LAND USE ORDINANCE

CITY OF ROANOKE RAPIDS, NC

PREPARED BY:
THE PLANNING & DEVELOPMENT DEPARTMENT

ADOPTED JANUARY 1, 1998

REVISED JULY 9, 2013, with Amendments through March 1, 2016

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ARTICLE I: GENERAL PROVISIONS

Section 151-1 Short Title.

This chapter shall be known and may be cited as the Roanoke Rapids Land Use Ordinance.

Section 151-2 Authority.

(a) This chapter is adopted pursuant to the authority contained in the city charter as well as the provisions of Article 19 of Chapter 160A, Article 21, Part 6 of Chapter 143, and Article 4 of Chapter 113A of the North Carolina General Statutes.

(b) Whenever any provision of this chapter refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, the chapter shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Section 151-3 Jurisdiction.

(a) This chapter shall be effective throughout the city's planning jurisdiction. The city's planning jurisdiction comprises the area within the corporate boundaries of the city as well as the area described in that map adopted by the city council on September 19, 1983, amending the Description of the Official Zoning Map which map is recorded in plat cabinet 2, slide 49 of the Halifax County Registry and the area described in that resolution adopted by the city council on March 14, 1995 which resolution is recorded in book 1645, page 604 of the Halifax County Registry. Such planning jurisdiction may be modified from time to time in accordance with Section 160A-360 of the North Carolina General Statutes.

(b) In addition to other locations required by law, a copy of the map showing the boundaries of the city's planning jurisdiction shall be available for public inspection in the planning and development department.

(c) In accordance with NC General Statutes 160A-392, the Roanoke Rapids Land Use Ordinance applies to state-owned lands only when a building is involved. *(Amended 7/9/2013)*

Section 151-4 Effective Date.

The provisions in this chapter became effective on January 1, 1998.

Section 151-5 Relationship to Existing Zoning, Subdivision and Flood Control Ordinances.

To the extent that the provisions of this chapter are the same in substance as the previously adopted provisions that they replace in the city's zoning, subdivision, or flood control ordinances, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, nonconforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this chapter merely by the repeal of the zoning ordinance.

Section 151-6 Relationship To Land Use Plan.

It is the intention of the Council that these chapters implement the planning policies adopted by the Council for the city and its extraterritorial planning area, as reflected in the land use plan and other planning documents. While the Council reaffirms its commitment that this chapter and any amendment to it be in conformity with adopted planning policies, the Council hereby expresses its intent that neither this chapter nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

Section 151-7 No Use of Land or Buildings Except in Conformity With Chapter Provisions.

(a) Subject to Article VIII of this chapter (Nonconforming Situations), no person may use, occupy, or sell any land or buildings or authorize or permit the use, or sale of land or buildings under his control except in accordance with all of the applicable provisions of this chapter.

(b) For purposes of this section, the "use" or "occupation" of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 151-8 Fees.

(a) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, conditional use permits, special use permits, subdivision plat approval, zoning amendments, variances and other administrative relief. The amount of the fees charged shall be as set forth in the city's budget or as established by resolution of the Council filed in the office of the city clerk.

(b) Fees established in accordance with subsection (a) shall be paid upon submission of a signed application or notice of appeal.

Section 151-9 Severability.

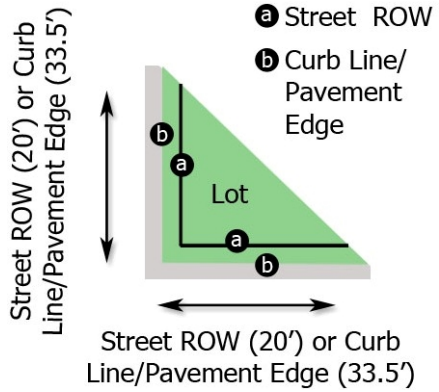
It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any such section, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction 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.

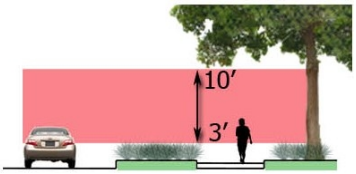
Section 151-10 Housing Affordability

In accordance with NCGS 41-A, it is an unlawful discriminatory housing practice to discriminate in land-use decisions or in the permitting of development based on race, color, religion, sex, national origin, handicapping condition, familial status, or, except as otherwise provided by law, the fact that a development or proposed development contains affordable housing units for families or individuals with incomes below eighty percent (80%) of area median income. It is not a violation of Chapter 41-A if land-use decisions or permitting of development is based on considerations of limiting high concentrations of affordable housing. *(Amended 7/9/2013)*

Section 151-11 Street Intersection Sight Visibility Triangle

The land adjoining a street intersection or egress to a street from off-street parking areas shall be kept clear of obstructions to protect the visibility and safety of motorists and pedestrians. On a corner lot, nothing shall be erected, placed, or allowed to grow in a manner so as materially to impede vision between a height of three feet and ten feet in a triangular area formed by a diagonal line between two points on the right-of-way lines, 20 feet from where they intersect OR a distance of 33.5 feet back from the curb line or edge of pavement line with a diagonal connecting the two points, whichever is greater. A clear view shall be maintained on corner lots from 3 to 10 feet in vertical distance. *(Amended 7/9/2013)*





Sections 151-12 through 151-14 Reserved.

ARTICLE II: BASIC DEFINITIONS AND INTERPRETATIONS

Section 151-15 Definitions of Basic Terms.

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have meaning indicated when used in this chapter.

( ) Accessory Use. (See Section 151-150)

( ) Administrator. (See Section 151-37)

( ) Adult Bookstore. An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

( ) Adult Care Home. An assisted living residence in which the housing management provides 24-hour scheduled and unscheduled personal care services 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 persons 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. *(Amended 7/9/2013)*

( ) Adult Day Care Program. The provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. *(Amended 7/9/2013)*

( ) Adult Motion Picture Theater. An enclosed building or premises used for presenting motion pictures, a substantial or significant portion of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified activities or specified anatomical areas for observation by patrons therein.

( ) Adult Establishment. For the purpose of this section, adult establishment means any businesses or enterprises that have as one of their principal business purposes or as a significant portion of their business an emphasis on matter and conduct depicting, describing, or related to anatomical areas and sexual activities specified in G. S. 14-202.10.

( ) Adult Entertainment. Any performance of or involving the actual presence of real people, which exhibits, specified sexual activities or specified anatomical areas.

( ) Antenna. Equipment designed to transmit or receive electronic signals.

( ) Arcade. A place or facility where pinball, computer, or other similar electronic or mechanical games are played for amusement only. This shall not be construed so as to include bingo games, gambling devices, electronic gaming machines, or any devices prohibited by law.

( ) Assisted Living Residence. Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more licensed home care or hospice agencies. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. There are three types of assisted living residence: adult care homes, adult care homes that serve only elderly persons, and multi-unit assisted housing with services. *(Amended 7/9/2013)*

( ) Base Flood. The flood having a one percent chance of being equaled or exceeded in any given year.

( ) Boarding House. A residential use consisting of at least one dwelling unit together with more than two rooms that are rented out or are designed or intended to be rented but which rooms, individually or collectively, do not constitute separate dwelling units. A rooming house or boarding house is distinguished from a tourist home in that the former is designed to be occupied by longer-term residents (at least month-to month tenants) as opposed to overnight or weekly guests.

( ) Bona Fide Farm. Land being used for farm purposes as defined by NCGS 160A-360(k). Proof that property functions as a farm includes the following: (1) a farm sales tax exemption certificate; (2) a copy of the property tax listing showing that the farm qualifies for the present-use-value property taxation that applies to agricultural, horticultural, and forestry uses; (3) a copy of the farm operator's federal income tax form that demonstrates farm activity; (4) a forestry management plan; or (5) a farm identification number issued by the US Department of Agriculture. *(Amended 7/9/2013)*

( ) Building. A structure designed to be used as a place of occupancy, storage, or shelter.

( ) Building, accessory. A minor building on a lot or a building that houses a principal use.

( ) Building, principal. The primary building on a lot or a building that houses a principle use.

( ) Certify. Whenever this chapter requires that some agency certify the existence of some fact or circumstance to the city, the city may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the foregoing, the city may accept certification by telephone from some agency when the circumstances warrant it, or the city may require that the certification be in the form of a letter or other document.

( ) Child Care. A program or arrangement where three or more children less than 13 years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoption. *(Amended 7/9/2013)*

( ) Child Care Center. An arrangement where, at any one time, there are three or more preschool-age children or nine or more school-age children receiving child care. *(Amended 7/9/2013)*

( ) Circulation Area. That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

( ) Combination Use. A use consisting of a combination on one lot of two or more principal uses separately listed in the Table of Permissible Uses, Section 151-149. (Under some circumstances, a second principal use may be regarded as accessory to the first, and thus a combination use is not established. See Section 151-150. In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)

( ) Convenience Store. A one story , retail store containing less than 2000 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 depends upon a large volume of "stop and go" traffic . Illustrative examples of convenience stores are those operated by the "Fast Fare", "7-11" and "Pantry" chains.

( ) Conditional Use Permit. A permit issued by the City Council 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 Council.

( ) Developer. A person who is responsible for any undertaking that requires a zoning permit, special use permit, conditional use permit, or sign permit.

( ) Development. That which is to be done pursuant to a zoning permit, special use permit, conditional use permit, or/ sign permit.

( ) Dimensional Nonconformity. A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between 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.

( ) Driveway. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

( ) Duplex. A two-family residence other than a two-family conversion.

( ) Dwelling Unit. A building containing sleeping, kitchen, and bathroom facilities designed for and used or held ready for use as a permanent residence by one family.

( ) Electronic Gaming Operation. A business enterprise, whether principal or accessory, where persons utilize electronic machines, including but not limited to computers and gaming terminals to conduct games of odds or 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. Electronic Gaming Operations do not include operations associated with the official North Carolina Lottery.

( ) Energy Generating Facility. A facility that uses a variety of sources and/or products for the production of power. Energy facilities may include, but are not limited to: petroleum, methane, ethanol, thermal, wind, solar, hydro-electric, and other energy generation facilities. *(Amended 7/9/2013)*

( ) 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.

( ) Extraterritorial Planning Area. That portion of the city's planning jurisdiction that lies outside the corporate limits of the city.

( ) Family. One or more persons living together as a single housekeeping unit.

( ) Family Care Home. 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 of two direct exterior ground-level accesses to the upper story. *(Amended 7/9/2013)*

( ) Family Child Care Home. A child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care. *(Amended 7/9/2013)*

( ) Family Foster Home. The private residence of one or more individuals who permanently reside as members of the household and who provide continuing full-time foster care for a child or children who are placed there by a child placing agency or who provide continuing full-time foster care for two or more children who are unrelated to the adult members of the household by blood, marriage, guardianship, or adoption. *(Amended 7/9/2013)*

( ) Family Subdivision. A subdivision where not more than three (3) lots are conveyed to or developed for building purposes by members of the lineal family. Lineal family shall include only direct lineal descendents (children, grandchildren, great-grandchildren), direct lineal ascendants (father, mother, grandfather, grandmother) and spouses. Lots can be conveyed as a gift, as settlement of property owner's estate or the nominal consideration. In determining the number of lots created, the following criteria are hereby established.

(i) The residual tract where a residential structure is located will not be considered a new lot; and
(ii) Only lots that must use the legal right-of-way for direct access will be considered new lots.

( ) Floodplain. Any land area susceptible to be inundated by water from the base flood. As used in this chapter, the term refers to that area designated as subject to flooding from the base flood (one-hundred year flood) on the "Flood Boundary and Floodway Map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the planning and inspections department.

( ) Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. As used in this chapter, the term refers to that area designated as a floodway on the "Flood Boundary and Floodway Map" prepared by the U.S. Department of Housing and Urban Development, a copy of which is on file in the planning and inspections department.

( ) 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.

( ) Habitable Floor. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or any combination thereof. A floor used only for storage is not a habitable floor.

( ) Halfway House. A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in G.S. 151-17 (30), or antisocial or criminal conduct, together with not more than two persons, providing supervision and other services to such persons, eleven of whom live together as a single housekeeping unit.

( ) High Volume Traffic Generation. All uses in the 2,000 classification other than low volume traffic generation uses.

( ) Home Occupation. A commercial activity that:

(i) is conducted by a person on the same lot upon which a single family dwelling exists (in a residential district) where such person resides, and
(ii) is not associated with the residential use as to be regarded as an accessory use (see Section 151-150), but that can be conducted without any significantly adverse impact on the surrounding neighborhood.

Without limiting the generality of the foregoing, a use may not be regarded as having an insignificantly adverse impact on the surrounding neighborhood if:

(i) goods, stock in trade, or other commodities are displayed,
(ii) any on-premises retail sales occur,
(iii) more than one person not a resident on the premises is employed in connection with the purported home occupation,
(iv) it creates objectionable noise, fumes, odor, dust or electrical interference, or
(v) more than twenty-five percent of the total gross floor area of residential buildings plus other buildings housing the purported home occupation, or more than 500 square feet of gross floor area (whichever is less), is used for home occupation purposes.

The following is a non-exhaustive list of examples of enterprises that may be home occupations if they meet the foregoing definitional criteria:

(i) the office or studio of a physician, dentist, artist, musician, lawyer, architect, engineer, teacher, or similar profession,
(ii) workshops, greenhouses, or kilns,
(iii) dressmaking or hairdressing studios.

( ) Kennel. A commercial operation that:

(i) provides food and shelter and care of animals for purposes not primarily related to medical care (A kennel may or may not be run by or associated with a veterinarian), or
(ii) engages in the breeding of animals for sale.

( ) Loading and Unloading Area. That portion of the vehicle accommodation area used to satisfy the requirements of Section 151-300.

( ) Lot. A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

If a public body or any authority with the power of eminent domain condemns, purchases, or otherwise obtains fee simple title to or a lesser interest in a strip of land cutting across a parcel of land otherwise characterized as a lot by this definition, or a private road is created across a parcel of land otherwise characterized as a lot by this definition, or and the interest thus obtained or the road so created is such as effectively to prevent the use of this parcel as one lot, then the land on either side of this strip shall constitute a separate lot.

( ) Lot Area. The total area circumscribed by the boundaries of a lot, except that:

(i) when the legal instrument creating a lot shows the boundary of the lot extending to the center of a public street right-of-way or into a public street right-of-way, then the lot boundary for purposes of computing the lot area shall be the street right-of-way line, or a line running parallel to and thirty feet from the center of the traveled portion of the street if the right-of-way line cannot be determined, and

(ii) in a residential district, when a private road that serves more than three dwelling units is located along any lot boundary, then the lot boundary for purposes of computing the lot area shall be the inside boundary of the traveled portion of that road.

( ) Low Volume Traffic Generation. Uses 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 items.

( ) Massage Parlor. An establishment or business, other than in a hospital or other medical treatment facility, wherein the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device, is practiced.

( ) Mobile Home. Any structure that:

(i) consists of a single unit completely assembled at the factory, or of two (double-wide) or three (triple-wide) principal components totally assembled at the factory joined together at the site;

(ii) is designed so that the total structure (or in the case of double-wides or triple-wides, each component thereof) can be transported on its own chassis;
(iii) is over 32 feet in length and over 8 feet in width;
(iv) is designed to be used as a dwelling and provides complete, independent living facilities for one family and including permanent provisions for living, sleeping, eating, cooking, and sanitation;
(v) is actually being used or held ready for use as a dwelling;
(vi) is not constructed in accordance with the standards set forth in the North Carolina State Building Code.

( ) Mobile Home, Class A. A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfied the following additional criteria:

(i) The pitch of the mobile home's roof shall have a minimum vertical rise of one foot for each five (5) feet of horizontal run;
(ii) The exterior materials shall be of wood, hardboard, or aluminum comparable in composition, appearance, and durability to site built houses in the vicinity;
(iii) A continuous, permanent masonry foundation, unpierced except for required ventilation and access shall be installed under the mobile home; and
(iv) The tongues, axles, transporting lights, and removable towing apparatus shall be removed subsequent to final placement.
(v) The mobile home shall have a length not exceeding four (4) times its width.

( ) Mobile Home, Class B. A mobile home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction but that does not satisfy the criteria necessary to qualify the house as a class A mobile home, and that satisfies the following additional criteria:

(i) A continuous, permanent masonry foundation, unpierced except for required ventilation and access shall be installed under the mobile home; or, vinyl, fiberglass or similar material underpinning shall be installed under the mobile home; and,
(ii) The tongue shall be removed; or, the tongue shall be concealed consistent with (i) above.

( ) Mobile Home, Class BB. A mobile home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U. S. Department of Housing and Urban Development that were in effect at the time of construction but does not satisfy the criteria necessary to qualify the house as a class A mobile home or class B mobile home, and that satisfies the following additional criteria:

(i) The pitch of the mobile home's roof shall have a minimum vertical rise of one foot for each five (5) feet of horizontal run; the roof is finished with a type of shingle that is commonly used in standard residential construction and which does not exceed the reflectivity of gloss white paint;

(ii) The exterior materials shall be of vinyl, wood, hardboard or aluminum comparable in composition, appearance, and durability to site built houses in the vicinity and which does not exceed the reflectivity of gloss white paint;

(iii) A continuous, permanent masonry foundation wall or masonry curtain wall, unpierced except for required ventilation and access shall be installed under the mobile home; and

(iv) The tongues, axles, transporting lights, and removable towing apparatus shall be removed subsequent to final placement.

