLG) Program.”

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

“Letter of Map Change (LOMC)” means an official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the

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floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.

- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

“Light Duty Truck” means any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

“Limit of Moderate Wave Action (LiMWA)” means the boundary line given by FEMA on coastal map studies marking the extents of Coastal A Zones (CAZ).

“Lowest Adjacent Grade (LAG)” means the lowest elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

“Lowest Floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

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“Manufactured Home” means a structure, transportable in one or more Sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

“Manufactured Home Park or Subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Map Repository” means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carry the same authority as hard copy products. Therefore, the NCEM’s Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data, the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

“Market Value” means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

“New Construction” means structures for which the “start of construction” commenced on or after August 5, 1985, the effective date of the initial floodplain management regulations (Pamlico County) and includes any subsequent improvements to such structures.

“Non-Encroachment Area (NEA)” means the channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

“Otherwise Protected Area (OPA)” see “Coastal Barrier Resources System (CBRS)”.

“Post-FIRM” means construction or other development for which the “start of construction” occurred on or after December 4, 1985, the effective date of the initial Flood Insurance Rate Map.

“Pre-FIRM” means construction or other development for which the “start of construction” occurred before December 4, 1985, the effective date of the initial Flood Insurance Rate Map.

“Primary Frontal Dune (PFD)” means a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves during major coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from a relatively steep slope to a relatively mild slope.

“Principally Above Ground” means that at least 51% of the actual cash value of the structure is above ground.

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“Public Safety” and/or “Nuisance” means anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

“Recreational Vehicle (RV)” means a vehicle, which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck;
- (d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use, and
- (e) Is fully licensed and ready for highway use.

For the purpose of this ordinance, “Tiny Homes/Houses” and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

“Reference Level” means the bottom of the lowest horizontal structural member of the lowest floor for structures within all Special Flood Hazard Areas.

“Regulatory Flood Protection Elevation” means the “Base Flood Elevation” plus the “Freeboard”. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus four (4) feet freeboard. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least four (4) feet above the highest adjacent grade.

“Remedy a Violation” means to bring the structure or other development into compliance with state and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

“Riverine” means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

“Salvage Yard” means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

“Sand Dunes” means naturally occurring accumulations of sand in ridges or mounds landward of the beach.

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“Shear Wall” means walls used for structural support but not structurally joined or enclosed at the end (except by breakaway walls). Shear walls are parallel or nearly parallel to the flow of the water.

“Solid Waste Disposal Facility” means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

“Solid Waste Disposal Site” means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

“Special Flood Hazard Area (SFHA)” means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Section 262.2 of this ordinance.

“Start of Construction” includes substantial improvement and means the date the building permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

“Structure” means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

“Substantial Damage” means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of “substantial improvement”. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

“Substantial Improvement” means any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code

enforcement official and which are the minimum necessary to assure safe living conditions; or

- (b) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 263.5 of this ordinance.

“Technical Bulletin and Technical Fact Sheet” means a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

“Temperature Controlled” means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

“Variance” is a grant of relief from the requirements of this ordinance.

“Violation” means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Sections 263 and 264 is presumed to be in violation until such time as that documentation is provided.

“Water Surface Elevation (WSE)” means the height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

“Watercourse” means a lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

Section 262 General Provisions

Section 262.1 Lands to which this Ordinance Applies

This ordinance shall apply to all Special Flood Hazard Areas within the **planning and development regulation** jurisdiction of the Town of Oriental, ~~including Extra-Territorial Jurisdictions (ETJs) as allowed by law.~~

Section 262.2 Basis for Establishing the Special Flood Hazard Areas

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated June 19, 2020 for Pamlico County and associated DFIRM panels, including any digital data developed as part

of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto after January 1, 2021. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Oriental are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

Section 262.3 Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 262.2 of this ordinance.

Section 262.4 Compliance

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

Section 262.5 Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

Section 262.6 Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

- 262.6.1 Considered as minimum requirements;
- 262.6.2 Liberally construed in favor of the governing body; and
- 262.6.3 Deemed neither to limit nor repeal any other powers granted under State statutes.

Section 262.7 Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Town of Oriental or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

Section 262.8 Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance ~~or special exceptions~~, shall constitute a Class 1 misdemeanor pursuant to N.C.G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Oriental from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 263 Administration

Section 263.1 Designation of Floodplain Administrator

The Town Manager / Land Use Administrator, hereinafter referred to as the “Floodplain Administrator”, or their designee, is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community’s overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

Section 263.2 Floodplain Development Application, Permit and Certification Requirements

263.2.1 Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

263.2.1.1 A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

263.2.1.1.1 The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

263.2.1.1.2 The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 262.2, or a statement that the entire lot is within the Special Flood Hazard Area;

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- 263.2.1.1.3 Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 262.2;
 - 263.2.1.1.4 The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 262.2;
 - 263.2.1.1.5 The Base Flood Elevation (BFE) where provided as set forth in Section 262.2; Section 263.3; or Section 264.4;
 - 263.2.1.1.6 The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - 263.2.1.1.7 The boundary and designation date of the Coastal Barrier Resource System (CBRS) area or Otherwise Protected Areas (OPA), if applicable.
- 263.2.1.2 Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
- 263.2.1.2.1 Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - 263.2.1.2.2 Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - 263.2.1.2.3 Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- 263.2.1.3 If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.
- 263.2.1.4 A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:
- 263.2.1.4.1 The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - 263.2.1.4.2 Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 264.2.4.3

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when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.

263.2.1.4.3 The following, in Coastal High Hazard Areas, in accordance with the provisions of Section 264.2.4.4 and Section 264.7 and (Section 264.8 if applicable):

263.2.1.4.3.1 V-Zone Certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs; In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.

263.2.1.4.3.2 Plans for open wood latticework or insect screening, if applicable; and

263.2.1.4.3.3 Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must be demonstrated through coastal engineering analysis that the proposed fill would not result in any increase in the BFE or otherwise cause adverse impacts by wave ramping and deflection on to the subject structure or adjacent properties.

263.2.1.5 Usage details of any enclosed areas below the lowest floor.

263.2.1.6 Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

263.2.1.7 Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

263.2.1.8 Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Sections 264.2.6 and 264.2.7 of this ordinance are met.

263.2.1.9 A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

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- 263.2.2 Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:
- 263.2.2.1 A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
 - 263.2.2.2 The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 262.2.
 - 263.2.2.3 The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
 - 263.2.2.4 The Regulatory Flood Protection Elevation required for the protection of all public utilities.
 - 263.2.2.5 All certification submittal requirements with timelines.
 - 263.2.2.6 A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 264.5 have been met.
 - 263.2.2.7 The flood openings requirements, if in Zones A, AE, AH, AO, A99.
 - 263.2.2.8 Limitations of below BFE enclosure uses. (i.e., parking, building access and limited storage only).
 - 263.2.2.9 A statement, if in Zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.
 - 263.2.2.10 A statement, if in Zone VE, that there shall be no fill used for structural support.
 - 263.2.2.11 A statement, that all materials below BFE/RFPE must be flood resistant materials.
- 263.2.3 Certification Requirements.
- 263.2.3.1 Elevation Certificates
 - 263.2.3.1.1 An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of

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the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

263.2.3.1.2 An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

263.2.3.1.3 A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the

building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.

263.2.3.2 Floodproofing Certificate

263.2.3.2.1 If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

263.2.3.2.2 A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to

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submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

- 263.2.3.3 If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 264.2.3.2.
- 263.2.3.4 If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.
- 263.2.3.5 Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this sub-section:
- 263.2.3.5.1 Recreational Vehicles meeting requirements of Section 264.2.3.1 ;
- 263.2.3.5.2 Temporary Structures meeting requirements of Section 264.2.7 ; and
- 263.2.3.5.3 Accessory Structures that are 150 square feet or less or \$5,000 or less and meeting requirements of Section 264.2.8.
- 263.2.3.6 A V-Zone Certification with accompanying design plans and specifications is required prior to issuance of a Floodplain Development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the Floodplain Administrator said certification to ensure the design standards of this ordinance are met. A registered professional engineer or architect shall develop or review the structural design, plans, and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this ordinance. This certification is not a substitute for an Elevation Certificate. In addition, prior to the Certificate of Compliance/Occupancy

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issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.

263.2.4 Determinations for existing buildings and structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

- 263.2.4.1 Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- 263.2.4.2 Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- 263.2.4.3 Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- 263.2.4.4 Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

Section 263.3 Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator shall perform, but not be limited to, the following duties:

- 263.3.1 Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.
- 263.3.2 Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

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- 263.3.3 Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- 263.3.4 Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- 263.3.5 Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 264.6 are met.
- 263.3.6 Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 263.2.3.
- 263.3.7 Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 263.2.3 .
- 263.3.8 Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 263.2.3 .
- 263.3.9 When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 263.2.3 and Section 264.2.2.
- 263.3.10 Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- 263.3.11 When BFE data has not been provided in accordance with the provisions of Section 262.2, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Section 264.4.2.3, in order to administer the provisions of this ordinance.
- 263.3.12 When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 262.2, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.