(v) The mobile home shall have a length not exceeding five (5) times its width.

( ) Mobile Home Park. A multifamily residential use consisting of two or more detached mobile homes located on one lot.

( ) Modular Home. A single-family residence constructed in accordance with the standards set forth in the North Carolina State Building Code and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two sections transported to the site in a manner similar to a mobile home (except that the modular home meets the N.C. State Building Code), or a series of panels or room sections transported on a truck and erected or joined together on the site.

( ) Multifamily Conversion. A multifamily residence containing not more than four dwelling units resulting from the conversion of a single building containing at least 2000 square feet of gross floor area that was in existence on the effective date of his ordinance and that was originally designed, constructed and occupied as a single-family residence.

( ) Multi-Unit Assisted Housing with Services. An assisted living residence in which hands-on personal care services and nursing services which are arranged by housing management are provided by a licensed home care or hospice agency through an individualized written care plan. The housing management has a financial interest or financial affiliation or formal written agreement which makes personal care services accessible and available through at least one licensed home care or hospice agency. The resident has a choice of any provider, and the housing management may not combine changes for housing and personal care services. All residents, or other compensatory agents, must be capable, through informed consent, of entering into a contract and must not be in need of 24-hour supervision. Assistance with self-administration of medications may be provided by appropriately trained staff when delegated by a

licensed nurse according to the home care agency's established plan of care. *(Amended 7/9/2013)*

( ) 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 requirement of the district in which the lot is located.

( ) 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.

( ) Nonconforming Situation. A situation that occurs when, on the effective date of this chapter, any existing lot or structure or use of and 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. 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 set-back requirements) is not in conformity with this chapter, because signs do not meet the requirements of this chapter (Article XVII), or because land or buildings are used for purposes made unlawful by this chapter.

( ) 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.)

( ) Nursing Care Home. A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than nine persons.

( ) Nursing Care Institution. An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than nine persons.

( ) Parking Area Aisles. A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

( ) Parking Space. A portion of the vehicle accommodation area set aside for the parking of one vehicle.

( ) Person. Any individual, corporation, firm, partnership, association, organization, or other group acting as a unit.

( ) Photovoltaic Power. An active solar energy system that converts solar energy directly into electricity. *(Amended 7/9/2013)*

( ) Planned Residential Development. A development constructed on a tract of at least five acres under single ownership, planned and developed as an integral unit, and consisting of single-family residential lots combined with either two-family residences or multi-family residences or both, all developed in accordance with Section 151-157.

( ) Planning Jurisdiction. The area within the city limits as well as the area beyond the city limits within which the city is authorized to plan for and regulate development, as set forth in Section 151-3.

( ) Planned Unit Development. A development constructed on a tract of at least twenty-five (25) acres under single ownership, planned and developed as an integral unit, and consisting of a combination of principal uses that could not be combined in any district other than a planned unit development district.

( ) Public Water Supply System. Any water supply system furnishing potable water to ten or more dwelling units or business or any combination thereof.

( ) Residence, Single-Family 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 neither the building nor more than a total of 750 square feet.

( ) Residence, Two Family. A residential use consisting of two dwelling units within a single building on a single lot other than a single-family residence with accessory apartment.

( ) Residence, Multi-Family. A residential use consisting of two dwelling units located in separate buildings on the same lot or three or more dwelling units located in one or more buildings on the same lot.

( ) Residence, Single-Family. A residential use consisting of a building containing one dwelling unit on a single lot.

( ) Residential Child-Care Facility. A staffed premise with paid or volunteer staff where children receive continuing full-time foster care. *(Amended 7/9/2013)*

( ) Restaurant. An establishment whose principal business is the sale of foods, frozen desserts, or beverages to a customer in a ready-to-consume state, and generally an establishment whose gross receipts from food and nonalcoholic beverages are greater than its gross receipts from alcoholic beverages. It is an establishment substantially engaged in the business of preparing and serving meals and whose design and principal method of operation is; (a) to provide

customers with an individual menu and served by an employee at the same table or counter at which their food and/or beverages are consumed; or (b) a cafeteria-type of operation where foods and/or beverages generally are consumed within the restaurant; or (c) where foods and/or beverages are usually served in edible containers or in paper, plastic or other disposable containers by an employee at a standing counter or drive-in window; or: (d) where consumption is normally off the premises, but may be allowed within a motor vehicle parking on the premises, or at other facilities on the premises outside the principal building. A restaurant may or may not have available for its patrons live or recorded music as an accessory accompaniment provided with meals, however, no formal observation area is provided.

( ) Road. All private ways used to provide motor vehicle access to (a) two or more lots or (b) two or more distinct areas or buildings in family subdivisions and unsubdivided developments.

( ) Rooming House. (See Boarding House)

( ) Sign. (See Section 151-270)

( ) Shadow Flicker. The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow. *(Amended 7/9/2013)*

( ) Solar Collector (Accessory). Any solar device that absorbs and accumulates solar radiation for use as a source of energy. The device may be roof-mounted or ground-mounted as an accessory use. *(Amended 7/9/2013)*

( ) Solar Energy. Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector. *(Amended 7/9/2013)*

( ) Solar Energy System. A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy for space heating or cooling, electricity generating, or water heating. Solar energy systems may include, but not be limited to, solar farms and any of several devices that absorb and collect solar radiation for use as a source of energy as an accessory use. *(Amended 7/9/2013)*

( ) Solar Farms. An area of land designated for use for the sole purpose of deploying photovoltaic power and generating electric energy. *(Amended 7/9/2013)*

( ) Special Events. Circuses, fairs, carnivals, festivals, or other types of special events that (a) run for longer than one day but not longer than four weeks (b) are intended to or likely to attract substantial crowds, and (c) are unlike the customary or usual activities generally associated with the property where the special event is to be located.

( ) Specified Anatomical Areas. An area consisting of:

(i) Less than completely and opaquely covered human genitals, pubic region, buttock or female breast below a point immediately above the top of the areola; or,
(ii) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

( ) Specified Sexual Activities. An activity which includes:

(i) Human genitals in a state of sexual stimulation or arousal;
(ii) Acts of human masturbation, sexual intercourse or sodomy; or
(iii) Fondling or other erotic touching of human genitals, public regions, buttocks or female breasts.

( ) Street. A public street or a street with respect to which an offer of dedication has been made.

( ) Street, Arterial. A major street in the city's street system that serves as an avenue for the circulation of traffic onto, out, or around the city and carries high volumes of traffic.

( ) Street, Collector. A street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than one hundred dwelling units and is designed to be used or is used to carry more than eight hundred trips per day.

( ) Street, Cul-de-sac. A street that terminates in a vehicular turn-around.

( ) Street, Local. A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten but not more than twenty-five dwelling units and is expected to or does handle between seventy-five and two hundred trips per day.

( ) Street, Marginal Access. A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

( ) Street, Minor. A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine dwelling units and is expected to or does handle up to seventy-five trips per day.

( ) Street, Subcollector. A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local through connecting streets, it serves or is designed to serve at least twenty-six but not more than one hundred dwelling units and is expected to or does handle between two hundred and eight hundred trips per day.

( ) Structure. Anything constructed or erected.

( ) 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 chapter applicable strictly to subdivisions:

(i) 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 chapter,
(ii) the division of land into parcels greater than ten acres where no street right-of-way dedication is involved; or
(iii) the public acquisition by purchase of strips of land for widening or opening streets; or
(iv) the division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the minimum standards set forth in this chapter.

( ) Subdivision, Major. Any subdivision other than a minor subdivision.

( ) Subdivision, Minor. A subdivision that does not involve any of the following: (i) the creation of more than a total of eight lots; (ii) the creation of any new public streets, (iii) the extension of a public water or sewer system, or (iv) the installation of drainage improvements through one or more lots to serve one or more other lots.

( ) Temporary Emergency, Construction, or Repair Residence. A residence (which may be a mobile home) that is:

(i) located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster, or

(ii) located on the same lot as a residence that is under construction or undergoing substantial repairs or reconstruction and occupied by the persons intending to live in such permanent residence when the work is completed; or

(iii) located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site.

( ) Theater, Performing Arts and Music. A structure having a minimum of 1,000 permanent seats used for dramatic, operatic, motion pictures, music, or other performance, for admission to which entrance money is received.

( ) Therapeutic Foster Home. A family foster home where, in addition to the provision of foster care, foster parents who receive appropriate training provide a child with behavioral health treatment services under the supervision of a county department of social services, an area mental health program, or a licensed private agency. *(Amended 7/9/2013)*

( ) Tower. Any structure whose principal function is to support an antenna.

( ) Tract. A lot. The term tract is used interchangeably with the term "lot."

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

( ) Two-Family Conversion. A two-family residence resulting from the conversion of a single building containing at least 2000 square feet of gross floor area that was in existence on the effective date of this ordinance and that was originally designed, constructed and occupied as a single-family residence.

( ) Use. The activity or function that actually takes place or is intended to take place on a lot.

( ) Use, Principal. A use listed in the table of permissible uses.

( ) 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 Section 62.3 of the North Carolina General Statutes 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 listed in subsection 151-151 (2).

( ) Variance. A grant of permission by the board of adjustment that authorizes the recipient to do that which, according to the strict letter of this chapter he could not otherwise legally do.

( ) Vehicle Accommodation Area. That portion of a lot that is used by vehicles for access, circulation, parking and loading and unloading. It comprises the total of circulation areas, loading and unloading areas, and parking areas.

( ) Wind Farm. An electricity-generating facility whose main purpose is to supply electricity to the electrical grid, consisting of one or more wind turbines and other accessory structures and buildings including substations, meteorological towers, electrical infrastructure, transmission lines, and other appurtenant structures and facilities, which has a rated capacity of greater than 100 kW. *(Amended 7/9/2013)*

( ) Wind Energy Generator (Accessory). A single system consisting of a single wind turbine, a tower, and associated control or conversion electronics designed to supplement other electricity sources as an accessory use to existing buildings or facilities, which has a rated capacity of not more than 100 kW. *(Amended 7/9/2013)*

( ) Wind Power. Power that is generated in the form of electricity by converting the rotation of wind turbine blades into electrical current by means of an electrical generator. *(Amended 7/9/2013)*

( ) Wind Turbine. A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, and pad transformer. *(Amended 7/9/2013)*

( ) Wind Turbine Height. The distance measured from grade to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation. *(Amended 7/9/2013)*

( ) Wholesale Sales. On-premises sales of goods primarily to customers engaged in the business of reselling the goods.

( ) Zoning 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 chapter.

Section 151-16 Lots Divided by District Lines.

Whenever a single lot is located within two or more different zoning districts, each portion of that lot shall be subject to all the regulations applicable to the district in which it is located. The creation or extension of zones that result in the inclusion of a lot into more than one zone shall not be permitted.

Section 151-17 Computation of Time.

(a) Unless otherwise specifically provided, the time within which an act is to be done shall be computed by excluding the first and 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 prescribed is less than seven days, intermediate Saturdays, Sundays, and holidays shall be excluded.

(b) Unless otherwise specifically provided, 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 151-18 Developer Responsibilities.

The developer shall be responsible for making proper application and obtaining proper approvals in accordance with Article IV and other relevant articles of the Land Use Ordinance. In addition the developer shall be responsible for any and all improvement costs, beyond initial project costs, to include but not be limited to upgrades to existing street, sidewalks, street lights, storm drainage, water, sanitary sewer, etc., made necessary by the proposed development.

Sections 151-19 through 151-20 Reserved

ARTICLE III: ADMINISTRATIVE MECHANISMS

Part I. Planning Board

Section 151-21 Appointment and Terms of Planning Board Members.

(a) There shall be a planning board consisting of nine regular members. Two alternates shall also be appointed. Five members, appointed by the City Council, shall be residents of the City, or shall be a property owner or business owner within the City who resides in Halifax County. Notwithstanding the foregoing, no more than two of the five City Council appointees may be non-residents of the City. Four members, appointed by the Halifax County Board of Commissioners, shall reside within the city's extraterritorial planning area. If the Halifax County Board fails to make these appointments within ninety days after receiving a recommendation from the City Council requesting that they be made, the Council may make them. The City Council shall appoint the two alternate members.

(b) Planning board members shall be appointed for three year staggered terms, pursuant to the City Council's "Policy and Procedures for Appointments to City Boards, Commissions, Committees or Authorities".

(c) Extraterritorial members may vote on all matters before the Board to the same extent as any other regular member.

(d) Alternates may sit in lieu of any regular member and shall, when so seated, have the same powers and duties of any regular member.

Section 151-22 Meetings of the Planning Board.

(a) The planning board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with Section 151-67 (Applications to be Processed Expeditiously).

(b) 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 IV, V, and VI. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas.

(c) Minutes shall be kept of all board proceedings.

(d) 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.

(e) Whenever the board is called upon to make recommendations concerning a conditional use permit request, special use permit request, or a zoning amendment proposal, the planning staff 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 board's agenda at a specified date and time. Such notice(s) shall be posted at least seven days prior to the meeting at which the matter is to be considered. The planning staff shall also send written notice to adjoining property owners if and to the extent required by any regulation or requirement of the planning board adopted under subsection 151-25(b).

Section 151-23 Quorum and Voting.

(a) 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.

(b) All actions of the planning board shall be taken by majority vote, a quorum being present.

(c) A roll call vote shall be taken upon the request of any member.

(d) Extraterritorial planning area members may vote on all matters before the planning board to the same extent as other members.

Section 151-24 Planning Board Officers.

(a) At its first meeting in June of each year, the planning board shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chairman and preside over the board's meetings and one member to serve as vice-chairman. 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 by majority vote of the board membership (excluding vacant seats).

(b) The chairman and vice-chairman may take part in all deliberations and vote on all issues.

Section 151-25 Powers and Duties of Planning Board.

(a) The planning board may:

(1) Make studies and recommend to the council plans, goals and objectives relating to the growth, development and redevelopment of the city and the surrounding extraterritorial planning area.

(2) Develop and recommend to the council policies, ordinances, administrative procedures and other means for carrying out plans in a coordinated and efficient manner.

(3) Make recommendations to the council concerning proposed conditional use permits and proposed zoning map changes, as provided by Sections 151-57 and 151-322.

(4) Perform any other duties assigned by the council.

(b) The planning board may develop rules and regulations governing its procedures and operations not inconsistent with the provisions of the chapter. These rules and regulations shall be subject to review and approval by the council and, upon approval, shall become effective for the planning board.

Section 151-26 Advisory Committees.

(a) From time to time, the council 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, without limitation, the council may appoint advisory committees to consider the thoroughfare plan, bikeway plans, housing plans, economic development plans, etc.

(b) 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, the planning board shall make all formal recommendations to the council.

(c) Nothing in this section shall prevent the council from establishing independent advisory groups, committees, or commissions to make recommendations on any issue directly to the council.

Section 151-27 through 151-28 Reserved.

Part II. Board of Adjustment

Section 151-29 Appointment and Terms of Board of Adjustment.

(a) There shall be a Board of Adjustment consisting of five (5) regular members and two alternate members. Four regular members (to be appointed by the city council) shall reside within the city and shall also be regular members of the Planning Board. One regular member (to be appointed by the county board of commissioners) shall

reside within the extraterritorial planning area of the city, and the city council will recommend to the county commissioners that this regular member appointee also be a regular member of the Planning Board. There shall be one alternate member (to be appointed by the city council) who must also reside within the city and who must also be either a regular or alternate member of the Planning Board. There shall be one other alternate member (to be appointed by the county commissioners) who must also reside within the extraterritorial planning area of the city, and the city council will recommend to the county commissioners that this alternate member appointee also be either a regular or alternate member of the Planning Board.

(b) All appointees to the Board of Adjustment (both regular and alternate) whose appointments are made by the city council must also be members of the Planning Board throughout their respective terms on the Board of Adjustment.

(c) Board of Adjustment members, as well as alternates, shall be appointed for three year staggered terms pursuant to the City Council's Policies and Procedures for Appointments to City Boards, Commissions, Committees and Authorities.

(d) Extraterritorial planning area members may vote on all matters before the board of adjustment to the same extent as other members.

(e) Alternates may sit in lieu of any regular member and when so seated, shall have the same powers and duties as any regular member.

Section 151-30 Meetings of the Board of Adjustment.

(a) 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 151-67 (Applications to be Processed Expeditiously).

(b) The board shall conduct its meetings in accordance with the quasi-judicial procedures set forth in Articles IV, V, and VI.

(c) 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.

Section 151-31 Quorum.

(a) A quorum for the board of adjustment shall consist of the number of members equal to four-fifths of the regular board membership (excluding vacant seats). A quorum is necessary for the board to take official action.

(b) A member who has withdrawn from the meeting without being excused as provided in Section 151-32 shall be counted as present for purposes of determining whether a quorum is present.