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- 263.3.13 When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the BFE, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. However, if the property is to be removed from the V Zone it must not be located seaward of the landward toe of the primary frontal dune. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.
- 263.3.14 Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.
- 263.3.15 Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- 263.3.16 Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- 263.3.17 Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- 263.3.18 Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within

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the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

- 263.3.19 Follow through with corrective procedures of Section 263.4.
- 263.3.20 Review, provide input, and make recommendations for variance requests.
- 263.3.21 Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 262.2 of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- 263.3.22 Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

Section 263.4 Corrective Procedures

- 263.4.1 Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- 263.4.2 Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - 263.4.2.1 That the building or property is in violation of the floodplain management regulations;
 - 263.4.2.2 That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - 263.4.2.3 That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- 263.4.3 Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the

building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than least 180 calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

263.4.4 Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

263.4.5 Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to N.C.G.S. § 143-215.58 and shall be punished at the discretion of the court.

Section 263.5 Variance Procedures

263.5.1 The Board of Adjustment as established by the Town of Oriental, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.

263.5.2 Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

263.5.3 Variances may be issued for:

263.5.3.1 The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

263.5.3.2 Functionally dependent facilities if determined to meet the definition as stated in Section 261 of this ordinance, provided provisions of Sections 263.5.9.2, 263.5.9.3, and 263.5.9.5 have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

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- 263.5.3.3 Any other type of development provided it meets the requirements of this Section.
- 263.5.4 In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other Sections of this ordinance, and:
 - 263.5.4.1 The danger that materials may be swept onto other lands to the injury of others;
 - 263.5.4.2 The danger to life and property due to flooding or erosion damage;
 - 263.5.4.3 The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 263.5.4.4 The importance of the services provided by the proposed facility to the community;
 - 263.5.4.5 The necessity to the facility of a waterfront location as defined under Section 261 of this ordinance as a functionally dependent facility, where applicable;
 - 263.5.4.6 The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - 263.5.4.7 The compatibility of the proposed use with existing and anticipated development;
 - 263.5.4.8 The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - 263.5.4.9 The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 263.5.4.10 The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - 263.5.4.11 The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- 263.5.5 A written report addressing each of the above factors shall be submitted with the application for a variance.
- 263.5.6 Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of

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variances as it deems necessary to further the purposes and objectives of this ordinance.

- 263.5.7 Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- 263.5.8 The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- 263.5.9 Conditions for Variances:
- 263.5.9.1 Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - 263.5.9.2 Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - 263.5.9.3 Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - 263.5.9.4 Variances shall only be issued prior to development permit approval.
 - 263.5.9.5 Variances shall only be issued upon:
 - 263.5.9.5.1 A showing of good and sufficient cause;
 - 263.5.9.5.2 A determination that failure to grant the variance would result in exceptional hardship; and
 - 263.5.9.5.3 A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- 263.5.10 A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical

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storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

- 263.5.10.1 The use serves a critical need in the community.
- 263.5.10.2 No feasible location exists for the use outside the Special Flood Hazard Area.
- 263.5.10.3 The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- 263.5.10.4 The use complies with all other applicable federal, state and local laws.
- 263.5.10.5 The Town of Oriental has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

Section 264 Provisions for Flood Hazard Reduction

Section 264.1 General Standards

In all Special Flood Hazard Areas, the following provisions are required:

- 264.1.1 All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- 264.1.2 All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.
- 264.1.3 All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- 264.1.4 All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.

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- 264.1.4.1 Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
- 264.1.4.2 Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- 264.1.5 All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- 264.1.6 New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.
- 264.1.7 On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- 264.1.8 Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- 264.1.9 New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 263.5.10. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 263.2.3.
- 264.1.10 All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- 264.1.11 All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- 264.1.12 All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

- 264.1.13 All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- 264.1.14 When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.
- 264.1.15 When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

Section 264.2 Specific Standards

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Section 262.2, or Section 264.4, the following provisions, in addition to the provisions of Section 264.1, are required:

- 264.2.1 Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section 261 of this ordinance.
- 264.2.2 Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section 261 of this ordinance. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 264.9.2. A registered professional engineer or architect shall certify that the floodproofing standards of this sub-section are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 263.2.3, along with the operational plan and the inspection and maintenance plan.
- 264.2.3 Manufactured Homes.
 - 264.2.3.1 New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than

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the Regulatory Flood Protection Elevation, as defined in Section 261 of this ordinance.

- 264.2.3.2 Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
- 264.2.3.3 All enclosures or skirting below the lowest floor shall meet the requirements of Section 264.2.4.
- 264.2.3.4 An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- 264.2.4 Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor or below the lowest horizontal structural member in VE zones:
 - 264.2.4.1 Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;
 - 264.2.4.2 Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
 - 264.2.4.3 Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional

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engineer or architect or meet or exceed the following minimum design criteria:

- 264.2.4.3.1 A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - 264.2.4.3.2 The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - 264.2.4.3.3 If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - 264.2.4.3.4 The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - 264.2.4.3.5 Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - 264.2.4.3.6 Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
- 264.2.4.4 Shall, in Coastal High Hazard Areas (Zone VE), meet the requirements of Section 264.7.
- 264.2.5 Additions/Improvements.
- 264.2.5.1 Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - 264.2.5.1.1 Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
 - 264.2.5.1.2 A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

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- 264.2.5.2 Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
- 264.2.5.3 Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
 - 264.2.5.3.1 Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - 264.2.5.3.2 A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- 264.2.5.4 Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
 - 264.2.5.4.1 Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - 264.2.5.4.2 Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- 264.2.6 Recreational Vehicles. Recreational vehicles shall either:

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264.2.6.1 Temporary Placement

264.2.6.1.1 Be on site for fewer than 180 consecutive days; or

264.2.6.1.2 Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and has no permanently attached additions.)

264.2.6.2 Permanent Placement - Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

264.2.7 Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

264.2.7.1 A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

264.2.7.2 The name, address, and phone number of the individual responsible for the removal of the temporary structure;

264.2.7.3 The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

264.2.7.4 A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

264.2.7.5 Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

264.2.8 Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

264.2.8.1 Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

264.2.8.2 Accessory structures shall not be temperature-controlled;

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- 264.2.8.3 Accessory structures shall be designed to have low flood damage potential;
- 264.2.8.4 Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
- 264.2.8.5 Accessory structures shall be firmly anchored in accordance with the provisions of Section 264.1.1;
- 264.2.8.6 Accessory structures, regardless of the size or cost, shall not be placed below elevated buildings in V and VE Zones;
- 264.2.8.7 All service facilities such as electrical shall be installed in accordance with the provisions of Section 264.1; and
- 264.2.8.8 Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 263.2.4.3.

An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$5,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 263.2.2. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 263.2.3.

- 264.2.9 Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - 264.2.9.1 Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;
 - 264.2.9.2 Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - 264.2.9.3 Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 264.2.2 of this ordinance shall not be permitted in V or VE Zones. Tanks may be permitted in other flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-

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related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

264.2.9.4 Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

264.2.9.4.1 At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

264.2.9.4.2 Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

264.2.10 Other Development.

264.2.10.1 Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 264.5 of this ordinance.

264.2.10.2 Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 264.6 of this ordinance.

264.2.10.3 Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 264.6 of this ordinance.

264.2.10.4 Commercial storage facilities are not considered “limited storage” as noted in this ordinance, and shall protected to the Regulatory Flood Protection Elevation as required for commercial structures.

Section 264.3. RESERVED.

Section 264.4 Standards for Floodplains Without Established Base Flood Elevations

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Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 262.2, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Section 264.1, shall apply:

- 264.4.1 No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
- 264.4.2 The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
 - 264.4.2.1 When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 264.1 and 264.2.
 - 264.4.2.2 When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections 264.2 and 264.6.
 - 264.4.2.3 All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Section 262.2 and utilized in implementing this ordinance.
 - 264.4.2.4 When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section 261. All other applicable provisions of Section 264.2 shall also apply.

Section 264.5 Standards for Riverine Floodplains with Base Flood Elevations but Without Established Floodways or Non-Encroachment Areas.

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

- 264.5.1 Standards of Sections 264.1 and 264.2; and

- 264.5.2 Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point.

Section 264.6 Floodways and Non-Encroachment Areas.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 262.2. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 264.1 and 264.2, shall apply to all development within such areas:

- 264.6.1 No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - 264.6.1.1 It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - 264.6.1.2 A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- 264.6.2 If Section 264.2.3 is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- 264.6.3 Manufactured homes may be permitted provided the following provisions are met:
 - 264.6.3.1 The anchoring and the elevation standards of Section 264.2.3; and
 - 264.6.3.2 The encroachment standards of Section 264.6.1.

Section 264.7 Coastal High Hazard Area (Zone VE)

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Coastal High Hazard Areas are Special Flood Hazard Areas established in Section 262.2 , and designated as Zones VE. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Sections 264.1 and 264.2:

- 264.7.1 All new construction and substantial improvements shall:
 - 264.7.1.1 Be located landward of the reach of mean high tide;
 - 264.7.1.2 Comply with all applicable CAMA setback requirements.
- 264.7.2 All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal High Hazard Areas to satisfy the regulatory flood protection elevation requirements.
- 264.7.3 All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:
 - 264.7.3.1 Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or
 - 264.7.3.2 Insect screening; or
 - 264.7.3.3 Breakaway walls shall meet the following design specifications:
 - 264.7.3.3.1 Breakaway walls shall have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads, per Sections 264.2.4.3.1-264.2.4.3.6; and
 - 264.7.3.3.2 Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or
 - 264.7.3.3.3 Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the

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breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.