Section 151-32 Voting.

(a) 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 variance. All other actions of the board shall be taken by majority vote, a quorum being present.

(b) 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 subsection (c) or has been allowed to withdraw from the meeting in accordance with subsection (d).

(c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:

(1) If the member has a direct financial interest in the outcome of the matter at issue; or

(2) If the matter at issue involves the member's own official conduct; or

(3) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or

(4) If a member has such close personalities to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.

(d) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(e) A roll call vote shall be taken upon the request of any member.

Section 151-33 Board of Adjustment Officers.

(a) 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 chairman and preside over the board's meetings and one member to serve as vice-chairman. 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).

(b) The chairman or any member temporarily acting as chairman may administer oaths to witnesses coming before the board.

(c) The chairman and vice-chairman may take part in all deliberations and vote on all issues.

Section 151-34 Powers and Duties of Board of Adjustment.

(a) The board of adjustment shall hear and decide:

(1) Appeals from any order, decision, requirement, or interpretation made by the administrator, as provided in Section 151-91.

(2) Applications for variances, as provided in Section 151-92.

(3) Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in Section 151-93.

(4) Any other matter the board is required to act upon by any other city ordinance.

(b) The board may develop rules and regulations governing its procedures and operations not inconsistent with the provisions of this chapter. These rules and regulations shall be subject to review and approval by the council and, upon approval, shall become effective for the board. All meetings held by the Board of Adjustment shall be held in accordance with NCGS Chapter 143A, Article 33 B, or as may be amended. The Board shall keep minutes of its proceedings suitable for review in Court showing:

(1) The factual evidence presented to the Board of Adjustment by all parties concerned.

(2) The findings of fact and the reasons for the determinations by the Board of Adjustment.

(3) The vote of each member, or if absent or failing to vote, indicating such fact, all of which shall be public record and be filed with the office of the City Clerk. *(Amended 7/9/2013)*

Section 151-35 Conflicts on Quasi-Judicial Matters.

A member of the Board of Adjustment 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, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is

raised to member's participation and that member does not recuse himself or herself, the remaining members shall be majority vote, rule on the objection. *(Amended 7/9/2013)*

Sections 151-36 Reserved.

Part III. Land Use Administrator and Planning and Development Director

Section 151-37 Land Use Administrator.

Except as otherwise specifically provided, primary responsibility for administering and enforcing this chapter may be assigned to one or more individuals by the city manager. The person or persons to whom these functions are assigned shall be referred to in this chapter as the "land use administrator" or "administrator." The term "staff" or "planning staff" is sometimes used interchangeably with the term "administrator."

Section 151-38 Planning and Development Director.

The planning and development director is the administrative head of the planning and development department. As provided in Section 151-78, the planning and development director is authorized to approve minor subdivision final plats.

Section 151-39 Reserved.

Part IV. City Council

Section 151-40 The City Council.

(a) The City Council, in considering conditional use permit and special use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Articles IV and VI of this chapter.

(b) In considering proposed changes in the text of this chapter or in the zoning map, the council acts in its legislative capacity and must proceed in accordance with the requirements of Article XX.

(c) Unless otherwise specifically provided in this chapter, in acting upon conditional use permit and special use permit requests or in considering amendments to this chapter or the zoning map, the council shall follow the regular, voting, and other requirements as set forth in other provisions of the city code, the city charter, or general law.

Sections 151-41 through 151-45 Reserved.

ARTICLE IV: PERMITS AND FINAL PLAT APPROVAL

Part I. Zoning Permits *(Amended 7/9/2013)*

Section 151-46 Permits Required.

(a) Subject to Article XVII (Sign Permits), the use made of property may not be substantially changed (see Section 151-152), substantial clearing, grading or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to one of the following permits:

(1) A zoning permit issued by the administrator;

(2) A conditional use permit issued by the city council (see Section 151-94).

(b) Zoning permits and sign permits are issued under this chapter only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this chapter if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued in reliance thereon, and except as otherwise provided in Section 151-64, all development shall occur strictly in accordance with such approved plans and applications.

(c) Physical improvements to land to be subdivided may not be commenced except in accordance with a conditional use permit issued by the council for major subdivisions (see Section 151-94) or after final plat approval by the planning and development director for minor subdivisions (see Part II of this article).

(d) A zoning permit or sign 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), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority. Zoning permits issued pursuant to a variance granted by the board of adjustment shall be recorded in the Halifax County Registry after execution by the record owner as provided in Section 151-64.

Section 151-47 No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled.

Issuance of a conditional use or zoning 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 Sections 151-53, 151-60, and 151-61, the intended use may not be commenced, no building may be occupied, and in the case of subdivisions, no lots may be sold until all of the requirements of this chapter and all additional requirements imposed pursuant to the issuance of a conditional use have been complied with.

Section 151-48 Who May Submit Permit Applications.

(a) Applications for zoning or sign permits or minor subdivision plat approval will be accepted only from persons having the legal authority to take action in accordance with the permit or the minor subdivision plat approval. By way of illustration, in general this means that applications should be made by the owners or lessees of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this chapter, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees).

(b) The administrator may require an applicant to submit evidence of his authority to submit the application in accordance with subsection (a) whenever there appears to be a reasonable basis for questioning this authority.

Section 151-49 Applications To Be Complete.

(a) All applications for zoning or sign permits must be complete before the permit issuing authority is required to consider the application.

(b) Subject to subsection (c), an application is complete when it contains all of the information that is 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.

(c) In this chapter, detailed or technical design requirements and construction specifications relating to various types of improvements (streets, sidewalks, etc.) are set forth in one or more of the appendices to this chapter. It is not necessary that the application contain the type of detailed construction drawings that would be necessary to determine compliance with these appendices, so long as the plans provide sufficient information to allow the permit issuing authority to evaluate the application in the light of the substantive requirements set forth in the text of this chapter. However, whenever

this chapter requires a certain element of a development to be constructed in accordance with the detailed requirements set forth in one or more of these appendices, then no construction work on such element may be commenced until detailed construction drawings have been submitted to and approved by the administrator. Failure to observe this requirement may result in permit revocation, denial of final subdivision plat approval, or other penalty as provided in Article VII.

(d) The presumption established by this chapter is that all of the information set forth in Appendix A is necessary to satisfy the requirements of this section. However, it is recognized that each development is unique, and therefore the permit issuing authority may allow less information or require more information to be submitted according to the needs of the particular case. For applications submitted to the city council or board of adjustment, the applicant may rely in the first instance on the recommendations of the administrator as to whether more or less information than that set forth in Appendix A should be submitted.

(e) 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. In classes of cases where a minimal amount of information is necessary to enable the administrator to determine compliance with this chapter, such as applications for zoning permits to construct single-family or two-family houses, or applications for sign permits, the administrator shall develop standard forms that will expedite the submission of the necessary plans and other required information.

Section 151-50 Staff Consultation Before Formal Application.

(a) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this chapter, preapplication consultation between the developer and the planning staff is encouraged or required as provided in this section.

(b) Before submitting an application for a conditional use permit authorizing a development that consists of or contains a major subdivision, the developer shall submit to the administrator a sketch plan of such subdivision, drawn approximately to scale (1" = 100 feet). The sketch plan shall contain:

(1) The name and address of the developer;

(2) The proposed name and location of the subdivision;

(3) The approximate total acreage of the proposed subdivision;

(4) The tentative street an lot arrangement;

(5) Topographic lines;

(6) Any other information the developer believes necessary to obtain the informal opinion of the planning staff as to the proposed subdivision's compliance with the requirements of this chapter.

The administrator shall meet with the developer as soon as conveniently possible to review the sketch plan.

(c) Before submitting an application for any other permit, developers are strongly encouraged to consult with the planning staff concerning the application of this chapter to the proposed development.

Section 151-51 Staff Consultation After Application Submitted. *(Amended 7/9/2013)*

Upon receipt of a formal application for a zoning permit or minor plat approval, the administrator shall review the application and confer with the applicant to ensure that he understands the planning staff'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 151-52 Zoning Permits.

(a) A completed application form for a zoning permit shall be submitted to the administrator by filing a copy of the application with the administrator in the planning and development department.

(b) The administrator shall issue the zoning permit unless he finds, after reviewing the application and consulting with the applicant as provided in Section 151-50, that:

(1) The requested permit is not within his jurisdiction according to the Table of Permissible Uses; or

(2) The application is incomplete; or

(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 a variance has been granted or those the applicant is not required to comply with under the circumstances specified in Article VIII, Nonconforming Situations.)

Section 151-53 Performance Bond to Ensure Compliance With Zoning Permit

(a) In cases when, because of weather conditions or other factors beyond the control of the zoning permit recipient (exclusive of financial hardship), it would be unreasonable to require the zoning permit recipient to comply with all of the requirements of this chapter prior to commencing the intended use of the property or occupying buildings, the administrator 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 performance bond or other security satisfactory to the administrator to ensure that all of the requirements of this chapter will be fulfilled within a reasonable period (not to exceed twelve months) determined by the administrator.

(b) The bond amount shall be determined by the administrator as the actual cost of the anticipated work at current prices plus twenty-five percent (25%) based upon experience and as reflected current cost indexes. The form of the bond shall be acceptable to the administrator and may include paper bonds, bankbooks or other acceptable monetary security, or mortgage bonds.

Section 151-54 Reserved. *(Amended 7/9/2013)*

Section 151-55 Burden of Presenting Evidence; Burden of Persuasion.

(a) The burden of presenting a complete application (as described in Section 151-49) to the permit issuing board 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.

(b) Once a completed application has been submitted, the burden of presenting evidence to the permit issuing board sufficient to lead it to conclude that the application should be denied for any reasons stated in subdivisions 151-54 (c)(1), (3) or (4) shall be upon the party or parties urging this position, unless the information presented by the applicant in his application and at the public hearing is sufficient to justify a reasonable conclusion that a reason exists for denying the application as provided in subdivision 151-54(c)(1), (3) or (4).

(c) 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 subdivision 151-54(c)(4) rests on the party or parties urging that the requested permit should be denied.

Section 151-56 through 151-60 Reserved. *(Amended 7/9/2013)*

Section 151-61 Authorizing Use, Occupancy, or Sale Before Completion of Development Under Conditional Use Permits.

(a) In cases when, because of weather conditions or other factors beyond the control of the conditional 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 or selling lots in a subdivision, the Council may authorize the commencement of the intended use or occupancy of buildings or the sale of subdivision lots (insofar as the requirements of this chapter are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Council to ensure that all of these requirements will be fulfilled within a reasonable period (not to exceed twelve months).

(b) When the Council imposes additional requirements upon the permit recipient in accordance with Section 151-60 or when the developer proposes in the plans submitted to install amenities beyond those required by this chapter, the Council may authorize the permittee to commence the intended use of the property or to occupy any building or to sell any subdivision lots before the additional requirements are fulfilled or the amenities installed if it specifies a certain date by which or a schedule according to which such requirements must be met or each amenity installed and if it concludes that compliance will be ensured as the result of any one or more of the following:

(1) A performance bond or other security satisfactory to the Council is furnished;

(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.

(3) The nature of the requirements or amenities is such that sufficient assurance of compliance is given by Section 151-114 (Penalties and Remedies For Violations) and Section 151-115 (Permit Revocation).

(c) With respect to subdivisions in which the developer is selling only undeveloped lots, the council may authorize final plat approval and the sale of lots before all the requirements of this chapter are fulfilled if the subdivider provides a performance bond or other security satisfactory to the council to ensure that all of these requirements will be fulfilled within not more than twelve months after final plat approval.

(d) The bond amount shall be determined by the administrator as the actual cost of the anticipated work at current prices plus twenty-five percent (25%) based upon experience and as reflected current cost indexes. The form of the bond shall be

acceptable to the administrator and may include paper bonds, bankbooks or other acceptable monetary security, or mortgage bonds.

Section 151-62 Completing Developments in Phases.

(a) If a development is constructed in phases or stages in accordance with this section, then, subject to subsection (c), the provisions of Section 151-47 (No Occupancy, Use, or Sale of Lots Until Requirements Fulfilled) and Section 151-61 (exceptions to Section 151-47) shall apply to each phase as if it were the entire development.

(b) As a prerequisite to taking advantage of the provisions of subsection (a), the developer shall submit plans that clearly show the various phases or stages of the proposed development and the requirements of this chapter that will be satisfied with respect to each phase or stage.

(c) If a development that is to be built in phases or stages includes 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 improvements to completion of one or more phases or stages of the entire development. Once a schedule has been approved and made part of the permit by the permit issuing authority, no land may be used, no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit, provided that:

(1) If the improvement is one required by this chapter then the developer may utilize the provisions of subsections 151-61(a) or 151-61(c);

(2) If the improvement is an amenity not required by this chapter or is provided in response to a condition imposed by the Council, then the developer may utilize the provisions of subsection 151-61(b).

Section 151-63 Expiration of Permits.

(a) Zoning and sign permits shall expire automatically if, within one year after the issuance of such permits:

(1) 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 or such use; or

(2) Less than ten percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development (see Section 151-62), this requirement shall apply only to the first phase.

(b) If, after some physical alteration to land or structures begins to take place, such work is discontinued for a period of one year, then the permit authorizing such work shall immediately expire. However, expiration of the permit shall not affect the provisions of Section 151-64.

(c) The permit issuing authority may extend for a period of up to twelve (12) months of the date when a permit would otherwise expire pursuant to subsections (a) or (b) if it concludes that (i) the permit recipient has filed a request for an extension within six (6) months of the expiration of the permit; (ii) the permit recipient has proceeded with due diligence and in good faith; and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods of up to twelve (12) months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

(d) For purposes of this section, the permit within the jurisdiction of the council is issued when such board votes to approve the application and issue the permit. A permit within the jurisdiction of the zoning administrator is issued when the earlier of the following takes place:

(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

(2) The zoning 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 151-46(d).

(e) Notwithstanding any of the provisions of Article VIII (Nonconforming Situations), this section shall be applicable to permits issued before the date this section becomes effective.

<u>Section 151-64 Effect of Permit on Successors and Assigns</u>

(a) Zoning and sign 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 thereof covered under a permit continues to be used for the purposes for which the permit was granted, then:

(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

(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 subsection (b)) of the existence of the permit at the time they acquired their interest.

Section 151-65 Amendments to and Modifications of Permits.

(a) Insignificant deviations from the permit (including approved plans) issued by the city council or the administrator are permissible and the administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(b) Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.

(c) All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the council, new conditions may be imposed in accordance with Section 151-60, but the applicant retains the right to reject such additional conditions by withdrawing his request for an amendment and may then proceed in accordance with the previously issued permit.

(d) The administrator shall determine whether amendments to and modifications of permits fall within the categories set forth above in subsections (a), (b), and (c).

Section 151-66 Reconsideration of Board Action. *(Amended 7/9/2013)*

Whenever the board of adjustment disapproves 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 board unless the applicant clearly demonstrates that:

(1) Circumstances affecting the property that is the subject of the application have substantially changed; or

(2) The application is changed in some substantial way; or

(3) New information is available that could not with reasonable diligence have been presented at a previous hearing.

No application for reconsideration shall be considered by the board unless the Land Use Administrator first determines that the application meets one (1) or more of the criteria set forth above.

Section 151-67 Applications to be Processed Expeditiously.

Recognizing that inordinate delays in acting upon appeals or applications may impose unnecessary costs on the appellant or applicant, the city 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 151-68 Maintenance of Common Areas, Improvements, and Facilities.

The recipient of any zoning or sign 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, and without limiting the generality of the foregoing, 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 151-69 through 151-75 Reserved.

Part II. Major and Minor Subdivisions

Section 151-76 Regulation of Subdivisions.

Major subdivisions are subject to a two-step approval process. Physical improvements to the land to be subdivided are authorized by a conditional use permit as provided in Section 151-94 of this chapter, and sale of lots is permitted after final plat approval as provided in Section 151-79. Minor subdivisions only require a one-step approval process final plat approval (in accordance with Section 151-78). *(Amended 7/9/2013)*

Section 151-77 No Subdivision Without Plat Approval.

(a) As provided in G.S. 160A-375, no person may subdivide his land except in accordance with all of the provisions of this chapter. In particular, no person may subdivide his land unless and until a final plat of the subdivision has been approved in accordance with the provisions of Section 151-78 or Section 151-79 and recorded in the Halifax County Registry.

(b) As provided in G.S. 160A-373, the Halifax County Register of Deeds shall not record a plat of any subdivision within the city's planning jurisdiction unless the plat has been approved in accordance with the provisions of this chapter.

Section 151-78 Minor Subdivision Approval.

There are two categories of minor subdivisions; family subdivisions of no more than three (3) lots as provided in Section 151-84 and standard minor subdivisions of eight lots or less created out of one (1) tract of land as provided in Section 151-78.

(a) The planning and development director shall approve or disapprove minor subdivision final plats in accordance with the provisions of this section.

(b) The applicant for minor subdivision plat approval, before complying with subsection (c), shall submit a sketch plan to the planning and development director for a determination of whether the approval process authorized by this section can be and should be utilized. The planning and development director may require the applicant to submit whatever information is necessary to make this determination, including, but not limited to, a copy of the tax map showing the land being subdivided and all lots previously subdivided from that tract of land within the previous five years.