- 264.7.4 All new construction and substantial improvements shall be securely anchored to pile or column foundations. All pilings and columns and the structure attached thereto shall be anchored to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - 264.7.4.1 Water loading values used shall be those associated with the base flood.
 - 264.7.4.2 Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.
- 264.7.5 For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:
 - 264.7.5.1 Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
 - 264.7.5.2 Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
 - 264.7.5.3 Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
 - 264.7.5.4 Pad thickness shall not exceed 4 inches; or

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- 264.7.5.5 Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this Section.
- 264.7.6 For swimming pools and spas, the following is required:
 - 264.7.6.1 Be designed to withstand all flood-related loads and load combinations.
 - 264.7.6.2 Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or
 - 264.7.6.3 Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or
 - 264.7.6.4 Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.
 - 264.7.6.5 Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.
 - 264.7.6.6 Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.
- 264.7.7 All elevators, vertical platform lifts, chair lifts, etc., the following is required:
 - 264.7.7.1 Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.
 - 264.7.7.2 Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.
 - 264.7.7.3 The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counterweight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.

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- 264.7.7.4 Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.
- 264.7.7.5 Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless-steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.
- 264.7.7.6 If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.
- 264.7.8 Accessory structures, regardless of size or cost, shall not be permitted below elevated structures.
- 264.7.9 A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Section 263.2 and Section 264.7.3 and 263.7.4, on the current version of the North Carolina V-Zone Certification form or equivalent local version. In addition, prior to the Certificate of Compliance/Occupancy issuance, a registered professional engineer or architect shall certify the finished construction is compliant with the design, specifications and plans for VE Zone construction.
- 264.7.10 Fill/Grading
 - 264.7.10.1 Minor grading and the placement of minor quantities of nonstructural fill may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.
 - 264.7.10.2 The fill material must be similar and consistent with the natural soils in the area.
 - 264.7.10.3 The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.

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- 264.7.10.4 Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent elevated buildings and structures.
- 264.7.11 There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.
- 264.7.12 No manufactured homes shall be permitted except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided the anchoring and elevation standards of this Section have been satisfied.
- 264.7.13 Recreational vehicles may be permitted in Coastal High Hazard Areas provided that they meet the Recreational Vehicle criteria of Section 264.2.6.1.
- 264.7.14 A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Section 263.2.3.6.
- 264.7.15 A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.
- 264.7.16 In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or

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wave runup and wave reflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to: Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

264.7.16.1 Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.

264.7.16.2 Docks, piers, and similar structures.

264.7.17 No more than four (4) electrical outlets and no more than four (4) electrical switches may be permitted below RFPE unless required by building code.

Section 264.8 Standards for Coastal A Zones (Zone CAZ)LiMWA

Structures in CAZs shall be designed and constructed to meet V Zone requirements, including requirements for breakaway walls. However, the NFIP regulations also require flood openings in walls surrounding enclosures below elevated buildings in CAZs (see Technical Bulletin 1, *Openings in Foundation Walls and Walls of Enclosures*). Breakaway walls used in CAZs must have flood openings that allow for the automatic entry and exit of floodwaters to minimize damage caused by hydrostatic loads. Openings also function during smaller storms or if anticipated wave loading does not occur with the base flood.

264.8.1 All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in Coastal A Zones to satisfy the regulatory flood protection elevation requirements.

264.8.2 All new construction and substantial improvements shall have the space below the bottom of the lowest horizontal structural member of the lowest floor either be free of obstruction or constructed with breakaway walls, open wood latticework or insect screening, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building. The following design specifications shall be met:

264.8.2.1 Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or

264.8.2.2 Insect screening; or

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- 264.8.2.3 Breakaway walls shall meet the following design specifications:
- 264.8.2.3.1 Breakaway walls shall have flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the design criteria in Section 264.2.4.3; and
 - 264.8.2.3.2 Design safe loading resistance shall be not less than 10 nor more than 20 pounds per square foot; or
 - 264.8.2.3.3 Breakaway walls that exceed a design safe loading resistance of 20 pounds per square foot (either by design or when so required by State or local codes) shall be certified by a registered professional engineer or architect that the breakaway wall will collapse from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components (structural and non-structural). The water loading values used shall be those associated with the base flood. The wind loading values used shall be those required by the North Carolina State Building Code.
- 264.8.3 Concrete pads, including patios, decks, parking pads, walkways, driveways, etc. must meet the provisions of Section 264.7.5.
- 264.8.4 All new construction and substantial improvements shall meet the provisions of Section 264.7.3.
- 264.8.5 A registered professional engineer or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions of Section 263.2 and Sections 264.7.3 and 264.7.4 on the current version of the North Carolina V-Zone Certification form or a locally developed V-Zone Certification form.
- 264.8.6 Recreational vehicles may be permitted in Coastal A Zones provided that they meet the Recreational Vehicle criteria of Section 264.2.6.1.
- 264.8.7 Fill/Grading must meet the provisions of Section 264.7.10
- 264.8.8 Decks and patios must meet the provisions of Sections 264.7.14-264.7.15.
- 264.8.9 In coastal high hazard areas, development activities other than buildings and structures must meet the provisions of Section 264.7.16.

Section 264.9 Standards for Areas of Shallow Flooding (Zone AO)

Located within the Special Flood Hazard Areas established in Section 262.2, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 264.1 and 264.2, all new construction and substantial improvements shall meet the following requirements:

- 264.9.1 The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of four (4) feet, above the highest adjacent grade; or at least four (4) feet above the highest adjacent grade if no depth number is specified.
- 264.9.2 Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 264.9.1 so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 264.9.3 and Section 264.2.2 .
- 264.9.3 Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Section 264.10 Standards for Areas of Shallow Flooding (Zone AH)

Located within the Special Flood Hazard Areas established in Section 262.2, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to Sections 264.1 and 264.2, all new construction and substantial improvements shall meet the following requirements:

- 264.10.1 Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Section 265 Legal Status Provisions

Section 265.1 Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance

This ordinance in part comes forward by re-enactment of some of the provisions of the Pamlico County Flood Damage Prevention Ordinance enacted August 5, 1985 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and

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may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Pamlico County enacted on August 5, 1985, as amended, which are not reenacted herein are repealed. The Pamlico County Flood Damage Prevention Ordinance was adopted by the Town of Oriental prior to its enrollment in the Regular Program of the National Flood Insurance Program on December 4, 1985.

The date of the initial Flood Damage Prevention Ordinance for Pamlico County is August 5, 1985.

Section 265.2 Effect Upon Outstanding Floodplain Development Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

Section 265.3 Severability

If any Section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

Section 265.4 Effective Date

This ordinance shall become effective June 2, 2020.

Last Amendment December 6, 2022.

Section . Special Use Permits.

- (a) An application for a special use permit shall be submitted to the board of adjustment by filing a copy of the application with the Land Use Administrator.
- (b) The Board of Commissioners shall conduct a public hearing on this application. The hearing shall be conducted according to the provisions of **article VI** and this section.
- (c) The burden of presenting a complete application to the board of adjustment shall be upon the applicant. However, unless the Board informs the applicant at the hearing in what way the application is incomplete and offers the applicant an opportunity to complete the application (either at that meeting or at a continuation hearing), the application shall be presumed to be complete.
- (d) Subject to subsection (e), the Board of Commissioners shall issue the special use permit upon finding that:
 - (1) The requested permit is within its jurisdiction according to the table of permissible uses;
 - (2) The application is complete;
 - (3) If completed as proposed in the application, the development will comply with all of the requirements of this ordinance;
 - (4) The use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted;
 - (5) The use will not substantially reduce the value of adjoining or abutting property, or that the use is a public necessity; and
 - (6) The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the long range plans of the Town.
- (e) The burden of presenting evidence under each part of subsection (d) rests upon the applicant. The board shall consider each part of subsection (d) separately, and for each part shall:
 - (1) Determine whether the applicant has submitted competent, material, and substantial evidence showing that the requirements of that part have been met;
 - (2) Determine whether competent, material, and substantial evidence has been submitted at the hearing showing that the requirements of that part have not been met;
 - (3) Make a finding as to whether or not the requirements of the part have been met. In making this finding, the Board shall find that the requirements have been met if the applicant produces evidence in support of his position and there is no competent, material, and substantial evidence showing that the requirements have not been met. If the board finds that the requirements have not been met, the Board shall state specifically upon which facts it has relied in making that decision.

Section . Recommendations on special use permits.

- (a) When presented to the Board of Commissioners at the hearing, the application for a special use permit shall be accompanied by a report setting forth the Planning Board's proposed findings concerning the application's compliance with section ******* (Application to be complete) and the other requirements of this ordinance, as well as any staff recommendations for additional requirements to be imposed by the Board of Commissioners.

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- (b) If the staff proposes a finding or conclusion that the application fails to comply with section **** or any other requirement of this ordinance, it shall identify the requirement in question and specifically state supporting reasons for the proposed findings or conclusions.

Section ** Additional requirements on special use permits.**

- (a) Subject to subsection (b), in granting a special use permit, the Board of Commissioners may attach to the permit such reasonable requirements in addition to those specified in this ordinance as will ensure that the development in its proposed location:
- (1) Will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved;
 - (2) Will not substantially reduce the value of adjoining or abutting property;
 - (3) Will be in harmony with the area in which it is located; and
 - (4) Will be in general conformity with the land use plan, thoroughfare plan, or other plan officially adopted by the board of aldermen.
- (b) The Board of Commissioners may attach additional conditions if the development in question presents circumstances that justify the variation from the specified requirements.
- (c) Without limiting the foregoing, the Board of Commissioners may attach to a permit a condition limiting the permit to a specified duration.
- (d) All additional conditions or requirements shall be entered on the permit.
- (e) All additional conditions or requirements authorized by this section are enforceable in the same manner and to the same extent as any other applicable requirement of this ordinance.
- (f) A vote may be taken on application conditions or requirements before consideration of whether the permit should be denied for any of the reasons set forth in this article.

Ord. No. ****, adopted date repealed and replaced section in its entirety.

ID	Group	Subgroup	Update Type	Update	Possible Determination / Process	Relevance to 160D Compliance Update Review	Outcome	Notes
	Oriental 160D							
1	I. Terminology and Citations [Chapter 1, Section III]	N/A	Required	Must update any references to provisions in G.S. Chapter 160A or 153A to indicate relevant provisions in Chapter 160D. (See appendices B and C in the Chapter 160D book.)	Check for statute citations and update as needed.	Relevant	Updated multiple.	
2	I. Terminology and Citations [Chapter 1, Section III]	N/A	Required	Must align ordinance terminology with Chapter 160D terminology for conditional zoning and special use permits; must delete use of the terms conditional use permit, special exception, conditional use district zoning, and special use district zoning. (See G.S. 160D-102.)	Check ordinance for these specific terms. Change any instance of "conditional use" or similar to "special use". Update definition section if needed.	Relevant	Removed "special exceptions" in flood damage prevention. No issues with other terms.	
3	I. Terminology and Citations [Chapter 1, Section III]	N/A	Required	Must ensure that ordinance definitions for the following terms are not inconsistent with definitions provided in state law and regulation: building, dwelling, dwelling unit, bedroom, and sleeping unit. (G.S. 160D-706; S.L. 2019-111, § 1.17.)	Check ordinance for terms or similar: -building -dwelling -dwelling unit -bedroom -sleeping unit Update definitions if found. Otherwise, do not add new definitions.	Relevant	Using definitions from 2018 NC State Building Code: Building Code. - Updated definition of building. - Updated definition of dwelling unit. - Added definition of dwelling since the term appears in the ordinance. - Bedroom and sleeping unit terms are not used. Did not add definitions.	
4	I. Terminology and Citations [Chapter 1, Section III]	N/A	Optional	May align ordinance terminology with Chapter 160D terminology, including for the following terms: administrative decision, administrative hearing, determination, developer, development, development approval, development regulation, dwelling, evidentiary hearing, legislative decision, legislative hearing, planning and development regulation jurisdiction, and quasi-judicial decision. (G.S. 160D-102.)	Check if terms currently exist. Conform with statutory definitions if they do. Check if there are similar terms. -Administrative decision -Administrative hearing -Determination -Developer -Development -Development approval -Development regulation -Dwelling -Evidentiary hearing -Legislative decision -Legislative hearing -Planning and development regulation jurisdiction -Quasi-judicial decision	Relevant	- Added definition of determination since term is used in ordinance. - Added definition of administrative decision since it is used in definition of determination. - Added quasi-judicial decision. - Added planning and development regulation jurisdiction. Removed planning jurisdiction. Updated terms in Sections 3, 52, 60, 122, 137, 142, 144, 262. - Added legislative hearing. Updated terms in Article XV. - Added legislative decision due to legislative hearing definition. - Added evidentiary hearing. - Added development approval. - Added development regulation. Referenced in development approval. - Updated development. - Updated developer. - Already added dwelling above. - Omitted administrative hearing.	
5a	II. Geographic Jurisdiction [Chapter 2, Section I]	N/A	Required	For extension of extraterritorial jurisdiction (ETJ), a municipality must provide mailed notice thirty days prior to ETJ hearing.	Check for ETJ. If ETJ, add if not found.	Relevant	No ETJ. No issues.	
10	III. Boards [Chapter 2, Section II]	A. In General	Required	Must adopt broadened conflict-of-interest standards for governing and advisory boards. (G.S. 160D-109.)	Check in ordinance. Add general conflict of interest standards for governing board, advisory boards, and staff.	Relevant	Added new Section 12 for conflict-of-interest standards in general. Updated section 239.5 regarding conflicts of interest by governing board for amendments. Revision references new section above and NCGS 160D.	
11	III. Boards [Chapter 2, Section II]	A. In General	Required	Must keep minutes of proceedings of each board. (G.S. 160D-308.)	Check in ordinance (for each board). Add if not found.	Relevant	- Minutes for Planning Board meetings already specified in 20.1.2.3. - Minutes for Board of Adjustment meetings added to new subsection 22.2.4. - Added advisory committee minutes requirement as new subsection 21.3 in section 21, advisory committees. - Not noted for Town Commissioners (outside scope).	
12	III. Boards [Chapter 2, Section II]	A. In General	Required	Must have each board member take an oath of office before starting his or her duties. (G.S. 160D-309.)	Check in ordinance (for each board). Add if not found.	Relevant	- Created new section 23, Advisory Boards in General. Added subsection 23.1 requiring oath of office for all appointed board members. - Not noted for Town Commissioners (outside scope).	
13	III. Boards [Chapter 2, Section II]	A. In General	Required	Must update ETJ population estimate, at least with each decennial census (also calculation for proportional representation is simplified and process for appointment is clarified). (G.S. 160D-307.)	Check for ETJ. If ETJ, add if not found.	Relevant	No ETJ. No issues.	
14	III. Boards [Chapter 2, Section II]	A. In General	Required	Must provide proportional representation for ETJ on preservation commission if any districts or landmarks are designated in the ETJ. (G.S. 160D-307.)	Check for ETJ. If ETJ, add if not found.	Relevant	No ETJ. No issues.	
15b	III. Boards [Chapter 2, Section II]	A. In General	Required	If adopted, must maintain board rules of procedure (by clerk or other officer as set by ordinance) and must post board rules of procedure to website, if the jurisdiction has a website. (G.S. 160D-308.)	Check for rules of procedure for each board. If available, update ordinance and notify local government to have it published to website.	Relevant	- Subsection 20.1.6.1.1.1 mentions Planning Board rules of procedure. Planning Board may adopt rules of procedures per 20.1.7.1.10. - BOA may adopt rules of procedures per 22.5.1.5. - Added subsection 23.2 to new section, advisory boards in general. Addition has requirement for rules of procedure to be maintained by the Land Use Administrator and requirement for rules of procedure to be available on the Town's website. Assigned responsibility to Land Use Administrator instead of Town Clerk.	
22	IV. Land Use Administration [Chapter 2, Section III]	A. In General	Required	Must incorporate new staff conflict-of-interest standards into ordinance or policy. (G.S. 160D-109.)	Check in ordinance. Add general conflict of interest standards for governing board, advisory boards, and staff. (Related to update in III. Boards.)	Relevant	Added new Section 12 for conflict-of-interest standards in general. This covers staff.	
23	IV. Land Use Administration [Chapter 2, Section III]	A. In General	Required	Must maintain in paper or digital format current and prior zoning maps for public inspection. (G.S. 160D-105.)	Check in ordinance. Add if not found.	Relevant	- Section 52 assigns duty of keeping current and prior Growth Management Map (AKA zoning map) to the Land Use Administrator. - Section 3 requires the map to be available for public inspection in Town Hall. - Updated subsection 52.7, superseded versions of the map shall be kept for public inspection instead of "historical reference".	
24	IV. Land Use Administration [Chapter 2, Section III]	A. In General	Required	Must maintain in paper or digital format any state or federal agency maps incorporated by reference into the zoning map. (G.S. 160D-105.)	Check in ordinance. Add if not found and have local government maintain copies.	Relevant	Subsection 135.8.1 requires RV parks to be outside 100-year floodplain as delineated by the FEMA Flood Insurance Rate Maps. Updated to note copies of the Flood Insurance Rate Maps shall be available for public inspection at Town Hall. Did not specify physical or digital (can be either).	
26b	IV. Land Use Administration [Chapter 2, Section III]	A. In General	Required	Must use any such fees for that purpose, not for other purposes. (G.S. 160D-402(d).)	Check for fee section in ordinance. Add required use of fees if found.	Relevant	Subsection 7.1 notes reasonable fees may be charged to cover administrative and related costs. Updated with addition to specify fees required by this chapter shall not be used for purposes outside this chapter.	
27	IV. Land Use Administration [Chapter 2, Section III]	B. Enforcement	Required	Must issue notices of violation (NOVs) in conformance with statutory procedures (must deliver to permittee and landowner if different; may deliver to occupant or person undertaking the activity; delivery by hand, email, or first-class mail; may be posted onsite; administrator to certify NOV for the file.) (G.S. 160D-404(a).)	Check ordinance. Add if not found.	Relevant	Section 135, recreational vehicle and tent camping parks, subsection 135.6, notices, hearings and orders: - Updated sub-subsection 135.6.1, notice of violation: - removed option to provide notice to licensee agent for clarity. - added notice to be given to property owner if different from licensee. - did not include delivery to occupant or person undertaking activity since it is optional. - 135.6.1.4 requires delivery in person or by certified mail (certified mail goes beyond first class mail requirement). - did not add posted notice since it is optional. - Added new sub-subsection 135.6.6 requiring certification of notice. Section 228, procedures upon discovery of violations: - Changed "notice" to "informal warning" in 228.1. - Changed 228.2, originally covering final notice, to subsection for notice of violation proceeding informal warnings. - Removed option for initial written notice to serve as final written notice in 228.2. - Added notice of violation shall be delivered to the holder of the development approval or property owner if different in 228.2. - Added the notice may be delivered by email, first class mail, or in person (this provided the town all options). - Did not add delivery to occupant or person undertaking activity since it is optional (also, the occupant or person undertaking the activity may receive the informal warning). - Did not add posted notice since it is optional. - Added subsection 228.4 for certification requirement and specified land use administrator is responsible.	