(c) Applicants for minor subdivision approval shall submit to the planning and development director a copy of a plat conforming to the requirements set forth in subsections 151-79(b) and (c) (as well as two prints of such plat), except that a minor

subdivision plat shall contain the following certificates in lieu of those required in Section 151-80:

(1) Certificate of Ownership

I hereby certify that I am the owner of the property described hereon, which property is within the subdivision regulation jurisdiction of the City of Roanoke Rapids, and that I freely adopt this plan of subdivision.

_____ _____

Date Owner

(2) Certificate of Approval

I hereby certify that the minor subdivision shown on this plat does not involve the creation of new public streets or any change in existing public streets, that the subdivision shown is in all respects in compliance with Chapter 151 of the Roanoke Rapids City Code, and that therefore this plat has been approved by the Roanoke Rapids planning and development director, subject to its being recorded in the Halifax County Registry within 30 days of the date below.

_____ _____

Date Planning and Development Director

(3) A Certificate of Survey and Accuracy, in the form stated in subsection 151-80(3).

(d) The planning and development director shall take expeditious action on an application for minor subdivision plat approval as provided in Section 151-67. However, either the planning and development director or the applicant may at any time refer the application to the major subdivision approval process.

(e) No more than a total of eight lots may be created out of one tract using the minor subdivision plat approval process, regardless of whether the lots are created at one time or over an extended period.

(f) Subject to subsection (d), the planning and development director shall approve the proposed subdivision unless the subdivision is not a minor subdivision as defined in Section 151-15 or the application of the proposed subdivision fails to comply with subsection (e) or any other applicable requirement of this chapter.

(g) If the subdivision is disapproved, the planning and development director shall promptly furnish the applicant with a written statement of the reasons for disapproval.

(h) Approval of any plat is contingent upon the plat being recorded within thirty days after the date the Certificate of Approval is signed by the planning and development director or his designee.

Section 151-79 Major Subdivision Approval Process.

(a) The city council shall approve or disapprove major subdivision final plats in accordance with the provisions of this section.

(b) The applicant for major subdivision plat approval shall submit to the administrator a final plat, drawn in waterproof ink on a sheet made of material that will be acceptable to the Halifax County Register of Deed's Office for recording purposes, and having dimensions as follows: either (I) 21" x 30", (ii) 12" x 18", (iii) 18" x 24", or (iv) 24" x 36". When more than one sheet is required to include the entire subdivision, all sheets shall be made of the same size and shall show appropriate match marks on each sheet and appropriate references to other sheets of the subdivision. The scale of the plat shall be at one (1) inch equals not more than one hundred (100) feet. The applicant shall also submit ten prints of the plat.

(c) In addition to the appropriate endorsements, as provided in Section 151-80, the final plat shall contain the following information:

(1) All of the information specified in G.S. 47-30 and G.S. 39-32.3;

(2) The name of the subdivision, which name shall not duplicate the name of any existing subdivision as recorded in the Halifax County Registry;

(3) The name of the subdivision owner or owners;

(4) The township, county and state where the subdivision is located; and

(5) The name of the surveyor and his registration number and the date of survey.

(d) The council shall approve the proposed plat unless it finds that the plat or the proposed subdivision fails to comply with one or more of the requirements of this chapter or that the final plat differs substantially from the plans and specifications approved in conjunction with the conditional use permit that authorized the development of the subdivision.

(e) If the final plat is disapproved by the council, the applicant shall be furnished with a written statement of the reasons for the disapproval and shall be given an opportunity to petition the council for a hearing, to be conducted in accordance with the procedures for processing conditional use permit applications. Following such hearing, the council may reverse, modify, or affirm its earlier decision.

(f) Approval of a final plat is contingent upon the plat being recorded within thirty (30) days after the approval certificate is signed by the city manager or his designee.

Section 151-80 Endorsements on Major Subdivision Plats.

All Major subdivision plats shall contain the endorsements listed in subdivision (1), (2), and (3) herein. The endorsements listed in subdivision (4) shall appear on plats of all major subdivisions located outside the corporate limits of the city but within the planning jurisdiction. The endorsements listed in subdivision (5) shall appear on plats involving the abandonment, establishment or addition of water and or sewer easements located within the City's planning jurisdiction and within the Roanoke Rapids Sanitary District.

(1) Certificate of Approval

I hereby certify that all that all streets shown on this plat are within the city of Roanoke Rapids planning jurisdiction, all street and other improvements shown on this plat have been installed or completed or that their installation or completion (within twelve months after the date below) has been ensured by the posting of a performance bond or other sufficient surety, and that the subdivision shown on this plat is in all respects in compliance with Chapter 151 of the Roanoke Rapids City Code, and therefore this plat has been approved by the Roanoke Rapids City Council, subject to its being recorded in the Halifax County Registry within 30 days of the date below.

_____ _____

Date City Manager

(2) Certificates of Ownership and Dedication

I hereby certify that I am the owner of the property described hereon, which property is located within the subdivision regulation jurisdiction of the city of Roanoke Rapids, that I hereby freely adopt this plan of subdivision and dedicate to public use all areas shown on this plat as streets, alleys, walks, parks, open space, and easements, except those specifically indicated as private, and that I will maintain all such areas until the offer of dedication is accepted by the appropriate public authority. All property shown on this plat as dedicated for a public use shall be deemed to be dedicated for any other public use authority by law when such other use is approved by the Roanoke Rapids City Council in the public interest.

_____ _____

Date Owner

(3) Certificate of Survey and Accuracy

I hereby certify that this map (drawn by me) (drawn under my supervision) from (an actual survey make by me) (an actual survey made under my supervision) (a deed description recorded in Book ____, Page___ of the Halifax County Registry) (other); that the error of closure as calculated by latitudes and departures is 1: _____; that the boundaries not surveyed are shown as broken lines plotted from information found in

Book ____, Page ___, and that this map was prepared in accordance with G.S. 47-30 as amended.

Witness my hand and seal this ___ day of _____ 20__.

_____
Registered Land Surveyor

(4) Division of Highways District Engineer Certificate

I hereby certify that the public streets shown on this plat have been completed, or that a performance bond or other sufficient surety has been posted to guarantee their completion, in accordance with at least the minimum specifications and standards of the N.C. State Department of Transportation for acceptance of subdivision streets on the State highway system for maintenance.

_____
District Engineer

(5) Certificate of Design Approval and Acceptance of Water and Sanitary Sewer Utilities

I hereby certify that all water and sanitary sewer improvements shown on this plat are approved as to design alignment and all easements for installation of such improvements as shown and dedicated on this plat are hereby accepted.

_____ _____
Date CEO, Roanoke Rapids Sanitary District

Section 151-81 Plat Approval Not Acceptance of Dedication Offers.

Approval of a plat does not constitute acceptance by the city of the offer of dedication of any streets, sidewalks, parks or other public facilities shown on a plat. However, the city may accept any such offer of dedication by resolution of the Council or by actually exercising control over and maintaining such facilities.

Section 151-82 Protection Against Defects.

(a) Whenever (pursuant to Section 151-61) occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, then the performance bond or the surety that is posted pursuant to Section 151-61 shall guarantee that any defects in such improvements or facilities that appear within one year after the dedication of such facilities or improvements is accepted shall be corrected by the developer.

(b) Whenever all public facilities or improvements intended for dedication are installed before occupancy, use, or sale is authorized, then the developer shall post a performance bond or other sufficient surety to guarantee that he will correct all defects in such facilities or improvements that occur within one year after the offer of dedication of such facilities or improvements is accepted.

(c) An architect or engineer retained by the developer shall certify to the city that all facilities and improvements to be dedicated to the city have been constructed in accordance with the requirements of this chapter. This certification shall be a condition precedent to acceptance by the city of the offer of dedication of such facilities or improvements.

(d) For purposes of this section, the term "defects" refers to any condition in publicly dedicated facilities or improvements that requires the city to make repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this chapter.

Section 151-83 Maintenance of Dedicated Areas Until Acceptance.

As provided in Section 151-67, all facilities and improvements with respect to which the owner makes an offer of dedication to the public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

Section 151-84 Family Subdivision Approval.

(a) The applicant for a family subdivision shall follow the procedures detailed in Section 151-78 (a), (b), (c), (d), (f), (g) and (h) to obtain approval. All road rights-of-way shall be designated in writing on the face of the plat as being dedicated to the “public” regardless of the road construction requirements.

(b) A family subdivision shall consist of no more than three (3) lots as provided in Section 151-15.

(c) Where private roads are created for a family subdivision, an additional statement must be included on the plat indicating that the plat was approved as a family subdivision and further subdividing of the property is subject to standard street improvements requirements of the Land Use Ordinance.

(d) The applicant shall provide sufficient information as is deemed necessary by the Director of Planning that the subdivision indeed does fall under the classification as a family subdivision.

Section 151-85 Issuance of Permits and Conveyance of Subdivision Lots

Zoning permits and building permits may be issued by the City of Roanoke Rapids for the erection of any building on any lot within a proposed subdivision prior to the final plat of said subdivision being approved in a manner as prescribed by this Ordinance and recorded at the Register of Deeds office, provided an improvements permit has been issued by the Halifax County Health Department, if required. A certificate of occupancy may not be issued until the final plat has been approved and recorded.

After the effective date of this Ordinance, it shall be illegal for any person being the owner or agent of the owner of any land located within the territorial jurisdiction of this Ordinance, to subdivide his land in violation of this Ordinance or to transfer or sell land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under the terms of this Ordinance.

The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The City Council, through its attorney or other official so designated, may enjoin an illegal subdivision, transfer or sale of land by action for injunction. Further, violators of this Ordinance shall be subject, upon conviction, to fine and/or imprisonment as provided by NCGS 14-4. Civil penalties may be issued in accordance with Section 151-114. *(Amended 7/9/2013)*

Sections 151-86 through 151-90 Reserved.

ARTICLE V: LEGISLATIVE/QUASI-JUDICIAL PROCEDURES *(Amended 7/9/2013 Amended 10/20/2015)*

Section 151-91 Amendment/Rezoning Procedures.

(a) *Procedure.* The City Council may amend, supplement, or change the text of this Ordinance and zoning map following review and recommendation of the Planning Board according to the procedures established in this Article.

(b) *Action by Applicant.* The following action shall be taken by the applicant:

(1) Proposed changes or amendments may be initiated by the City Council, Planning Board, or by one or more interested parties.

(2) An application for any change or amendment shall contain a description and statement of the present and proposed zoning regulation or district boundary to be applied, the names and addresses of the applicant, the owner of the parcel of land involved in the change if different from the applicant, and all adjacent property owners as shown on the Halifax County tax listing. The applicant shall have approval of all owner(s) of the property included in the application. Five (5) copies of such application shall be filed with the Land Use Administrator not later than thirty (30) calendar days prior to the Planning Board meeting at which the application is to be considered.

(3) When a proposed amendment is initiated by individuals or parties other than the City Council or Planning Board, a fee established by the City Council shall be paid to the city for each application for an amendment to cover the necessary administrative costs and advertising.

(4) Except for a city-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the City Council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing.

(c) *Action by the Planning Board.* The Planning Board shall advise and comment on whether the proposed text amendment or map amendment is consistent with the adopted comprehensive plan and any other applicable officially adopted plans. The Planning Board shall provide a written recommendation to the City Council that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is

inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the City Council.

(d) *Action by the City Council.* Action to consider a rezoning petition, including the scheduling of a public hearing, will be at the discretion of the City Council. City Council consideration of Zoning Text Amendments and Zoning Map Amendments are legislative decisions approved by a simple majority vote. (*Amended 10/20/2015)*

(1) *Notice and Public Hearings – Zoning Text Amendment.* No amendment shall be adopted by the City Council until after public notice and hearing. Notice of such a public hearing shall be published once a week for two successive calendar weeks in a local newspaper of general circulation in the city.

(2) *Notice and Public Hearings – Zoning Map Amendment.*

(i) In any case where the City Council will consider a change in the zoning classification of a parcel of land, notice of the proposed petition or application shall be mailed by first class mail to the owner of that parcel of land and all abutting property owners as shown on the Halifax County tax listing at the last addresses listed for such property owners on the Halifax County tax abstracts. The party applying for the change in zoning classification shall submit the following material with the request for rezoning; the application shall be considered incomplete without such material:

- A list of names of owners, their addresses and the tax parcel numbers of the property involved in the change and the properties immediately adjacent to the property of the request, including the property owners directly opposite the proposed request but separated by a street right-of-way, as shown on the Halifax County tax listing.

- Two sets of plain, letter sized envelopes equal in number to the above list of names shall be furnished by the applicant. Both sets of envelopes are to be unsealed, stamped, and addressed for mailing to the adjacent property owners as shown on the Halifax County tax listing, and bear the return address of the city.

(ii) At least ten but no more than 25 calendar days prior to the date of the meeting at which the City Council will consider the request for rezoning, the City Clerk shall mail a letter of notification in the supplied envelopes containing a description of the request and the time, date, and location of

the public hearing. Additionally, the site proposed for rezoning or an adjacent public right-of-way shall be posted with a notice of the public hearing not less than ten calendar days prior to the City Council meeting at which the rezoning is to be considered. When multiple parcels are included in a proposed zoning map amendment, a posting of each individual site is not required, but the city shall post sufficient notices to provide reasonable notice to interested persons. The City Clerk shall certify to the City Council that such notices have been made and such certification shall be deemed conclusive in the absence of fraud.

(iii) The first class mail notice required under subsections (1) and (2) of this section shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the city elects to use the expanded published notice. In this instance, the city may elect to either make the mailed notice provided for in this section or may as an alternative elect to publish a notice of the hearing as required by NCGS 160A-364, but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent Halifax County property tax listing for the affected property, shall be notified according to the provisions of subsections (1) & (2).

(3) *Recommendations of Planning Board.* Before an item is placed on the consent agenda to schedule a public hearing, the Planning Board's recommendation on each proposed zoning amendment must be received by the City Council. If no recommendation is received from the Planning Board within 60 days from the date when submitted to the Planning Board, the petitioner may take the proposal to the City Council without a recommendation from the Planning Board.

(i) No member of the City Council should vote on any zoning map amendment or text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact on the member.

(ii) Prior to adopting or rejecting any zoning amendment, the

City Council shall adopt a statement describing whether the action is consistent with the adopted comprehensive plan and any other applicable officially adopted plans and explaining why the City Council considers the action taken to be reasonable and in the public interest.

(iii) The City Council shall adopt a statement of reasonableness for all small scale re-zonings as defined by the state statutes.

(4) *Citizen Comments.* Zoning ordinances and the official Zoning Map from time to time may be amended, supplemented, changed, modified or repealed. If any resident or property owner in the city or zoning jurisdiction submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the city clerk in sufficient time to allow at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the city council. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160A-388, 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. (*Amended 10/20/2015)*

(5) *Statement of Consistency.* Prior to adopting or rejecting any zoning text and/or map amendment, the City Council shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the City Council considers the action taken to be reasonable and in the public interest. This statement is not subject to judicial review.

(e) *Withdrawal of Application.* An applicant may withdraw his or her application at any time by written notice to the Land Use Administrator and may resubmit at a subsequent date in compliance with the submittal schedule contained herein.

Section 151-92 Moratorium.

The City of Roanoke Rapids may adopt temporary moratoria on any city development approval required by North Carolina General Statutes in accordance with NCGS 160A-381.

Section 151-93 Appeals, Variances, and Interpretations.

(a) *Appeals.*

(1) An appeal from any final order or decision of the Land Use Administrator 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 therefor. A notice of appeal shall be considered filed with the Land Use Administrator and the Board of Adjustment when delivered to the City Hall, and the date and time of filing shall be entered on the notice by the city staff.

(2) An appeal must be taken within thirty (30) days after the date of the decision or order appealed from.

(3) Whenever an appeal is filed, the Land Use Administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record relating to the action appealed from.

(4) An appeal stays all proceedings in furtherance of the action appealed from unless the public official or employee from whom the appeal is taken certifies to the Board of Adjustment after notice of appeal has been filed that in his or her opinion and because of facts stated in the application or otherwise, a stay would cause immediate peril to life or property. In that case, proceedings shall not be stayed except by restraining order which may be granted by the Board of Adjustment or by a court of record on application and notice to the public official or employee from whom the appeal was taken and on due cause shown.

(5) The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, 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 of Adjustment shall have all the powers of the officer from whom the appeal is taken.

(b) *Variances.*

(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 permits.

(2) A variance may be granted by the Board of Adjustment if it concludes that, by granting the variance, the following findings are supported by the Board of Adjustment decision: (1) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance; (2) that the variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit; and (3) that in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. It may reach these conclusions if it finds that:

(i) If the applicant complies strictly with the provisions of the Ordinance, he/she can make no reasonable use of his property;

(ii) The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public;

(iii) The hardship relates to the applicant's land, rather than personal circumstances;

(iv) The hardship is unique, or nearly so, rather than one shared by many surrounding properties;

(v) The hardship is not the result of the applicant's own actions; and

(vi) The variance will neither result in the extension of a nonconforming situation in violation of Article VIII nor authorize the initiation of a nonconforming use of land.