28	IV. Land Use Administration [Chapter 2, Section III]	B. Enforcement	Required	If inspecting, must enter the premises during reasonable hours and upon presenting credentials; must have consent of premises owner or an administrative search warrant to inspect areas not open to the public. (G.S. 160D-403(e).)	Check ordinance. Add if not found.	Relevant	Section 226, complaints regarding violations: *- Added subsection 226.2 specifying the Land Use Administrator shall inspect during reasonable hours and upon presenting proper credentials. - Added subsection 226.3 specifying the Land Use Administrator shall obtain appropriate consent or an appropriate search warrant for inspecting areas of a premises not open to the public.
29	IV. Land Use Administration [Chapter 2, Section III]	B. Enforcement	Required	For revocation of development approval, must follow the same process as was used for the approval. (G.S. 160D-403(f).)	Check ordinance. Add if not found.	Relevant	Section 230 covers permit revocation. Subsection 1 notes a land use or special use permit may be revoked by the permitting authority. Subsection 2 requires a notice and hearing (quasi-judicial) prior to revoking a special use permit. This conforms with statute. No issues.
30b	IV. Land Use Administration [Chapter 2, Section III]	B. Enforcement	Required	Must perform (or contract for) inspections for building permits. (G.S. 160D-1113, -403(e).)	General. Outside scope of compliance update.	Relevant	No issues.
32b	IV. Land Use Administration [Chapter 2, Section III]	B. Enforcement	Required	Still must require certificate of occupancy for work requiring a building permit. (G.S. 160D-403(g).)	General. Outside scope of compliance update.	Relevant	Outside scope. No issues.
37a	V. Substance of Zoning Ordinance [Chapter 3, Section I]	N/A	Required	Must maintain current and prior zoning maps for public inspection (local government clerk or other office may be the responsible office);	Check ordinance. Add to ordinance if not found. Notify local government.	Relevant	Similar to row ID 23. Refer to that row.
38	V. Substance of Zoning Ordinance [Chapter 3, Section I]	N/A	Required	Must eliminate conditional use district zoning; existing conditional use district zoning converts to conditional district upon adoption of updated local ordinances or July 1, 2021. (G.S. 160D-703; S.L. 2020-25; S.L. 2019-111, § 2.9(b).)	Check ordinance for term. Remove if found.	Relevant	No conditional use zoning districts in ordinance. No issues.
39	V. Substance of Zoning Ordinance [Chapter 3, Section I]	N/A	Required	Must not set a minimum square footage for structures subject to the One- and Two-Family Residential Building Code. (G.S. 160D-703; S.L. 2019-174.)	Check definitions, zoning district, and supplemental regulations sections. Remove size restrictions if found.	Relevant	Reviewed ordinance. Did not locate minimum square footage requirement for these residential structures. No issues.
40c	V. Substance of Zoning Ordinance [Chapter 3, Section I]	N/A	Required	Must maintain current effective map for public inspection;	Check for map references. If found, notify local government of need to keep for public inspection.	Relevant	Noted in section 3 regarding jurisdiction.
43b	V. Substance of Zoning Ordinance [Chapter 3, Section I]	N/A	Required	If allowed, must define "minor modification" by ordinance, must not include modification of use or density, and major modifications must follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)	Check for administrative minor modification in ordinance. Add requirements if they are missing. Do not add otherwise. Notify local government.	Relevant	Duplicate of row ID 89b. Refer to that row.
46	VI. Substance of Other Development Ordinances [Chapter 3, Section II]	N/A	Required	Must conform subdivision performance guarantee requirements with statutory standards. (G.S. 160D-804.1, S.L. 2020-25; S.L. 2019-79 (S.B. 313))	Check subdivision regulations.	Relevant	Section 149 covers subdivision final plats. Subsection 149.4 updated. Defect/maintenance guarantees not allowed. Subsection 149.3 covers performance guarantees. *- Added additional types of guarantees. *- Amount matches statutory requirement. - Updated duration for developer to elect a longer duration if needed. - Added performance guarantees must be handled in accordance with NCGS 160D-804.1.
47	VI. Substance of Other Development Ordinances [Chapter 3, Section II]	N/A	Required	Must conform subdivision procedures for expedited review of certain minor subdivisions. (G.S. 160D-802, established prior to G.S. Chapter 160D.)	Check subdivision regulations. Add expedited subdivision type if not found. Notify local government.	Relevant	- Added new subsection 141.4 for expedited subdivision definition. - Updated subsection 141.3, major subdivision definition, to include reference to expedited subdivision definition. - Added subsections to section 144, plat preparation and approval procedure, to cover approval of expedited subdivisions.
48	VI. Substance of Other Development Ordinances [Chapter 3, Section II]	N/A	Required	Must not require a developer, as a condition to subdivision approval, to bury a power line existing above ground and outside of property to be subdivided. (G.S. 160D-804; S.L. 2019-174.)	Check subdivision regulations.	Relevant	Added subsections to subsection 159.3, covering underground wiring for subdivisions.
49	VI. Substance of Other Development Ordinances [Chapter 3, Section II]	N/A	Required	Must exempt farm use on bona fide farm in ETJ from city zoning to the same extent it would be exempt from county zoning; Chapter 160D clarifies that other municipal development regulations may still apply. (G.S. 160D-903(c).)	Check for ETJ. If ETJ exists, add to ordinance.	Relevant	No ETJ. No issues.
50	VI. Substance of Other Development Ordinances [Chapter 3, Section II]	N/A	Required	Must not exclude manufactured homes based on the age of the home. (G.S. 160D-910.)	Check ordinance. Change if needed.	Relevant	Updated definition of manufactured home. One requirement is a Wind II Zone rating. This did not exist prior to June 15, 1976, when HUD regulations went into effect. Updated wind zone rating requirement to include "unless constructed prior to June 15, 1976". Definition is referenced as a restriction in table of permitted uses.
51	VI. Substance of Other Development Ordinances [Chapter 3, Section II]	N/A	Required	Must follow standardized process for housing code enforcement to determine owner's abandonment of intent to repair and need for demolition. (G.S. 160D-1203(6).)	Check for minimum housing code. Add to minimum housing code if needed.	Relevant	No minimum housing code in GMO. No issues.
54	VI. Substance of Other Development Ordinances [Chapter 3, Section II]	A. Historic Preservation	Required	Must follow standard quasi-judicial procedures for preservation certificates of appropriateness. (G.S. 160D-947(c).)	Check for historic preservation ordinance. Otherwise, proceed without.	Relevant	No historic preservation ordinance in GMO. No issues.
55	VI. Substance of Other Development Ordinances [Chapter 3, Section II]	A. Historic Preservation	Required	Must frame preservation district provisions as "standards" rather than "guidelines." (G.S. 160D-947(c).)	Check for historic preservation ordinance. Otherwise, proceed without.	Relevant	No historic preservation ordinance in GMO. No issues.
57	VI. Substance of Other Development Ordinances [Chapter 3, Section II]	B. Development Agreements	Required	Must process a development agreement as a legislative decision. (G.S. 160D-105.)	Check for development agreement in ordinance. Otherwise, proceed without.	Relevant	Development agreement not covered in ordinance. Development agreement mentioned in new definition for Legislative Decision (251.115a). No issues.
58	VI. Substance of Other Development Ordinances [Chapter 3, Section II]	B. Development Agreements	Required	Must have a local government as a party to a development agreement (a water and sewer authority may enter an agreement as a party, but not independently). (G.S. 160D-1001(b).)	Check for development agreement in ordinance. Otherwise, proceed without.	Relevant	Development agreement not covered in ordinance. No issues.
63	VII. Comprehensive Plan [Chapter 4, Section I]	N/A	Required	Must adopt a comprehensive plan or land-use plan by July 1, 2022, to maintain zoning (no need to re-adopt a reasonably recent plan). (G.S. 160D-501(a).)	Check for zoning. Proceed without if no zoning. Notify local government.	Relevant	Town has a recently adopted CAMA plan. No issues.
64	VII. Comprehensive Plan [Chapter 4, Section I]	N/A	Required	Must adopt a plan or a plan update following the procedures used for a legislative decision. (G.S. 160D-501(c).)	Check ordinance. Add if not found.	Relevant	Added in new subsection 5.2 in Section 5, relationship to land use and comprehensive plan.
65	VII. Comprehensive Plan [Chapter 4, Section I]	N/A	Required	Must reasonably maintain a plan. (G.S. 160D-501(a).)	Check ordinance. Add if not found.	Relevant	Added in new subsection 5.3 in Section 5. Noted it is a requirement for zoning.
66	VII. Comprehensive Plan [Chapter 4, Section I]	N/A	Optional	May coordinate a comprehensive plan with other required plans, such as Coastal Area Management Act (CAMA) plans. (G.S. 160D-501(a).)	Check if local government is using CAMA plan as comprehensive plan. Update ordinance to reference CAMA plan if needed.	Relevant	Town has a CAMA plan and comprehensive plan per ordinance. No issues.
68	VIII. Legislative Decisions [Chapter 4, Section II]	A. Notice	Required	Must follow applicable procedures for legislative decisions under any development regulation authorized under Chapter 160D, not just zoning; must adopt any development regulation by ordinance, not by resolution. (G.S. 160D-601.)	Check process. Notify local government.	Relevant	Article XV regarding amendments applies to all development regulations in chapter (ordinance), including zoning, subdivision, and floodplain. *- Section 235 covers amendments in general. Added subsection 235.3 stating any amendment to chapter text or map must be adopted by ordinance.
69	VIII. Legislative Decisions [Chapter 4, Section II]	A. Notice	Required	For zoning map amendments, must provide notice not only to immediate neighbors but also to properties separated from the subject property by street, railroad, or other transportation corridor. (G.S. 160D-602.)	Check ordinance	Relevant	Subsection 238.3 requires notice to all properties within 150 feet (exceeding the immediate neighbor requirement). Added properties separated by transportation corridors (since they could be greater than 150 feet from affected properties [though not likely]).
70	VIII. Legislative Decisions [Chapter 4, Section II]	A. Notice	Required	For zoning map amendments, must provide posted notice during the time period running from twenty-five days prior to the hearing until ten days prior to the hearing. (G.S. 160D-602(c).)	Check ordinance	Relevant	Subsection 238.7 requires a posted notice. Time period is not specified. Subsection 238.2 for published (newspaper) notice specifies time period. Added time period requirement in subsection 283.7 referencing published notice time period in 238.2. ("The notice shall be posted within the same time period specified in subsection 238.2.") *- Extra: Subsection 237.3 requires a posted notice seven days prior to the planning board meeting. This is a separate (and additional) requirement and should not be confused with the statutory requirement for a posted notice for legislative hearing to be held by the governing board. Subsection 238.3 for mailed notice does not specify time period. Added time period requirement in subsection 283.3 referencing published notice time period in 238.2. ("The notice shall be mailed within the same time period specified in subsection 238.2.")
73	VIII. Legislative Decisions [Chapter 4, Section II]	B. Planning Board Comment	Required	Must refer zoning amendments to the planning board for review and comment on zoning amendments. (G.S. 160D-604(c), (e).)	Check ordinance. Not relevant if no zoning.	Relevant	Section 237, planning board consideration of proposed amendments, requires planning board review and comment for all amendments in this chapter (not just zoning). *- Added subsection 237.5, stating the review and comment responsibility for zoning regulation amendment must not be held by the governing board. Used NCGS subsection title, "Separate board required."
74	VIII. Legislative Decisions [Chapter 4, Section II]	B. Planning Board Comment	Required	Must have planning board consider any plan adopted according to G.S. 160D-501 when making a comment on plan consistency. (G.S. 160D-604(d).)	Check ordinance	Relevant	Covered by subsection 237.2. No issues.
76	VIII. Legislative Decisions [Chapter 4, Section II]	C. Plan Consistency	Required	When adopting an amendment to the zoning ordinance, must adopt a brief statement describing whether the action is consistent or inconsistent with approved plans. (G.S. 160D-605(a).) (This eliminates the 2017 requirement that statements take one of three particular forms.)	Check ordinance. Not relevant if no zoning.	Relevant	Also covered by subsection 237.2. Includes all regulations in chapter (not just zoning).

79b	VIII. Legislative Decisions [Chapter 4, Section II]	C. Plan Consistency	Required	Must not require a separate application or fee for plan amendment. (G.S. 160D-605(a).)	Check process. Notify local government. (Pertains to comprehensive plan amendment and zoning amendment). Proceed without if no zoning.	Relevant	Added subsection 243.2 in new section 243, effect on land use and comprehensive plan. It references new section 243.1.	Changed to relevant
80	VIII. Legislative Decisions [Chapter 4, Section II]	C. Plan Consistency	Required	Must note on the applicable future land use map when a zoning map amendment is approved that is not consistent with the map; the future land use map is deemed amended when an inconsistent rezoning is approved. (G.S. 160D-605(a), also see NCGS 160D-501(c)) (This clarifies that a rezoning inconsistent with a plan does not amend the text of the plan, but it does amend the future land use map.)	Check in ordinance. Add if not found.	Relevant	Added new section 243, "Effect on Land Use and Comprehensive Plan". Section title derived from section 5. - Added reference to this new section in section 239, town commissioners' action on amendments, in subsection 239.3 (If an amendment to the Official Growth Management Map is adopted and deemed inconsistent, the Town must abide by Section 243 of this chapter (Effect on Land Use and Comprehensive Plan).) (Split subsection 239.3 into sub-subsections [See row ID 82a]. Body of original subsection 239.3 with amendment is now sub-subsection 239.3.1). - Added subsection 243.1 noting an inconsistent map amendment amends a future land use map in an adopted plan. - Also added the amendment shall be reflected on the adopted plan.	
81	VIII. Legislative Decisions [Chapter 4, Section II]	C. Plan Consistency	Required	For a future land use map that is deemed amended, if it is a CAMA plan, then such amendment is not effective until it goes through the CAMA plan-amendment process. (G.S. 160D-501.)	Check in ordinance. Add if not found.	Relevant	Added subsection 243.3 in new section 243, effect on land use and comprehensive plan.	
82a	VIII. Legislative Decisions [Chapter 4, Section II]	C. Plan Consistency	Required	Must adopt a statement of reasonableness for zoning map amendments;	Check in ordinance. Add if not found.	Relevant	Divided subsection 239.3 into sub-subsections and added title "Governing board statement" - Original body is now sub-subsection 239.3.1, covering consistency statement. Removed explanation for reasonableness, as it applies to all amendments. - Created new sub-subsection 239.3.2 for statement of reasonableness that only applies to map amendments. - Created new sub-section 239.3.4 for large-scale rezoning statement of reasonableness.	
83	VIII. Legislative Decisions [Chapter 4, Section II]	C. Plan Consistency	Optional	May consider and approve a statement of reasonableness and a plan consistency statement as a single, combined statement. (G.S. 160D-605(c).)	Check in ordinance. Add for sake of simplicity.	Relevant	Created new sub-subsection 239.3.3 in subsection 239.3.	
84	VIII. Legislative Decisions [Chapter 4, Section II]	D. Voting	Required	Must permit adoption of a legislative decision for development regulation on first reading by simple majority; no need for two-thirds majority on first reading, as was required for cities under prior law. (G.S. 160A-75; S.L. 2019-111, § 2.5(n).)	Check in ordinance (for each legislative decision). Add if not found.	Relevant	Amended subsection 239.4 in section 239, town commissioners' action on amendments, to include first reading and simple majority. Removed reference to protest petition.	
85	VIII. Legislative Decisions [Chapter 4, Section II]	E. Certain Legislative Decisions	Required	Must prohibit third-party down-zonings; may process down-zonings initiated by the local government or landowner (G.S. 160D-601; S.L. 2019-111, Pt. I.)	Check in ordinance. Add if not found.	Relevant	Added new subsection 235.4 to section 235, amendments in general. - Per Planning Board, added definition for 'down-zoning' in section 251, "Definitions of Basic Terms".	
86	VIII. Legislative Decisions [Chapter 4, Section II]	E. Certain Legislative Decisions	Required	Must obtain applicant/landowner's written consent to conditions related to a conditional zoning approval to ensure enforceability. (G.S. 160D-703(b); S.L. 2019-111, Pt. I.)	Check ordinance for conditional zoning. Otherwise, proceed without.	Relevant	Conditional zoning districts are mentioned in general in section 136, broad street corridor overlay district, subsection 1. Ordinance only has conventional zoning districts, no conditional districts specified. No issues.	
87b	VIII. Legislative Decisions [Chapter 4, Section II]	E. Certain Legislative Decisions	Required	Must not use combined legislative and quasi-judicial process, such as conditional use district zoning. (G.S. 160D-102.)	Check ordinance for combined legislative and quasi-judicial processes. Separate or remove if found.	Relevant	Reviewed ordinance. No issues.	
89b	VIII. Legislative Decisions [Chapter 4, Section II]	E. Certain Legislative Decisions	Required	If allowed, must define "minor modification" by ordinance, must not include modification of use or density, and major modifications must follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)	Check for administrative minor modification in ordinance. Add requirements if they are missing.	Relevant	- Major and minor modifications are specified section 99, amendments to and modifications of permits. - Subsection 99.1 states minor modifications are to be approved by the permit issuing authority (not administratively). Changed approval through permit issuing authority to administrative approval. Revised to provide statutory definition of minor modification. Removed subjective language ("clearly"). Added that a minor modification shall not change permitted use or density (specifically 160D-703 for quasi-judicial decisions and 160D-703(b) for conditional districts). - Existing subsection 99.3 gives administrator and planning board authority to determine classification of modification (major or minor). Removed this subsection. Not allowed by statute. Minor modification defined in revised subsection 99.1. - Existing subsection 99.2 defines major modifications as more than one proposed minor modifications. Changed definition of major modification to modification that is not a minor modification.	
90	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	A. Procedures	Required	Must follow statutory procedures for all quasi-judicial development decisions, including variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. (G.S. 160D-102(2b).)	Check ordinance. Consider adding reference to statute.	Relevant	Changed Article XIII title from "Hearing Procedures for Appeals and Applications" to "Hearing Procedures for Quasi-Judicial Decisions". Changed section 211 title from "Hearing Required on Appeals and Applications" to "Evidentiary Hearing Required for Quasi-Judicial Decisions". Added "evidentiary hearing" and "quasi-judicial decision" throughout Article XIII and elsewhere. Subsection 211.1, added board shall follow quasi-judicial procedure as specified in NCGS 160D-406. Section 205, "Board Action on Appeals and Variances": - Updated 205.1 changing four-fifths vote on non-variance quasi-judicial decisions to simple majority. - Updated 205.1 changing "adoption" to "approval" for clarity. Section 22, "Board of Adjustment": - Updated 22.3.3 to require a four-fifths concurring/affirmative vote only for granting variances. All other actions are by majority vote. Section 212, "Notice of Hearing" (for quasi-judicial decisions): - Added "not more than 25 days" to required notice period for 212.1.1 and 212.1.2. - Posted notice requirement is missing. Added posted notice requirement in new sub-subsection 212.1.5.	
91	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	A. Procedures	Required	Must hold an evidentiary hearing to gather competent, material, and substantial evidence to establish the facts of the case; the evidentiary hearing must have testimony under oath; must establish written findings of fact and conclusions of law. (G.S. 160D-406.)	Check ordinance. Consider adding reference to statute.	Relevant	- Requirement for evidentiary hearing for quasi-judicial decisions is in updated section 211. - Updated evidence standards in subsection 213.3 to conform with statute. Removed portion about competent evidence being preferred. Replaced with language from 160D-406(i) stating every quasi-judicial decision shall be based upon competent, material, and substantial evidence. - 213.2 already requires persons who present evidence to be sworn. - Section 219, written decision, already requires decision in writing and conclusions. - In 219.2, changed "findings" to "findings of fact" and "conclusion" to "conclusions of law" for clarity.	
92	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	A. Procedures	Required	Board chair must rule on the evidentiary hearing on objections to inclusion or exclusion of administrative material; such ruling may be appealed to the full board. (G.S. 160D-406(d).)	Check ordinance. Consider adding reference to statute.	Relevant	Added new subsection 211.6 for objections regarding jurisdictional and evidentiary issues. Included option to appeal to full board.	
93	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	A. Procedures	Mix	Must allow parties with standing to participate fully in the evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments; may allow non-parties to present competent, material, and substantial evidence that is not repetitive. (G.S. 160D-406(d).)	Check ordinance. Consider adding reference to statute.	Relevant	- Updated subsection 211.2 to specify who can participate as a party (applicant, local government, those who have standing to appeal). - Also updated subsection to specify other witnesses (non-party) may present evidence. This is optional , but appears to be allowed by the current ordinance ("all persons shall be given an opportunity to present evidence...").	
95b	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	A. Procedures	Required	If this is done, (administrative materials provided to board members before meeting) then must distribute the same materials to the applicant and landowner at the same time; must present such administrative materials at the hearing and make them part of the hearing record. (G.S. 160D-406(c).)	Check if meeting packets are mentioned in ordinance. Add requirements if needed.	Relevant	Related to row ID 96b below. Planning Board should only report on application completeness. Applies specifically to appeals: Section 200.3, states when an appeal is filed, the Land Use Administrator shall transmit to the BOA all papers constituting the record relating to the application appealed from. Added these administrative materials shall also be provided to the appellant and land owner and shall become part of the hearing record. Applies to all evidentiary hearings: Added new subsection 211.5 requiring administrative materials to be provided to appellant/applicant and property owner if different if those materials are provided to board members prior to the hearing. Also stated the administrative materials shall become part of the hearing record.	