(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.

(4) The nature of the variance and any conditions attached to it shall be entered on the face of the zoning permit, or the zoning 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 Ordinance.

(c) *Interpretations.*

(1) The Board of Adjustment is authorized to interpret the zoning map and to act upon disputed questions of lot lines or 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 151-93(a).

(2) An application for a map interpretation shall be submitted to the Board of Adjustment by filing a standard City of Roanoke Rapids appeal form with the Land Use Administrator. The application shall contain sufficient information to enable the Board of Adjustment to make the necessary interpretation.

(3) Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the rules of interpretation as specified in Section 151-144 shall be applied. Where uncertainties continue to exist after application of the above rules, appeal may be taken to the Board of Adjustment as provided in Section 151-93(a) of this Ordinance.

(4) Interpretations of the location of floodway and floodplain boundary lines may be made by the Land Use Administrator as provided in Article XVI.

(d) *Requests to be Heard Expeditiously.* As provided in Article III, the Board of Adjustment shall hear and decide all appeals, variance requests, and requests for interpretations, including map boundaries, as expeditiously as possible, consistent with the need to follow regularly established agenda procedures, provide notice in accordance with Section 151-93(f), and obtain the necessary information to make sound decisions.

(e) *Hearing Required on Appeals, Variances, and Interpretations.*

(1) Before making a decision on an appeal or an application for a variance or interpretation, the Board of Adjustment shall hold a hearing on the appeal or application within thirty (30) days of the submittal of a completed appeal or application.

(2) Subject to subsection (c), the hearing shall be open to the public and all persons interested in the outcome of the appeal or application shall be given an opportunity to present evidence and

arguments. All persons presenting evidence or arguments shall be sworn in by the Chairperson prior to the presentation of any evidence or arguments.

(3) 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.

(4) The Board of Adjustment may continue the 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.

(5) The required application fee and all supporting materials must be received by the Land Use Administrator before an application is considered complete and a hearing scheduled.

(f) *Notice of Hearing.* The Land Use Administrator shall give notice of any hearing required by Section 151-93 as follows:

(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 later than 10 days before the hearing.

(2) Notice shall be given to affected owners by mailing a written notice not later than 10 days before the hearing to those persons who have listed for taxation real property any portion of which is adjacent to the lot that is the subject of the application or appeal.

(3) 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, and give a brief description of the action requested or proposed.

(g) *Burden of Proof in Appeals and Variances.*

(1) When an appeal is taken to the Board of Adjustment in accordance with Section 151-93, the Land Use Administrator shall have the initial burden of presenting to the Board of Adjustment sufficient evidence and argument to justify the order or decision appealed from. The burden of presenting evidence and argument to the contrary then shifts to the appellant, who shall also have the burden of persuasion.

(2) The burden of presenting evidence sufficient to allow the Board of Adjustment to reach the conclusions set forth in Section 151-98(b), as well as the burden of persuasion on those issues, remains with the applicant seeking the variance.

(h) *Board of Adjustment Action on Appeals and Variances.*

(1) *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 vote necessary for adoption (see Section 151-32), then a motion to uphold the decision appealed from shall be in order. This motion will be adopted as the Board of Adjustment's decision if supported by four-fifths of the Board of Adjustment's membership (excluding vacant seats).

(2) *Variances.* The Board of Adjustment must vote affirmatively on the six required findings stated in Section 151-93(b) for approval of a variance.

(i) *Evidence/Presentation of Evidence.*

(1) The provisions of this section apply to all hearings for which a notice is required by Section 151-91 and 151-93.

(2) All persons who intend to present evidence to the Board of Adjustment shall be sworn in by the Chairperson.

(3) All findings and conclusions necessary to the issuance or denial of the requested permit or appeal (necessary findings) shall be based upon competent, material, and substantial evidence.

(4) The entirety of a quasi-judicial hearing and deliberation shall be conducted in open session.

(5) Parties to a quasi-judicial hearing have a right to cross-examine witnesses.

(6) Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.

(7) If a Board of Adjustment member has prior or specialized knowledge about a case, that knowledge should be disclosed to the rest of the Board of Adjustment and parties at the beginning of the hearing.

(8) The Board of Adjustment, in conducting the hearing, has the authority to issue subpoenas to compel testimony or the production of evidence deemed necessary to determine the matter.

(j) *Modification of Application at Hearing.*

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

(2) Unless such modifications are so substantial or extensive that the Board of Adjustment cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the Board of Adjustment may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the Land Use Administrator.

(k) *Record.*

(1) Accurate written minutes shall be kept of all such proceedings.

(2) Whenever practicable, all documentary evidence, including any exhibits, presented at a hearing as well as all other types of physical evidence shall be made a part of the record of the proceedings and shall be kept by the city in accordance with the NC Department of Cultural Resources requirements (NCGS 132-8).

(l) *Written Decision.*

(1) Any decision made by the Board of Adjustment regarding an appeal, variance, or interpretation shall be reduced to writing and served upon the applicant or appellant and all other persons who make a written request for a copy.

(2) In addition to a statement of the Board of Adjustment's ultimate disposition of the case and any other information deemed appropriate, the written decision shall state the Board of Adjustment's findings and conclusion, as well as supporting reasons or facts, whenever this Ordinance requires the same as a prerequisite to taking action.

Section 151-94 Conditional Use Permits.

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(a) Purpose and Applicability. This Ordinance provides for a number of uses to be located by right in each general zoning district subject to the use meeting certain area, height, yard, and off-street parking and loading requirements. In addition to these uses, this Ordinance allows some uses to be allowed in these districts as a conditional use subject to issuance of a conditional use permit by the City Council upon recommendation of the Planning Board. The purpose of having the uses being conditional is to ensure that they would be compatible with surrounding development and in keeping with the purposes of the general zoning district in which they are located and would meet other criteria as set forth in this section. All conditional use permits require some form of a site plan as outlined in the applicable sections of Appendix A, as may be required by the Land Use Administrator.

(b) *Application Process/Completeness.*

(1) The deadline for which a conditional use permit application shall be filed with the Land Use Administrator is twenty (20) calendar days prior to the meeting at which the application will be heard. Permit application forms shall be provided by the Land Use Administrator. In the course of evaluating the proposed conditional use, the Planning Board or City Council may request additional information from the applicant. A request for any additional information may stay any further consideration of the application by the Planning Board or City Council.

(2) No application shall be deemed complete unless it contains or is accompanied by a site plan drawn to scale which complies with the requirements contained in Appendix A and a fee, in accordance with a fee schedule approved by the City Council for the submittal of conditional use permit applications.

(3) One (1) hard copy of the application, and all attachments and maps, for a conditional use permit shall be submitted to the Land Use Administrator.

(c) *Planning Board Review and Comment.*

(1) The Planning Board may, in its review, suggest reasonable conditions to the location, nature, and extent of the proposed use and its relationship to surrounding properties, parking areas, driveways, pedestrian and vehicular circulation systems, screening and landscaping, timing of development, and any other conditions the Planning Board may find appropriate. The conditions may

include dedication of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.

(2) The Planning Board shall forward its recommendation to the City Council within 45 days of reviewing the application. If a recommendation is not made within 45 days, the application shall be forwarded to the City Council without a recommendation from the Planning Board.

(3) All comments prepared by the Planning Board shall be submitted by a Planning Board representative to the City Council as evidence at the public hearing required by this section. This representative of the Planning Board shall be subject to the same scrutiny as other witnesses. Review of the conditional use application by the Planning Board shall not be a quasi-judicial procedure. The Planning Board shall include in its comments a statement as to the consistency of the application with the city's currently adopted Comprehensive Plan. Comments of the Planning Board shall be considered with other evidence submitted at the public hearing.

(d) *City Council Action.*

(1) City Council consideration of conditional use permits are quasi-judicial decisions approved by a simple majority vote. Quasi-judicial decisions must be conducted in accordance with Articles III, IV and V. For the purposes of this section, vacant positions on the City Council and members who are disqualified from voting on a quasi-judicial matter shall not be considered "members of the Board" for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

(2) Once the comments of the Planning Board have been made, or the 45-day period elapses without a recommendation, the City Council shall hold a public hearing to consider the application at its next regularly scheduled meeting. A quorum of the City Council is required for this hearing. Notice of the public hearing shall be as specified in Section 151-93. In addition, notice shall be given to other potentially interested persons by publishing a notice one time in a newspaper having general circulation in the area not less than ten nor more than twenty-five days prior to the hearing.

(3) In approving an application for a conditional use permit in accordance with the principles, conditions, safeguards, and procedures specified herein, the City Council may impose reasonable and appropriate conditions and safeguards upon the

approval. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the City Council.

(4) The applicant has the burden of producing competent, material and substantial evidence tending to establish the facts and conditions which subsection (5) below requires.

(5) The City Council shall issue a conditional use permit if it has evaluated an application through a quasi-judicial process and determined that:

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(i) The establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, or general welfare.

(ii) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor diminish or impair property values within the neighborhood.

(iii) The establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

(iv) The exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.

(v) Adequate utilities, access roads, drainage, parking, or necessary facilities have been or are being provided.

(vi) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

(vii) The conditional use shall, in all other respects, conform to all the applicable regulations of the district in which it is located.

(viii) Public access shall be provided in accordance with the recommendations of the city's land use plan and access plan or the present amount of public access and public parking as exists within the city now. If any recommendations are found

to conflict, the system requiring the greatest quantity and quality of public access, including parking, shall govern.

(ix) The proposed use shall be consistent with recommendation and policy statements as described in the adopted land use plan.

(6) *Conditions and Guarantees.* Prior to the granting of any conditional use, the Planning Board may recommend, and the City Council may require, conditions and restrictions upon the establishment, location, construction, maintenance, and operation of the conditional use as is deemed necessary for the protection of the public interest and to secure compliance with the standards and requirements specified above. In all cases in which conditional uses are granted, the City Council shall require evidence and guarantees as it may deem necessary as proof that the conditions required in connection therewith are being and will be complied with.

(7) In the event that a rezoning is sought in conjunction with a conditional use permit, such deliberation would be legislative in nature and not part of the quasi-judicial process.

(e) *Effect of Approval.* If an application for a conditional use permit is approved by the City Council, the owner of the property shall have the ability to develop the use in accordance with the stipulations contained in the conditional use permit, or develop any other use listed as a permitted use for the general zoning district in which it is located.

(f) *Binding Effect.* Any conditional use permit so authorized shall be binding to the property included in the permit unless subsequently changed or amended by the City Council.

(g) *Certificate of Occupancy.* No certificate of occupancy for a use listed as a conditional use shall be issued for any building or land use on a piece of property which has received a conditional use permit for the particular use unless the building is constructed or used, or the land is developed or used, in conformity with the conditional use permit approved by the City Council. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development constructed or used as approved.

(h) *Change in Conditional Use Permit.* An application to materially change a conditional use permit once it has been issued must first be submitted, reviewed, and approved in accordance with Section 151-93 and 151-94, including payment of a fee in accordance with the fee schedule approved by the City Council.

(i) *Implementation of Conditional Use Permit.* A conditional use permit, after

approval by the Planning Board and City Council shall expire six months after the approval date if work has not commenced or in the case of a change of occupancy the business has not opened; however, it may be, on request, continued in effect for a period not to exceed six months by the Land Use Administrator. No further extension shall be added except on approval of the City Council. If such use or business is discontinued for a period of 12 months, the conditional use permit shall expire. Any expiration as noted or any violation of the conditions stated on the permit shall be considered unlawful and the applicant will be required to submit a new conditional use application to the appropriate agencies for consideration and the previously approved conditional use permit shall become null and void.

Section 151-95 Rehearings.

When an application involving a quasi-judicial procedure/petition is denied by the City Council or Board of Adjustment, reapplication involving the same property, or portions of the same property, may not be submitted unless the petitioner can demonstrate a substantial change in the proposed use, conditions governing the use of the property, or conditions surrounding the property itself.

Section 151-96 Appeals of Quasi-Judicial Decisions.

(a) All quasi-judicial decisions shall be subject to review by the Superior Court of Halifax County by proceedings in the nature of certiorari.

(b) The petition for the writ of certiorari must be filed with the Halifax County Clerk of Court within thirty (30) days after the later of the following occurrences:

(1) A written copy of the Board's decision has been filed in the office of the Land Use Administrator, and

(2) A written copy of the Board's decision has been delivered by personal service or certified mail, return receipt requested, to the applicant or appellant and every other aggrieved party who has filed a written request for such copy at the hearing of the case.

(c) A copy of the writ of certiorari shall be served upon the City of Roanoke Rapids.

Section 151-97 through 151-100 Reserved.

ARTICLE VI: HEARING PROCEDURES FOR APPEALS AND APPLICATIONS

Section 151-101 to 151-110 Reserved.

NOTE: Article VI Hearing Procedures for Appeals and Applications deleted; refer to Article V, Section 151-93. *(Amended 7/9/2013)*

ARTICLE VII: ENFORCEMENT AND REVIEW

Section 151-111 Complaints Regarding Violations.

Whenever the 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 that actions have been or will be taken.

Section 151-112 Persons Liable.

The owner, tenant, or occupant of any building or land or part thereof 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 herein provided.

Section 151-113 Procedures Upon Discovery of Violations.

(a) If the administrator finds that any provision of this chapter is being violated, he shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the administrator's discretion.

(b) The final written notice (and the initial written notice may be the final notice) shall state what action the administrator intends to take if the violation is not corrected and shall advise that the administrator's decision or order may be appealed to the board of adjustment as provided in Section 151-91.

(c) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety, or welfare, the administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 151-114.

Section 151-114 Penalties and Remedies for Violations

(a) 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 or conditional use permits, shall constitute a misdemeanor, punishable as provided in G.S. 14-4.

(b) 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 or conditional 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 city 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 151-113 and did not take an appeal to the board of adjustment within the prescribed time.

(c) This chapter may also be enforced by any appropriate equitable action.

(d) Each day that any violation continues after notification that such violation exists by the administrator shall be considered a separate offense for purposes of the penalties and remedies specified in this section.

(e) Any one, all or any combination of the foregoing penalties and remedies may be used to enforce this chapter.

Section 151-115 Permit Revocation.

(a) A zoning, sign, special use, or conditional 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 board.

(b) Before a conditional use or special use permit may be revoked, all of the notice and hearing and other requirements of Article VI shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

(1) The burden of presenting evidence sufficient to authorize the permit-issuing authority to conclude that a permit should be revoked for any of the reasons set forth in subsection (a) shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

(2) A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

(c) Before a zoning or sign permit may be revoked, the 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 an informal

hearing on the allegations. If the permit is revoked, the administrator shall provide to the permittee a written statement of the decision and the reasons therefore.

(d) No person may continue to make use of land or buildings in the manner authorized by any zoning, sign, special use or conditional use permit after such permit has been revoked in accordance with this section.

Sections 151-116 through 151-120 Reserved. *(Amended 7/9/2013)*

ARTICLE VIII: NONCONFORMING SITUATIONS

Section 151-121 Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

(1) 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.

(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.

(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.

(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 requirement of the district in which the lot is located.

(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.

(6) Nonconforming Sign. A sign (see Section 151-270 for definition) that, on the effective date of this chapter does not conform to one or more of the regulations set forth in this chapter, particularly Article XVII, Signs.

(7) 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.)

(8) 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 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 set-back requirements) is not in conformity with this chapter, because signs do not meet the requirements of Article XXII of this chapter, or because land or buildings are used for purposes made unlawful by this chapter.

Section 151-122 Continuation of Nonconforming Situations and Completion of Nonconforming Projects.

(a) Unless otherwise specifically provided in this chapter (e.g., Section 151-129, Nonconforming Signs), and subject to the restrictions and qualifications set forth in Sections 151-123 through 151-128, nonconforming situations that were otherwise lawful on the effective date of this chapter may be continued.

(b) Nonconforming projects may be completed only in accordance with the provisions of Section 151-128.

Section 151-123 Nonconforming Lots.

(a) When a nonconforming lot can be used in conformity with all of the regulations applicable to the intended use, except that the lot is smaller than the required minimums set forth in Section 151-181, 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 zone is permissible on a nonconforming lot.

(b) When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements (Section 151-184) cannot reasonably be complied with, then the entity authorized by this chapter to issue a permit for the proposed use (the administrator, board of adjustment) may allow deviations from the applicable setback requirements if it finds that *(Amended 7/9/2013):*

(1) The property cannot reasonably be developed for the use proposed without such deviations;

(2) These deviations are necessitated by the size or shape of the nonconforming lot; and

(3) The property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

(c) If the lot was subdivided prior to January 1, 1998, the Land Use Administrator may approve setback deviations up to a 50% reduction in the required setback if all applicable standards of Section 151-122 are complied with. All other deviations must be approved by the Board of Adjustment as a variance. *(Amended 7/9/2013)*

(d) For purposes of subsection (b), 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.

(e) 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 151-126.