96b	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	A. Procedures	Required	If this is done, the planning board must not conduct a formal evidentiary hearing, but must conduct an informal preliminary discussion of the application; the forum and recommendation must not be used as the basis for the decision by the board—the decision must still be based on evidence presented at the evidentiary hearing. (G.S. 160D-301.)	Check if planning board serves in this capacity. If so, update ordinance as needed.	Relevant	This ordinance requires Planning Board review of special use permit applications prior to final review by the Town Commissioners (the deciding board holding a quasi-judicial hearing). Section 72, "Who May Submit Permit Application/Submission Requirements": - Subsection 72.1 states the Planning Board shall make a recommendation to the Commissioners to schedule a hearing if the application is complete and all requirements of the Growth Management Ordinance are met. - changed "public hearing" to "evidentiary hearing". - Added subsection 72.2 stating this meeting can only serve as a preliminary forum and a Planning Board recommendation cannot be used in the evidentiary hearing. Section 214, "Recommendations on Special Use Permit Applications": - Changed section 214 title to "Review of Special Use Permit Applications". - Updated subsection 214.1 to change "hearing" at which Planning Board report is submitted to "meeting prior to an evidentiary hearing". - Updated subsection 214.1 to remove Planning Board's recommendation for additional requirements to be imposed by the Town Commissioners, as that should only be determined within the evidentiary hearing.
98	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	A. Procedures	Notice	Be aware that the definition of close family relationship as used for conflicts of interest includes spouse, parent, child, brother, sister, grandparent, or grandchild (including step, half, and in-law relationships). (G.S. 160D-109(f).)	Specify in ordinance under conflicts of interest.	Relevant	Noted in new conflicts of interest standards section.
100	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	B. Certain Quasi-Judicial Decisions	Required	Must not impose conditions on special use permits that the local government does not otherwise have statutory authority to impose. (G.S. 160D-705(c); S.L. 2019-111, Pt. I.)	Check in ordinance. Add if not found.	Relevant	Added subsection 216.7 in section 216 for additional requirements on special use permits.
101	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	B. Certain Quasi-Judicial Decisions	Required	Must obtain applicant's and owner's written consent to conditions related to a special use permit to ensure enforceability. (G.S. 160D-1403.2; S.L. 2019-111, Pt. I.)	Check in ordinance. Add if not found.	Relevant	Added subsection 216.8 in section 216 for additional requirements on special use permits.
102	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	B. Certain Quasi-Judicial Decisions	Required	Must set a thirty-day period to file an appeal or any administrative determination under a development regulation; must presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(e)(d).)	Check in ordinance. Add if not found.	Relevant	Duplicate of row ID 118. Refer to that row.
103	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	B. Certain Quasi-Judicial Decisions	Optional	May adjust variance standards to provide for reasonable accommodation under the federal Fair Housing Act. (G.S. 160D-705(c).)	Check in ordinance. Add if not found.	Relevant	Updated the requirements for a variance in subsection 201.2 to be consistent (follow the same format) as the statutory requirements.
104b	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	B. Certain Quasi-Judicial Decisions	Required	Must not use combined legislative and quasi-judicial process, such as conditional use district zoning. (G.S. 160D-102.)	Check ordinance for combined legislative and quasi-judicial processes. Separate or remove if found.	Relevant	Duplicate of row ID 87b. Refer to that row.
105b	IX. Quasi-Judicial Decisions [Chapter 4, Section III]	B. Certain Quasi-Judicial Decisions	Required	If allowed, must define "minor modification" by ordinance, must not include modification of use or density, and major modifications must follow standard approval process. (G.S. 160D-403(d), -703(b), -705(c).)	Check for administrative minor modification in ordinance. Add requirements if they are missing.	Relevant	Duplicate of row ID 89b. Refer to that row.
106a	X. Administrative Decisions [Chapter 4, Section IV]	A. Development Approvals	Required	Must provide development approvals in writing.	Check in ordinance. Add if not found.	Relevant	- Changed title of article V from "Permits" to "Permits and Development Approvals". Added new section 102, "Development Approvals in General". Created reference to definition of development approval added in update (251.56a) and NCGS 160D-102(13). - Added subsection 102.2 noting development approvals must be provided in writing. New section for development approvals in general includes variances and any other development approvals in this chapter/ordinance that are not land use or special use permits.
107	X. Administrative Decisions [Chapter 4, Section IV]	A. Development Approvals	Required	Must provide that applications for development approvals must be made by a person with a property interest in the property or a contract to purchase the property. (G.S. 160D-403(a).)	Check in ordinance. Add if not found.	Relevant	Added subsection 102.3 in new section 102 covering development approvals in general.
108	X. Administrative Decisions [Chapter 4, Section IV]	A. Development Approvals	Required	Must provide that development approvals run with the land. (G.S. 160D-104.)	Check in ordinance. Add if not found.	Relevant	Land use and special use permits are covered under subsection 98.1, effect of permit on successors and assigns. Added subsection 102.4 in new section 102 covering development approvals (this covers non-permit approvals in the ordinance).
109	X. Administrative Decisions [Chapter 4, Section IV]	A. Development Approvals	Required	For revocation of development approval, must follow the same process as was used for the approval. (G.S. 160D-403(f).)	Check in ordinance. Add if not found. ## Ex. admin approval involving board review	Relevant	Duplicate. Refer to row ID 29.
111	X. Administrative Decisions [Chapter 4, Section IV]	A. Development Approvals	Optional	May set expiration of development approvals if work is not substantially commenced; default rule is twelve months, unless altered by state or local rule. (G.S. 160D-403(c).) Building permits expire after six months, as under prior law (no change to building permits). (G.S. 160D-1111.)	Check ordinance. Check for minimum.	Relevant	Permits expire within twelve months per subsection 97.1. No issues. Added new subsection 102.7 for all development approvals.
112	X. Administrative Decisions [Chapter 4, Section IV]	A. Development Approvals	Optional	May extend expiration for development approvals for which construction is commenced and then is discontinued; default rule is that such approvals are valid for 24 months after discontinuation. (G.S. 160D-108(d).) Building permits for which work has been discontinued expire after twelve months, as under prior law (no change to building permits). (G.S. 160D-1111.)	Check ordinance. Check for minimum.	Relevant	Changed period from one year to two years (24 months) in subsection 97.2 for permits with discontinued work. Added new subsection 102.7 for all development approvals.
113b	X. Administrative Decisions [Chapter 4, Section IV]	A. Development Approvals	Required	If this is done, then must define "minor modifications" by ordinance and must not include modification of permitted use or density of development; major modifications must go through full applicable approval process. (G.S. 160D-403(d); -703(b); -705(c).)	Check for administrative minor modification in ordinance. Add requirements if they are missing.	Relevant	See row ID 89b.
114	X. Administrative Decisions [Chapter 4, Section IV]	B. Determinations	Required	Must provide written notice of determination by personal delivery, electronic mail, or first-class mail to the property owner and party seeking determination, if different from the owner. (G.S. 160D-403(b).)	Check in ordinance. Add if not found.	Relevant	Added new section 47 covering determinations in article 2, administration.
117	X. Administrative Decisions [Chapter 4, Section IV]	C. Appeals of Administrative Decisions	Required	Must allow administrative decisions of any development regulations (not just zoning) to be appealed to the board of adjustment, unless provided otherwise by statute or ordinance. (Appeals relating to erosion and sedimentation control, stormwater control, or building code and housing code violations are not made to the board of adjustment unless specified by local ordinance.) (G.S. 160D-405.)	Check in ordinance. Add if not found.	Relevant	Existing section 200 on appeals applies to zoning and subdivision regulations of chapter (goes to BOA). Sub-subsection 263.4.4 covers appeal for floodplain administrator decisions (goes to governing board). No issues.
118	X. Administrative Decisions [Chapter 4, Section IV]	C. Appeals of Administrative Decisions	Required	Must set a thirty-day period to file an appeal of any administrative determination under a development regulation; must presume that if notice of determination is sent by mail, it is received on the third business day after it is sent. (G.S. 160D-405(e)(d).)	Check in ordinance. Add if not found.	Relevant	- Thirty-day period is covered under subsection 200.2 in section 200 regarding appeals. Changed from date of decision to date receipt of written notice of decision. - Added presumption of receipt after three business days in subsection 200.2.
119	X. Administrative Decisions [Chapter 4, Section IV]	C. Appeals of Administrative Decisions	Required	Must require the official who made the decision (or his or her successor if the official is no longer employed) to appear as a witness in the appeal. (G.S. 160D-406.)	Check in ordinance. Add if not found.	Relevant	Added information about successor to subsection 204.1 in section 204, burden of proof in appeals and variances.
120	X. Administrative Decisions [Chapter 4, Section IV]	C. Appeals of Administrative Decisions	Required	Must pause enforcement actions, including fines, during the appeal. (G.S. 160D-405.)	Check in ordinance. Add if not found.	Relevant	Covered by subsection 200.4 in section 200 regarding appeals. No issues.
121	X. Administrative Decisions [Chapter 4, Section IV]	C. Appeals of Administrative Decisions	Optional	May assign the duty of hearing appeals to another board (other than the board of adjustment); if this is done, such board must follow quasi-judicial procedures. (G.S. 160D-405.)	Check ordinance if appeals are assigned to another board. If so, check ordinance to ensure quasi-judicial procedures are followed. Otherwise, proceed without.	Relevant	Related to row ID 117 above. Boards generally follow quasi-judicial procedures for appeals per article XIII of the chapter. No issues.
123	XI. Vested Rights and Permit Choice [Chapter 5, Section I]	A. Vested Rights	Required	Must recognize that building permits are valid for six months, as under prior law. (G.S. 160D-1111.)	Check if building permits are mentioned in ordinance. Add period if found.	Relevant	No issues. Will omit for clarity.
124	XI. Vested Rights and Permit Choice [Chapter 5, Section I]	A. Vested Rights	Required	Must recognize the standard rule that development approvals/permits are valid for twelve months, unless altered by statute or extended by local rule (G.S. 160D-108(d)(2).)	Check in ordinance. Add if not found. Ensure period of validity meets minimum of twelve months.	Relevant	Similar to row ID 111. Refer to that row.