(f) Subject to the following sentence, if, on the date this section becomes effective, an undeveloped nonconforming lot adjoins and has continuous frontage with one 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 subsection 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 500 feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other undeveloped lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has previously been developed.

(g) When the use proposed for an existing, undeveloped, nonconforming lot in the R-40 zoning district is conforming in all other respects, but the applicable setback requirements, the setback requirements of the R-20 zoning district shall be observed; provided the existing undeveloped lot was properly subdivided in accordance with Part II of Article IV of this chapter.

Section 151-124 Extension or Enlargement of Nonconforming Situations.

(a) 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:

(1) An increase in the total amount of space devoted to a nonconforming use; or

(2) Greater nonconformity with respect to dimensional restrictions such as setback requirements, height limitations or density requirements or other requirements such as parking requirements.

(b) Subject to subsection (d) 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 151-128 (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.

(c) Subject to Section 151-128 (authorizing the completion of nonconforming projects in certain circumstances), 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 at the effective date of this chapter.

(d) 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.

(e) Notwithstanding subsection (a), any structure used for single-family residential purposes 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 151-127 (abandonment and discontinuance of nonconforming situations).

(f) Notwithstanding subsection (a), whenever: (1) there exists a lot with one or more structures on it; and (2) a change in use (other than a change for a 4.100 classification use in a commercial district) that does not involve any enlargement of a structure is proposed for such lot; and (3) the parking requirements of Article XVIII that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient parking, then the proposed use shall not be regarded as resulting in an impermissible extension or enlargement of a nonconforming situation. However, the applicant shall be required to comply with all applicable parking requirements that can be satisfied without acquiring additional land, and shall also be required to obtain satellite parking in accordance with Section 151-297 if: (1) parking requirements cannot be satisfied on the lot with respect to which the permit is required; and (2) such parking is not reasonably available at the time the zoning or special or conditional use permit is granted, then the permit recipient shall be required to obtain it if and when it does become reasonably available.

(g) Notwithstanding subsection (a), any structure used for single-family residential purposes and being a nonconforming situation due to not meeting the setback requirements may be enlarged in a manner which would increase the mass of the structure encroaching within the setback area so long as there is no decrease in the distance from the street right-of-way line or lot boundary line to a point on the lot that is directly below the nearest extension of any part of the building itself and not a mere appendage to it (such as a flagpole, etc.).

Section 151-125 Repair, Maintenance and Reconstruction.

(a) 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 zoning permit issued pursuant to this section.

(b) If a structure located on a lot where a nonconforming situation exists is damaged to an extent that the costs of repairs of 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 zoning permit issued pursuant to this section. This subsection does not apply to structures used for single-family residential purposes, which structures may be reconstructed pursuant to a zoning permit just as they may be enlarged or replaced as provided in subsection 151-124(e).

(c) For purposes of subsections (a) and (b):

(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, and replacement.

(2) The "cost" of renovation or repair or replacement shall mean the total cost of all such intended work, and no person may seek to avoid the intent of subsection (a) or (b) by doing such work incremental.

(3) 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.

(d) The administrator shall issue a permit authorized by this section if he finds that, in completing the renovation, repair or replacement work:

(1) No violation of Section 151-124 will occur; and

(2) The permittee will comply to the extent reasonably possible with all provisions of this chapter applicable to the existing use, (except that the permittee shall not lose his right to continue a nonconforming use).

(e) Compliance with a requirement of this chapter 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.

Section 151-126 Change in Use of Property Where a Nonconforming Situation Exists

(a) A change in use of property that is sufficiently substantial to require a new zoning, special use, or conditional use permit in accordance with Section 151-46 may not be made except in accordance with subsections (b) through (e). However, this requirement shall not apply if only a sign permit is needed.

(b) 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.

(c) 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 is issued a permit for that particular use (the administrator or council) 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:

(1) The intended change will not result in a violation of Section 151-124; and

(2) All of the applicable requirements of this chapter that can reasonably be complied with will be complied with. However, there shall be no requirement to pave, in its entirety, with asphalt or concrete an existing graveled parking area to meet the requirements under Article XVIII, Section 151-296 (a) although all of the requirements of Section 151-296 (b) shall be provided in full. In addition all requirements of Volume 1-C of the North Carolina State Building Accessibility Code shall be met. Compliance with a requirement of this chapter 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 subsection to construct a building or add to an existing building if additional nonconformities would thereby be created.

(d) If the intended change in use is to another principal use that is also nonconforming, then the change is permissible if the entity authorized by the chapter to issue a permit for that particular use (administrator or council) issues a permit authorizing the change. The permit issuing authority may issue the permit if it finds, in addition to other findings that may be required by this chapter, that:

(1) The use requested is one that is permissible in some zoning district with either a zoning, special use, or conditional use permit; and

(2) All of the conditions applicable to the permit authorized in subsection (c) of this section are satisfied; and

(3) The proposed development will have less of an adverse impact on those most affected by it and will be more compatible with the

surrounding neighborhood than the use in operation at the time the permit is applied for.

(e) When a mobile home is removed and its existence involved a nonconforming situation due to either not being a permitted use or not meeting the applicable standards required for a mobile home, class A or mobile home, class B or mobile home class BB, then replacement of the mobile home shall only be with a mobile home, class A unless a mobile home, class B or class BB is permitted in the applicable zoning classification.

Section 151-127 Abandonment and Discontinuance of Nonconforming Situations.

(a) When a nonconforming use is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes.

(b) If the principal activity on property where a nonconforming situation other than a nonconforming use is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention of resuming that activity, 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.

(c) 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.

(d) 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 at the effective date of this chapter.

Section 151-128 Completion of Nonconforming Projects.

(a) All nonconforming projects on which construction was begun at least 180 days before the effective date of this chapter as well as all nonconforming projects that are at least ten percent completed in accordance with the terms of their permits, so long as these permits were validly issued and remain unrevoked and unexpired. If a development is designed to be completed in stages, this subsection shall apply only to the particular phase under construction.

(b) Except as provided in subsection (a), all work on any nonconforming project shall cease on the effective date of this chapter, and all permits previously issued for work on nonconforming projects may begin or may be continued only pursuant to a zoning, special use, conditional use, or sign permit issued in accordance with this section by the individual or board authorized by this subchapter to issue permits for the type of development proposed. The permit issuing authority shall issue such a permit if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this chapter and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In consideration whether these findings may be made, the permit issuing authority shall be guided by the following, as well as other relevant considerations:

(1) All expenditures made to obtain or pursuant to a validly issued and unrevoked building, zoning, sign, or special or conditional use permit shall be considered as evidence of reasonable reliance on the land use law that existed before this chapter became effective.

(2) Except as provided in subsection (b) (1), no expenditures made more than 180 days before the effective date of this chapter may be considered as evidence of reasonable reliance on the land use law that existed before this chapter became effective. An expenditure is made at the time a party incurs a binding obligation to make the expenditure.

(3) To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made some expenditure to acquire a potential development site if the property obtained is approximately as valuable under the new classification as it was under the old, for the expenditure can be recovered by a resale of the property.

(4) To the extent that a nonconforming project can be made conforming and that expenditures made or obligations incurred can be effectively utilized in the completion or a conforming project, a party shall not be considered prejudiced by having made such expenditures.

(5) An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (I) the total estimated cost of the proposed project, and (ii) the ordinary business practices of the developer.

(6) A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land use law affecting the proposed development site could not be attributed to him.

(7) Even though a person had actual knowledge of a proposed change in the land use law affecting a development site, the permit issuing authority may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The permit issuing authority may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that (a) at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development, and (b) the developer had legitimate business reasons for making expenditures.

(c) The permit issuing authority shall not consider any application for permit authorized by subsection (b) that is submitted more than sixty days after the effective date of this chapter. The permit issuing authority may waive this requirement for good cause shown, but in no case may it extend the application deadline beyond one year.

(d) The administrator shall send copies of this section to the persons listed as owners for tax purposes (and developers, if different from the owners) of all properties in regard to which permits have been issued for nonconforming projects or in regard to which a nonconforming project is otherwise known to be in some stage of development. This notice shall be sent by certified mail not less than fifteen days before the effective date of this chapter.

(e) The permit issuing authority shall establish expedited procedures for hearing applications for permits under this section. These applications shall be heard, whenever possible before the effective dates of this chapter, so that construction work is not needlessly interrupted.

(f) When it appears from the developer's plans or otherwise that the nonconforming project was intended to be or reasonably could be completed in stages, segments, or other discrete units, the permit issuing authority shall not allow the nonconforming project to be constructed or completed in a fashion that is larger or more extensive than is necessary to allow the developer to recoup and obtain a reasonable rate of return on the expenditures he had made in connection with that nonconforming project.

Section 151-129 through 151-134 Reserved

ARTICLE IX: ZONING DISTRICTS AND ZONING MAP

Part I. Zoning Districts

Section 151-135 Residential Districts Established.

(a) The following residential districts are hereby established: R-40, R-20, R-12, R-8, R-6, R-5 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 some of these districts are explained in the remainder of this section.

(b) The R-40 district is designed to protect agricultural lands and woodlands within the city's planning jurisdiction. For this reason, larger minimum lot sizes are required. This district is intended to accommodate some types of uses that would be appropriate in more sparsely populated areas but would not be appropriate in the more intensely developed residential zones. Single-family dwelling units and some types of mobile homes used as single-family residences are permitted.

(c) The R-20, R-12 and R-8 districts are designed to accommodate single family dwelling units and differ primarily in the density allowed as determined by the minimum lot size requirements set forth in Section 151-181.

(d) The R-6 district is designed to accommodate single family and two family dwelling units.

(e) The R-5 district is designed to accommodate some types of mobile homes used as single-family residences in addition to site-built single-family residences.

(f) The R-3 zone is designed to accommodate multi-family dwelling units and mobile home parks.

Section 151-136 Commercial Districts Established.

(a) The following commercial districts are hereby established: B-1, B-2, B-3, B-4, and B-5. These districts are created to accomplish the purposes and serve the objectives set forth in the remainder of this section.

(b) The B-1 district is designed to accommodate a wide variety of commercial activities (particularly those that are pedestrian oriented) that will result in the most intensive and attractive use of the city's central business districts.

(c) The B-2 district is designed to accommodate commercial development on a scale that is less intensive than that permitted in a B-1 district. A lesser intensity of development is achieved through setback, height, and minimum lot width requirements that are more restrictive than those applicable to the B-1 zone. The B-2 zone thus may provide a transition in some areas between a B-1 zone and a residential zone or may provide for a smaller scale shopping center that primarily serves one neighborhood or area of the city (as opposed to a regional shopping center).

(d) The B-3 district is designed to accommodate a mixture of residential uses and uses that fall primarily within the 3.000 classification in the Table of Permissible Uses (office, clerical, research, services, etc.) This district will also generally constitute transition or buffer zones between major arterials or more intensively developed commercial areas and residential districts.

(e) The B-4 district is designed to accommodate the widest range of commercial activities.

(f) The B-5 district is designed to accommodate the offices and clinics of physicians and those uses customarily associated with hospital patients or visitors.

Section 151-137 Industrial Districts Established

The following districts are hereby established primarily to accommodate enterprises engaged in the manufacturing, processing, creating, repairing, renovating, painting, cleaning, or assembling of goods, merchandise, or equipment: I-1 and I-2. The districts differ primarily in the permitted intensities of development and the resulting minimum dimensional requirements.

Section 151-138 Planned Unit Development Districts Established.

(a) There are hereby established twenty-four different planned unit development (PUD) districts as described in this section. Each PUD district is designed to combine the characteristics of at least three and possibly four zoning districts.

(1) One element of each PUD district shall be the lower density residential element. Here there are two possibilities, each one corresponding to the either R-12 or R-8 residential districts

identified in Subsection 151-135. Within that portion of the PUD zone that is developed for lower density residential purposes, all development must be in accordance with the regulations applicable to the lower density residential district to which the particular PUD zoning district corresponds.

(2) A second element of each PUD district shall be the higher density residential element. Here there are two possibilities, each one corresponding either to the R-6 or R-3 zoning districts established by Subsection 151-135. Within that portion of the PUD district that is developed for higher density residential purposes, all development must be in accordance with the regulations applicable to the higher density residential district to which the PUD district corresponds.

(3) A third element of each PUD district shall be the commercial element. Here there are three possibilities each one corresponding to one of the following commercial districts identified in Section 35:136; B-1, B-2, or B-3. Within that portion of a PUD district that is developed for purposes permissible in a commercial district, all development must be in accordance with the regulations applicable to the commercial district to which the PUD district corresponds.

(4) A industrial element may be a fourth element of any PUD district. Here there are two alternatives. The first is that uses permitted within the I-1 or I-2 districts would be permitted within the P.U.D district. The second alternative is that uses permitted only within the I-1 zoning district would be permitted. If an I-1 or I-2 element is included, then within that portion of the PUD district that is developed for purposes permissible in an I-1 or I-2 district, all development must be in accordance with the regulations applicable to the I-1 or I-2 district.

(b) No area of less than twenty-five contiguous acres may be zoned as a PUD district, and then only upon the request of the owner or owners of all the property intended to be covered by such zone.

(c) As indicated in the Table of Permissible Uses (Section 151-149), a planned unit development (use Classification 30.000) is the only permissible use of a PUD zone and planned unit developments are permissible only in such zones.

Section 151-139 Floodplain District.

The floodplain district is hereby established as an "overlay" district, meaning that this district is overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if and to the extent such use is also permitted in the overlay district. The floodplain district is further described in Article XVI of this chapter.

Section 151-140 Reserved. *(Amended 7/9/2013)*

Section 151-141 Watershed Protection District.

The Watershed District is hereby established as an overlay district, meaning that this district is overlaid upon other districts and the land so encumbered may be used in a manner permitted in the underlying district only if and to the extent such use is also permitted in the overlay district. The Watershed Protection District is further described in Article XXIII of this chapter.

Part II. Zoning Map

Section 151-142 Official Zoning Map.

(a) There shall be a map known and designated as the Official Zoning Map, which shall show the boundaries of all zoning districts within the city's planning jurisdiction. This map shall be drawn on acetate or other durable material from which prints can be made, shall be dated, and shall be kept in the planning and development department.

(b) The Official Zoning Map dated January 1, 1998 is adopted and incorporated herein by reference. Amendments to this map shall be made and posted in accordance with Section 151-143.

(c) Should the Official Zoning Map be lost, destroyed, or damaged, the administrator may have a new map drawn on acetate or other durable material from which prints can be made. No further Council authorization or action is required so long as no district boundaries are changed in this process.

Section 151-143 Amendments to Official Zoning Map.

(a) Amendments to the Official Zoning Map are accomplished using the same procedures that apply to other amendments to this chapter, as set forth in Article XX.

(b) The administrator shall update the Official Zoning Map as soon as possible after amendments to it are adopted by the Council. Upon entering any such amendment on the map, the administrator shall change the date of the map to indicate its latest revision. New prints of the updated map may then be issued.

(c) No unauthorized person may alter or modify the Official Zoning Map.

Section 151-144 Zoning Map Interpretation. *(Amended 7/9/2013)*

Where uncertainty exists with respect to the boundaries of any district shown on the Zoning Map, the following rules shall apply:

(a) *Use of Property Lines.* Where district boundaries are indicated as approximately following street lines, alley lines, and lot lines, such lines shall be construed to be such boundaries. Where streets, highways, railroads, water courses, and similar areas with width are indicated as the district boundary, the actual district boundary line shall be the centerline of such area.

(b) *Use of the Scale.* In unsubdivided property or where a zone boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shall be determined by use of the scale appearing on the map.

(c) *Vacated or Abandoned Streets.* Where any street or alley is hereafter officially vacated or abandoned, the zoning regulations applicable to each parcel of abutting property shall apply to the centerline of such abandoned street or alley.

(d) *Board of Adjustment.* In case any further uncertainty exists, the Board of Adjustment shall interpret the intent of the map as to location of such boundaries.

Sections 151-145 Reserved.

ARTICLE X: PERMISSIBLE USES

(Amended 7/9/2013, 4/15/14, 1/5/2016, and 3/1/2016)

Section 151-146 Use of the Designations P, C in Table of Permissible Uses.

(a) Subject to Section 151-147, when used in connection with a particular use in the Table of Permissible Uses (Section 151-149), the letter "P" means that the use is permissible in the indicated zone with a zoning permit issued by the administrator. The letter "C" means a conditional use permit must be obtained from the City Council. *(Amended 7/9/2013)*

(b) Use of the designation P, C for combination uses is explained in Section 151-155. *(Amended 7/9/2013)*

Section 151-147 Board of Adjustment Jurisdiction Over Uses Otherwise Permissible With A Zoning Permit.

Notwithstanding any other provisions of this article, whenever the Table of Permissible Uses (interpreted in the light of Section 151-146 and the other provisions of this article) provides that a use in a nonresidential zone is permissible with a zoning permit, a conditional use permit shall nevertheless be required if the administrator finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the administrator shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question. Activities subject to rights under the First Amendment of the United States Constitution are excepted from the provisions of this section.

Section 151-148 Permissible Uses and Specific Exclusions.