125	XI. Vested Rights and Permit Choice [Chapter 5, Section I]	A. Vested Rights	Required	Must identify site-specific vesting plans (formerly site-specific development plans) with vesting for two to five years, as under prior law, except for specified exceptions. (G.S. 160D-108.1)	Check in ordinance. Identify.	Relevant	<p>Section 77, Vesting Procedures covers site-specific vesting plans. Changed term "site-specific development plan" to "site-specific vesting plan".</p> <ul style="list-style-type: none"> - Changed "zoning vested right" throughout to "vested right" as it applies to other development regulations. - Added new sub-subsection 77.1.5 that has statutory reference to site-specific vesting plans exceptions specified in NCGS 160D-108.1. - Two-year duration of site-specific vesting plan is already noted in section 77. <p><i>Note: Section 242 does not specify that special use permit qualifies under this section, only that the application requires the same contents as a special use permit. It also does not require a quasi-judicial hearing. Therefore, it is considered a "stand-alone" site-specific vesting plan.</i></p> <p>Section 242, vested right, describes a "stand-alone" (town-defined) site-specific vesting plan approval. This approval requires the same information for a special use permit. This approval references the amendment procedure for the process of approval.</p> <ul style="list-style-type: none"> - Updated 242.1 to change "amendment procedure" to "same notice and hearing procedures for amendments". - Added clarification to 242.1 that this decision is not an amendment, but it is a legislative decision and shall follow the notice requirement in 160D-602. - Subsection 242.2 on termination of vested rights conforms to exceptions specified in NCGS 160D-108.1, plus lack of building permits at the end of the vesting period. - Town may want to relocate vested rights section to a different article in a future update since it is not an ordinance amendment. It may also want to remove this section if it is considered a duplicate of section 77, "Vesting Procedures".
126	XI. Vested Rights and Permit Choice [Chapter 5, Section I]	A. Vested Rights	Required	Must recognize multi-phase developments—long-term projects of at least 25 acres—with vesting up to seven years, except for specified exceptions (160D-108(c); -108(f).) (The previously authorized phased-development plan is obsolete and should be deleted from ordinance.)	Check if multi-phased developments are defined/mentioned.	Relevant	<p>Subsection 77.5 covers multi-phased developments. Changed term "phased development" to "multi-phased development".</p> <ul style="list-style-type: none"> - Changed vested period in 77.5.2 from five years to statutorily-required seven years. - Added statutory reference for definition for multi-phased development. - Changed "zoning vested right" throughout to "vested right" as this vest right applies to other development regulations."
130	XI. Vested Rights and Permit Choice [Chapter 5, Section I]	B. Permit Choice	Required	Must not make an applicant wait for final action on the proposed change before proceeding if the applicant elected determination under prior rules. (G.S. 143-755; G.S. 160D-108(b).)	Check in ordinance. Add if not found.	Relevant	<p>Added new subsection 102.5 for permit choice in new section 102, development approvals in general. Also added new subsection 102.6 for application completeness, which relates to permit choice.</p> <p>Section 73 covers application completeness only for land use and special use permits. Updated with reference to application completeness requirements in new subsection 102.6.</p>
135	XII. Judicial Review [Chapter 5, Section II]	B. Appeals of Quasi-Judicial Decisions	Required	Must update ordinance to address appeals of certificates of appropriateness for historic landmarks and historic districts; default rule is that such appeals go straight to court; local government may opt for such appeals to go to the board of adjustment, as under prior statutes. (G.S. 160D-947.)	Check if certificates of appropriateness are addressed. Otherwise, proceed without.	Relevant	No certificates of appropriateness. No issues.
136	XII. Judicial Review [Chapter 5, Section II]	B. Appeals of Quasi-Judicial Decisions	Required	Must provide that appeals of certificates of appropriateness must be filed within thirty days after the decision is effective or written notice is provided, the same as for appeals of other quasi-judicial decisions. (G.S. 160D-947; 1405.)	Check if certificates of appropriateness are addressed. Otherwise, proceed without.	Relevant	No certificates of appropriateness. No issues.

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