(a) The presumption established by this chapter is that all legitimate uses of land are permissible within at least one zoning district in the city's planning jurisdiction. Therefore, because the list of permissible uses set forth in Section 151-149 (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 the listed uses.

(b) Notwithstanding subsection (a), all uses that are not listed in Section 151-149 (Table of Permissible Uses), even given the liberal interpretation mandated by subsection (a), are prohibited. Nor shall Section 151-149 (Table of Permissible Uses)

be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

(c) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

(1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the State Fire Prevention Code.

(2) Rendering plants.

(3) Use of a travel trailer as a residence.

(d) If a use is not specifically listed in any of the districts listed in this Ordinance, then the Land Use Administrator shall have the authority to interpret in which district the use, if any, should be permitted. *(Amended 7/9/2013)*

Section 151-149 Table of Permissible Uses.*(Amended 7/9/2013, 1/5/2016, and 3/1/2016)*

The following Table of Permissible Uses should be read in close conjunction with the definitions of terms set forth in Section 151-15 and the other interpretative provisions set forth in this article. See general/miscellaneous notes 151-150 to 151-158.

Uses permitted in the Entertainment Overlay District are identified in Section 151-363 and are supplemental to this section, District B-4.

	R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
1.000 RESIDENTIAL																
1.100 Single family residences																
1.110 Other than mobile homes	P	P	P	P	P	P										
1.111 2nd floor dwelling above commercial use								P								
1.120 Mobile Homes																
1.121 Class A	P					P										
1.122 Class B	P															
1.123 Class BB	P					P										
1.130 Single-family residence with accessory apartment	C	C	C	C	C	C										
1.200 Two-family residences																
1.210 Duplex				C	C		P			P						
1.220 Two-family conversion					C		P			P						

	R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
1.300 Multi-family residences																
1.310 Other than mobile home parks							P	C		P						
1.320 Mobile home parks							C									151-164
1.330 Townhouse Development							P									151-158
1.340 Multi-family conversion							P			P						
1.400 Homes emphasizing special services, treatment or supervision																
1.410 Family care homes	P	P	P	P	P	P	P									151-163
1.420 Nursing care, intermediate care homes				C	C	C	C			P						
1.430 Family child care homes				C	C	C	C			P						
1.440 Family foster homes				C	C	C	C			P						
1.450 Halfway houses							C									
1.460 Therapeutic foster home				C	C	C				P						
1.500 Miscellaneous Rooms for Rent Situations																
1.510 Rooming houses, boarding houses							C									
1.520 Tourist homes and other temporary residences renting by the day or week	C	C	C	C	C	C	C			C						
1.530 Hotels, motels and similar business or institutions providing overnight accommodations											P					151-170
1.600 Temporary Emergency, Construction and Repair Residences	P	P	P	P	P	P	P	P	P	P	P	P	P	P		151-161
1.700 Home occupations	P	P	P	P	P	P										
1.800 Planned residential developments							C									151-156
2.000 SALES AND RENTAL OF GOODS, MERCHANDISE AND EQUIPMENT																
2.100 No storage or display of goods outside fully enclosed building																
2.111 Miscellaneous								P	P		P	P				
2.112 ABC stores											P					
2.113 Convenience stores								P	P		P		P	P		
2.120 Low volume traffic generation								P	P		P	P				
2.130 Wholesale sales								P			P		P	P		

	R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
2.140 High volume traffic generation								P	P		P	P	P	P		
2.200 Storage and display of goods outside fully enclosed building																
2.210 High volume traffic generation											P					
2.220 Low volume traffic generation											P					
2.230 Wholesale sales											P		P	P		
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, realtors, other professions, insurance and stockbrokers, travel agents, government office buildings, etc.								P	P	P	P	P				
3.120 Operations designed to attract little or no customer or client traffic other than employees operating the principal use								P	P	P	P	P	P	P		
3.130 Office or clinics of physicians or dentist								P	P	P	P	P				
3.140 Operation such as or similar to a substance abuse treatment center that provides counseling and staff to meet minimum medical needs for individuals. Does not involve facilities to house clients.								P	P	P	P	P				
3.200 Operations conducted within or outside fully enclosed building																

	R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
3.210 Operations designed to attract and serve customers or clients on the premises											P					
3.220 Operations designed to attract little or no customer traffic other than the employees of the entity operating the principal use											P		P	P		
3.230 Banks with drive-in windows								P	P	P	P		P	P		
4.000 MANUFACTURING PROCESSING, CREATING, REPAIRING, RENOVATING, PAINTING, CLEANING, ASSEMBLING OF GOODS, MERCHANDISE AND EQUIPMENT																
4.100 All operations conducted entirely within fully enclosed building								P	P		P	P	P	P		
4.200 Operations conducted within or outside fully enclosed building											P		P	P		
5.000 EDUCATIONAL, CULTURAL, RELIGIOUS, PHILANTHROPIC, SOCIAL, FRATERNAL USES																
5.100 Schools																
5.110 Elementary and secondary - including associated grounds and athletic and other facilities	P	P	P	P	P	P	P				P					
5.120 Trade or vocational school								P			P	P				
5.130 Colleges, universities, community colleges-including associated facilities such as dormitories, office buildings, athletic facilities, etc.	P	P	P	P	P	P	P									

		R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
5.200	Churches, synagogues and temples - including associated residential structures for religious personnel and associated buildings but not including elementary school or secondary school buildings	C	C	C	C	C	C	C		C	P	P					
5.300	Libraries, museums, art galleries, art centers and similar uses -including associated educational and instructional activities								P	P		P					
5.310	Located within a building designed and previously occupied as a residence or within a building having a gross floor in excess of 3,500 square feet	C	C	C	C	C	C	C	P	P	C	P					
5.320	Located within any permissible structure								P	P		P					
5.400	Social fraternal clubs and lodges, union halls, and similar uses								P	C		P					
6.000	**RECREATIONAL, AMUSEMENT, ENTERTAINMENT**																
6.100	Activity conducted entirely within building or substantial structure																
6.110	Bowling alley, skating rinks, indoor tennis and squash courts, billiard and pool halls, indoor athletic and exercise facilities and similar uses								C	C	P	P					
6.120	Movie theaters								C			P					
6.130	Coliseums, stadiums and all other facilities listed in the classification designed to seat or accommodate simultaneously more than 1,000 people											C		C	C		
6.140	Multi-use facility providing offices, counseling related activities, and non-profit related youth and/or senior citizen activities.								P	C	C	P					

		R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
6.200	Activity Conducted Primarily Outside Enclosed Buildings or Structures																
6.210	Privately owned outdoor recreational facilities such as golf and country clubs, swimming or tennis clubs, etc., not constructed pursuant to a permit authorizing the construction of some residential development	C	C														151-167
6.220	Publicly -owned and operated outdoor recreational facilities such as athletic fields, golf courses, tennis courts, swimming pools, parks, etc., not constructed pursuant to a permit authorizing the construction of another use such as a school	P	P	P	P	P	P	P	P	P	P	P	P	P	P		151-167
6.230	Golf driving ranges not accessory to golf courses, miniature golf skateboard parks, water slides and similar uses	C	C									C					
6.240	Horseback riding stables -not constructed pursuant to a permit authorizing residential development	C	C														
6.250	Automobile and motorcycle racing tracks														C		
6.260	Drive-in movie theaters													C	C		151-167
6.270	RV Parks											C					151-171
6.300	Electronic Gaming Operations											C		C			
7.000	**INSTITUTIONAL RESIDENCE OR CARE OR CONFINEMENT FACILITIES**																
7.100	Hospitals or other medical (including mental health) treatment facilities												P				
7.200	Nursing care institutions, intermediate care institutions, handicapped or infirm institutions, child care institutions																
7.210	Adult care home										P		P				
7.220	Adult day care program										P		P				
7.230	Assisted living residence										P		P				

	R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
7.240 Child care center										P		P				
7.250 Multi-unit assisted housing with services										P		P				
7.260 Nursing home										P		P				
7.270 Residential child-care facility										P		P				
7.300 Institutions-Other than Halfway Houses Where Mentally-Ill Persons are Confined										C		C				
7.400 Penal and correctional facilities														C		
8.000 RESTAURANTS, BARS, NIGHTCLUBS																
8.100 Restaurants								P	P		P		P	P		
8.200 Bars								C			P		P	P		
8.300 Nightclubs								C			P		P	P		151-165
9.000 MOTOR VEHICLE-RELATED SALES AND SERVICE OPERATIONS																
9.100 Motor vehicle sales or rentals; mobile home sales								P			P					
9.200 Motor vehicle parts and accessories without installation								P			P					
9.300 Motor vehicle repair and maintenance, not including substantial body work								C			P		P	P		
9.400 Motor vehicle painting and body work											C		P	P		
9.500 Gas sales								P	P		P		P	P		
9.600 Car wash								P	P		P					
10.000 STORAGE AND PARKING																
10.100 Automobile parking garages or parking lots not located on a lot on which there is located another principal use to which the parking is related								P			P	P	P	P		

	R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
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 structure, including mini-storage								C	C		P		P	P		151-170
10.220 Storage inside or outside completely enclosed structure											P		P	P		
10.300 Parking of vehicles or storage of equipment outside enclosed structure where: i. vehicles or equipment are owned by the person making use of the lot, and ii. parking or storage is more than a minor and incidental part of the overall use made of the lot											C		P	P		
11.000 SCRAP MATERIALS SALVAGE YARDS, JUNK YARDS, AUTOMOBILE GRAVE YARDS														C		
12.000 SERVICES AND ENTERPRISES RELATED TO ANIMALS											P		P	P		
13.000 EMERGENCY SERVICES																
13.100 Police stations	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
13.200 Fire stations	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
13.300 Rescue squad, ambulance center								P	P	P	P	P	P	P		
13.400 Civil defense operation								P			P		P	P		
13.500 Training facilities																
13.510 Activity conducted entirely within fully enclosed building											P	P	P	P		
13.520 Activity conducted within or outside fully closed building											C	C	C	C		

	R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
14.000 AGRICULTURAL, SILVICULTURAL, MINING QUARRYING OPERATIONS																
14.100 Agricultural operations, farming																
14.110 Excluding livestock	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
14.120 Including livestock	C															
14.200 Silvicultural operations	C															
14.300 Mining or quarrying operations, including on-site sales of products														C		
14.400 Reclamation landfill														C		
15.000 MISCELLANEOUS PUBLIC AND SEMIPUBLIC FACILITIES																
15.100 Post office								P	P	P	P		P	P		
15.200 Airport														P		
15.300 Sanitary landfill														C		
15.400 Military reserve, national guard centers											P		P	P		
16.000 DRY CLEANER, LAUNDROMAT								P	P		P		P	P		
17.000 UTILITY FACILITIES	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
18.000 TOWERS AND RELATED STRUCTURES																
18.100 Towers and antennas fifty feet in height or less	P	P						C	P	P	P	P	P	P		
18.200 Towers and antennas more than fifty feet in height	C							C	C	C	C	C	C	C		
19.000 OPEN AIR MARKETS AND HORTICULTURAL SALES	C	C						P	P		P					

	R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
20.000 FUNERAL HOMES								P	C	C	P	P				
21.000 CEMETERY AND CREMATORIUM																
21.100 Cemetery	C	C														
21.200 Crematorium														C		
22.000 NURSERY SCHOOLS, DAY CARE CENTERS	C	C	C	C	C	C	C	C	P	C	P	P	P	P		
23.000 TEMPORARY STRUCTURES USED IN CONNECTION WITH THE CONSTRUCTION OF A PERMANENT BUILDING OR FOR SOME NON-RECURRING PURPOSE	P	P	P	P	P	P	P	P	P	P	P	P	P	P		151-161
24.000 TRANSPORTATION FACILITIES																
24.100 Bus stations								P	C		P		P	P		
24.200 Train stations								P	C		P		P	P		
24.300 Taxi stands								P	C	C	P		P	P		
25.000 COMMERCIAL GREENHOUSE OPERATIONS	C	C									P		P	P		
26.000 SPECIAL EVENTS	P	P	P	P	P	P	P	P	P	P	P	P	P	P		151-162
27.000 OFF PREMISE SIGNS											C					
28.000 SUBDIVISIONS																
28.100 Major	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	
28.200 Minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
29.000 COMBINATION USES	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C	P C		151-154
30.000 PLANNED UNIT DEVELOPMENTS															C	151-155
31.000 ENERGY-RELATED FACILITIES																
31.100 Solar Energy Generating Facility, Accessory	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	151-172
31.200 Wind Energy Generating Facility, Accessory	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	151-173
31.300 Solar Farm											C		C	C		151-174
31.400 Wind Farm													C	C		151-175

	R-40	R-20	R-12	R-8	R-6	R-5	R-3	B-1	B-2	B-3	B-4	B-5	I-1	I-2	PUD	Reference
32.000 ADULT ESTABLISHMENTS													C	C		151-166

Section 151-150 Accessory Uses.

(a) The Table of Permissible Uses (Section 151-149) classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use (i) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (ii) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may 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, even though such facilities, if developed apart from a residential development, would require a conditional use permit (use classification 6.210).

(b) For purposes of interpreting subsection (a):

(1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use;

(2) To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(c) Without limiting the generality of subsections (a) and (b), the following activities are specifically regarded as accessory to residential principal uses so long as they satisfy the general criteria set forth above:

(1) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a home occupation.

(2) Hobbies or recreational activities of a non-commercial nature.

(d) Without limiting the generality of subsections (a) and (b), the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts.

(1) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.

(2) Parking outside a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building and the street on any lot used for purposes that fall within the following principal use classifications: 1.100, 1.200, 1.420, or 1.430.

(3) The parking and or storage of motorized and nonmotorized vehicles in excess of 10,000 pounds gross vehicle weight, tractor trailers and semi-trailers (in tow or detached) in all residential districts except for loading and unloading purposes. No tractor trailer or semi-trailer shall be allowed to be used as a storage facility or accessory building in any residential district. Nothing herein shall be construed as to prohibit the parking and/or storage of personal utility trailers and recreation vehicles including but not limited to homes, vans, campers, travel trailers, in residential districts. *(Amended 4/15/2014)*

(e) Uses and/or structures classified as accessory to principal permitted uses in residential and commercial districts shall be permissible only on parcels of land on which a primary use or structure exists and therefore are not permissible on previously vacant parcels of property, except on parcels considered to be for bonafide farming and agricultural operations (i.e. barn).

(f) Without limiting the generality of the sections (a) and (b), a managers residence or security residence is specifically regarded as accessory to commercial mini-storage warehouse facilities and hotels and motels and shall be subject to the requirements of Article XI Supplementary Use Regulations, Section 151-169 Managers or Security Residence.

(g) Within the Entertainment Overlay District, electronic gaming operations are allowed as an accessory use to a performing arts and music theater, subject to the following conditions:

(1) The electronic gaming operation shall not occupy more than 10% of the total gross enclosed floor area of the performing arts and music theater building in which the electronic gaming operation is conducted as an accessory use.

(2) The accessory use electronic gaming operation must be separated

from the auditorium areas of the performing arts and music theater.

Section 151-151 Permissible Uses Not Requiring Permits.

Notwithstanding any other provisions of this chapter, no zoning or conditional use permit is necessary for the following uses:

(a) Streets;

(b) 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.

Section 151-152 Change in Use.

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

(1) The change involves a change from one principal use category to another.

(2) If the original use is a combination use (29.000) or planned unit development (30.000), 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 uses are altered.

(3) If the original use is a combination use or planned unit development use, the mixture of types of individual principal uses that comprise the combination use or planned unit development use changes.

(4) If the original use is planned residential development, the relative proportions of single-family dwelling units and multi-family dwelling units change.

(5) If 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), then it constitutes a change in use. 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 2.110. 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.

(6) A mobile home is removed and replaced by a mobile home. (See Section 151-126 (e).)

(b) 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.

(c) 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 151-153 Developments in the B-5 Zoning District.

The 2.000, 3.000 and 4.000 classifications in the Table of Permissible Uses are written in very broad terms. However, it is the intention of this chapter that uses described in those classifications are permissible in an area zoned B-5 only when the particular use is in accordance with the objectives of the B-5 zoning district set forth in Section 151-136. For example, doctors and dentists offices, physical therapists offices, retail florist shops, small pharmacies, and businesses selling or fitting hearing aids, wheelchairs, etc. are permitted.

Section 151-154 Combination Uses.

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

(1) A conditional use permit if any of the principal uses combined requires a conditional use permit.

(2) A zoning permit in all other cases.

This is indicated in the Table of Permissible Uses by the designation "P,S,C" in

each of the columns adjacent to the 29.000 classification.

(b) When two principal uses are combined, the total amount of parking required for the combination use shall be determined by cumulating the amount of parking required for each individual principal use according to the relative amount of space occupied by that use.

Section 151-155 Planned Unit Developments.

(a) In a planned unit development, the developer may make use of the land for any purpose authorized in a particular PUD zoning district in which the land is located, subject to the provisions of this chapter. Section 151-138 describes the various types of PUD zoning districts.

(b) Within any lot developed as a planned unit development, not more than thirty five percent of the total lot area may be developed for higher density residential purposes (R-6 or R-3, as applicable), not more than ten percent of the total lot area may be developed for purposes that are permissible only in a B-1, B-2, or B-3 zoning district (whichever corresponds to the PUD zoning district in question), and not more than five percent of the total lot area may be developed for uses permissible only in the I-1 zoning district (assuming the PUD zoning district allows such uses at all).

(c) The plans for the proposed planned unit development shall indicate the particular portions of the lot that the developer intends to develop for higher density residential purposes, lower density residential purposes, purposes permissible in a commercial district (as applicable), and purposes permissible only in an I-1 district (as applicable). For purposes of determining the substantive regulations that apply to the planned unit development, each portion of the lot so designated shall then be treated as if it were a separate district, zoned to permit, respectively, higher density residential (R-6 or R-3), lower density residential (R-12 or R-8), commercial, or I-1 uses. However, only one permit--a planned unit development permit--shall be issued for the entire development.

(d) The nonresidential portions of any planned unit development may not be occupied until all of the residential portions of the development are completed or their completion is assured by any of the mechanisms provided in Article IV to guarantee completion. The purpose and intent of this provision is to ensure that the planned unit development procedure is not used, intentionally or unintentionally, to create nonresidential uses in areas generally zoned for residential uses except as part of an integrated and well-planned, primarily residential development.

Section 151-156 Planned Residential Development.

(a) As indicated in the Table of Permissible Uses, planned residential

developments are permissible only in the R-3 zoning district and require a conditional use permit.

(b) Planned residential developments are permissible only on lots of at least five acres.

(c) The permissible density within a planned residential development shall be determined by having the developer indicate on the plans the portion of the total tract being developed for single-family residences as well as the portion that will be developed for two-family purposes or multi-family purposes. The portion of the tract developed for single family purposes shall be not less than 50% of the entire tract.

(1) The single-family portion of the development may be developed in the same manner as a tract located within an R-12 zoning district.

(2) The two family portion of the development may be subdivided and developed in the same manner as a tract located within an R-6 zoning district, i.e., every lot developed for duplex purposes shall have at least 8,000 square feet.

(3) The multi-family portion of the development may be subdivided and developed at a density determined by dividing the square footage of each lot within the multi-family portion by 3,000 square feet (fractions shall be rounded to the nearest whole number).

(4) All buildings proposed for the two-family and multi-family portions of the planned residential development must be shown on the plans.

(d) To the extent practicable, the two-family and multi-family portions of a planned residential development shall be located and oriented within the tract in such a fashion as to minimize any adverse effects on single-family residential subdivisions on adjoining tracts.

(e) In a planned residential development, the screening requirements that would normally apply where two-family or multi-family development adjoins a single-family development shall not apply within the tract developed as a planned residential development, but all screening requirements shall apply between the tract so developed and adjacent lots.

Section 151-157 More Specific Use Controls.

Whenever a development could fall within a more than one use classification in the Table of Permissible Uses (Section 15-149), 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" more specifically covers this use and therefore is controlling.

Section 151-158 Townhouse Development.

A townhouse development shall consist of two (2) or more connected single-family dwelling units, where land underneath each dwelling unit is sold with that unit; all developed in accordance with the requirements of this section and Chapter 47 F of the North Carolina General Statutes, entitled the North Carolina Planned Community Act. A town house development is deemed to be a “planned community” as defined by G.S. 47F-1-103(23).

Townhouse developments shall meet the following standards:

(a) Dwellings and accessory buildings are exempt from the requirements of Section 151-181 thru 184(d), and 151-185 & 187, however, townhouse developments may be developed only in an R-3 zoning district at a density determined by dividing the total square footage of the development by three-thousand (3000) square feet. Fractions shall be rounded to the nearest whole number, and the result yields the number of dwelling units permissible within the townhouse development.

(b) The following standards, including open space requirements shall be applicable to all open space areas, dwellings and their accessory uses:

(1) A dwelling shall be considered as separate from any other dwelling unless it shares a common wall at least two (2) feet in length.

(2) Minimum distance separation between buildings and walls and outdoor living areas.

(i) When the opposing building walls are parallel to each other or oriented at an angle of less than forty-five (45) degrees from each other, the following minimum distance between buildings shall be required:

- Any building twenty-eight (28) feet or less in height without windows on the affected wall . . . six (6) feet.
- Any building twenty-eight (28) feet or less in height with windows on the affected wall . . . fifteen (15) feet.
- Any building greater than twenty-eight (28) feet in height without windows on the affected wall . . . Twenty (20) feet.
- Any building greater than twenty-eight (28) feet in height with windows on the affected wall . . . thirty

(30) feet.

(ii) Town house development shall permit the use of a common zero (0) lot line between any two (2) or more adjoining connected residential dwelling units to define a dwelling units lot area. Building envelopes shall be approved as part of the preliminary plan. The maximum allowable area within which a dwelling may be constructed shall be shown on the final plat which is required by Section 151-79 of the Land Use Ordinance.

(3) Private outdoor living areas (patios, decks, porches, balconies) shall maintain a minimum forty (40) foot separation from opposing building walls with windows when the opposing building walls are parallel to each other or oriented at an angle which is less than forty-five (45) degrees from each other.

(4) *Yard Area Setbacks*.

(i) The minimum yard area setback adjoining an existing or proposed public street right-of-way shall be the minimum area setback for the zoning district in which it is located. The minimum yard area setback adjoining an existing or proposed private street shall be five (5) feet from the wall of any dwelling or accessory building.

(ii) The yard area around the town house development shall be the minimum setback required by the underlying zoning district.

(iii) Vehicular surface areas and private streets shall not be located closer than five (5) feet to the wall of any dwelling except for individual driveways which are provided to serve the individual dwelling unit only.

(c) *Street/Sidewalks*.

(1) Construction and design standards and specifications for streets, sidewalks, curbs and gutters shall comply with the standards and specifications on file with the Roanoke Rapids Department of Public Works for public and/or private streets. In addition the requirements of Section 151-219 shall apply.

(2) Streets within a townhouse development may be approved as either private or public by city council during the approval process. This shall be indicated on initial plans during the plan review

process.

(3) One access point to a public street system shall be required for every one- hundred fifty (150) dwelling units, unless traffic safety, surrounding development, severe topography or other physical features prevent such additional access.

(4) The maximum length of a public or private dead end street or vehicular drive shall be eight-hundred (800) feet. All dead end streets must intersect with an interconnected system of public or private streets that allows access to the dead end street from at least two (2) directions. A private dead end street or vehicular drive which exceeds two hundred (200) feet shall be required to provide a vehicular turn-around.

(5) Sidewalks shall be provided in accordance with Article XIV of the Land Use Ordinance.

(d) *Open Space/Natural Areas*. The town house development shall provide the greater of the following for open space natural areas:

(1) Ten (10) percent of the land area of the development excluding dedicated rights of way or,

(2) One-hundredth (.01) of an acre per dwelling unit (four hundred thirty five and six tenths (435.6) square feet per unit).

The open space shall be logically located and accessible to all dwellings, insofar as possible, by pedestrian ways and connecting open spaces and streets.

(e) *Refuse Removal*. Refuse collection facilities shall be provided and designed in accordance with the policies of the Roanoke Rapids Department of Public Works.

(f) *Legal Documents/Final Plat.*

(1) All legal documents prepared in conformance with Chapter 47 F of the North Carolina General Statutes, entitled the North Carolina Planned Community Act, shall be drawn and recorded in the Halifax County Register of Deeds Office contemporaneously with the recording of the final plat. Prior to the filing of the final plat, the attorney of the subdivider who prepared the legal documents, including without limitation the declaration of covenants and restrictions governing the common areas, if any, the homeowners association, and governing documents of the association, shall certify in writing to the Land Use Ordinance Administrator that the documents are in conformity with city code and the conditions of

approval of the development. Upon review by City staff, the legal documents and the final plat shall be recorded with the Register of Deeds. All recordations must be completed prior to any conveyance or transfer of any portion of the real property shown on the final plat.

(2) The final plat shall identify all real property as lots, public streets and other public facilities, open space, common areas and private streets. All other information necessary by Land Use Ordinance requirements shall be shown, including the dimensional maximum building envelope for every lot which will contain a dwelling structure located within five (5) feet of any side yard area not a street right of way or will adjoin such a lot. Perimeter protective yards shall be shown on the final plat.

Section 151-159 through 151-160 Reserved.

ARTICLE XI: SUPPLEMENTARY USE REGULATIONS

Section 151-161 Temporary Emergency, Construction or Repair Residences.

(a) Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project.

(b) Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six months after the date of issuance, except that the administrator may review such permit for one additional period not to exceed three months if he determines that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation or restoration work necessary to make such building habitable.

Section 151-162 Special Events.

(a) The administrator may issue a permit for a special event pursuant to Section 151-52 if sufficient assurances have been provided to ensure compliance with the following requirements. Notwithstanding the assurances, a conditional use permit shall nevertheless be required if the administrator finds that the proposed event would have an extraordinary impact on the neighboring properties or the general public. Issuance of the permit shall be conditioned upon:

(1) The hours of operation allowed shall be compatible with the uses adjacent to the activity.

(2) The amount of noise generated shall not disrupt the activities of adjacent land uses.

(3) The applicant shall guarantee that all litter generated by the special event be removed at no expense to the City.

(4) The permit issuing authority shall not grant the permit unless it finds that the parking generated by the event can be accommodated without undue disruption to or interference with the normal flow of traffic or with the right of adjacent and surrounding property owners.

(b) In cases where it is deemed necessary, the permit issuing authority may require the applicant to post a bond to ensure compliance with the conditions of the permit.

(c) If the permit applicant requests the City to provide extraordinary services or equipment or if the City Manager otherwise determines that extraordinary services or equipment should be provided to protect the public health or safety, the applicant shall be required to pay to the City a fee sufficient to reimburse the City for the costs of these

services. This requirement shall not apply if the event has been anticipated in the budget process and sufficient funds have been included in the budget to cover the costs incurred.

(d) Events and activities determined to be an accessory use to a permitted primary use, which involve the gathering of individuals other than the employees of the owner, lessor or occupant of a site or premises shall not be permitted in the I-1 or I-2 industrial zoning districts. The following is a non-exhaustive list of examples of events or activities that are not permitted:

(1) circus/carnival, fair, concert, outdoor/indoor bazaar/cookout,

(2) special sale/flea market, special fund raising sale, open lot sales of farm produce/Christmas trees,

(3) public/private events, i.e., dance, anniversary/birthday party, class reunion, club meeting.

Section 151-163 Family Care Home and Handicapped or Infirm Home.

A family care home or a handicapped or infirm home shall not be located within a one-half mile radius of an existing family care home or handicapped or infirm home.

Section 151-164 Mobile Home Parks.

Mobile homes within a mobile home park shall either be (i) a mobile home, class A, (ii) a mobile home, class B or (iii) a mobile home, class BB.

Section 151-165 Nightclubs.

A nightclub or any structures associated therewith shall not be located within five hundred (500) feet of a dwelling, as measured from structure to structure. For the purposes of this section, a nightclub is any place which provides or has available for its patrons or members regularly scheduled entertainment either in the form of music either live or by a disc jockey or other means, or other live performer or entertainer; wherein the sale or service of beverages (alcoholic and non-alcoholic) for the consumption on the premises may or may not occur. A nightclub may be further characterized by the provision of an area or stage where patrons may observe entertainment such as live bands, comedy, magic, dancers, etc. A nightclub frequently, but not necessarily, is distinguished from restaurants by the establishment of a cover charge while inside or to enter. Adult nightclubs shall conform to the locational criteria set forth in Section 151-166 (b).

Section 151-166 Adult Establishments.

(a) Adult establishments, because of their very nature, are recognized as having serious objectionable operational characteristics. Studies and experiences that are relevant to North Carolina have shown that lower property values and increased crime rates tend to accompany and are brought about by adult establishments. The City Council finds that regulations of these uses is necessary to ensure that these adverse secondary effects do not contribute to the blighting of surrounding neighborhoods and to regulate acts, omissions, or conditions detrimental to the health, safety or welfare and the peace and dignity of the City. Regulation to achieve these purposes can be accomplished by the procedures set forth hereinafter.

The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented materials. Similarly, it is not the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials or entertainment protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This section represents a balancing of the legitimate ends of the community by imposing an incidental, content neutral place, time and manner regulation of sexually oriented businesses, without limiting alternative avenues of communication.

(b) Adult establishments may be permitted in certain zoning districts as permitted by this ordinance, provided that an adult establishment shall not be located or operated within 1,500 feet of:

(1) A church, synagogue or regular place of worship;
(2) A public or private elementary or secondary school;
(3) A public library;
(4) A public park or playground;
(5) A licensed day-care center;
(6) An entertainment business that is oriented primarily towards children;
(7) Another adult establishment;
(8) Any building used as a dwelling:
(9) A boundary of any residential zoning district.

(c) For the purpose of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the lot line used as part of the premises where an adult establishment is conducted, to the nearest line of the premises of any use listed in (b) above.

Section 151-167 Barriers for Swimming Pools, Spas and Hot Tubs.

Barriers for swimming pools, spas and hot tubs shall be provided as required by Appendix F of Volume VII-Residential of the NC State Building Code of 1993 as amended.

Section 151-168 Fences and Walls.

(a) Fences and walls shall comply with the following:

(1) No fence or wall shall be placed or retained in such a manner as to obstruct vision at any public or private street intersection or road and shall comply with the sight distance requirements of Section 151-184(e). No fence or wall shall alter or impede the natural flow of water in any stream, creek, drainage swale, or ditch. No fence or wall shall block access from doors or windows.

(2) No fence or wall shall be constructed within the street right of way.

(3) Fences and walls containing barbed wire, razor wire, or spikes shall have the bottom strands or spikes located at least six feet above adjacent grades with vertical supports slanted away from the property line.

(4) The side of any fence or wall facing a property line shall be no less finished (having a look of completion of construction and/or better appearing side) than the side of the fence or wall facing the interior of the property; unless said side of fence or wall faces and alley property line.

(5) All fences and walls shall be maintained in a condition that precludes a hazard or endangers any person, animal, or property.

(6) Nothing in this section shall preclude the installation of temporary fencing and walls surrounding construction activity and meeting the requirements of the NC State Building Code.

(b) The following types of fences are prohibited:

(1) Those fences constructed of barbed, concertina or razor wire or wire carrying electrical current unless enclosing livestock areas or public institutions requiring security fencing for public safety.

(2) Those fences constructed in whole or in part of readily flammable material such as paper, cloth or canvas.

(c) No opaque fence or wall shall exceed a height of six feet in any residential district nor eight feet in any commercial or industrial district unless otherwise required by Article XIX. No fence or wall shall exceed a height of four feet within the front street right-of-way setback area, in any residential district set forth in section 151-184 unless otherwise required by Article XIX.

(d) For the installation of fences and walls only; in any residential district the front street right of way setback area for lots with street frontage along two or more sides shall be determined by the location of the single family dwelling or primary structure. No fence or wall shall exceed a height of four feet within the front street right-of-way. Along the secondary street frontage no opaque fence or wall shall exceed a height of six feet.

(e) Fence and wall height shall be measured against mean adjacent grade; if fences or walls are located upon walls or berms, the latter shall be considered as part of the overall height. Fence and wall height limitations shall not apply to utility facilities, substations, or plants; towers; water storage facilities; correctional and mental facilities; or military facilities.

(f) Gates or doors that open outwardly along any street or sidewalk shall not encroach into the right of way.

(g) Prior to the installation of a fence or wall, the applicant shall obtain a zoning permit from the Office of Planning and Development in order to ensure proper location, setbacks, heights, sight clearances, etc. Prior to the issuance or a zoning permit, the applicant shall be provided with a copy of construction requirements as contained in Section 151-168 of the Land Use Ordinance.

Section 151-169 RV Park.

(a) The purpose of these requirements is to regulate and guide the placement of and the establishment of RV parks in a safe and orderly manner.

(b) Unless otherwise stated the following words shall, for the purpose of this ordinance, have the meaning as follows:

(1) Community or Public Sewer System means any sewage system as determined by local or state health agencies.

(2) Community or Public Water Supply System means a water system serving fifteen or more RV's, thereby requiring approval by the State Division of Health Services.

(3) Customary Accessory Building or Utility Building: Means a building which is used for storage by the tenant.

(4) Residential Sewage Disposal System: Means a system serving a mobile home/travel trailer and approved by a Health Officer.

(5) RV (Recreational Vehicle) A wheeled vehicular portable structure built on a chassis designed to be used as a temporary dwelling for travel and/or recreational purposes, including but not limited to structures mounted on auto or truck bodies that are commonly referred to as campers.

(c) No person shall construct or make alterations to an RV park except in accordance with approved plans and specifications submitted with the application.

(d) The developer shall submit plans in accordance with Appendix A of the Land Use Ordinance to the City Planning Department for review and approval.

(e) No RV space shall be occupied until all improvements have been completed and a final site development plan has been approved by the Planning Director. Required improvements shall include, but not be limited to: installation of water and sewer systems, installation of roads, electric systems and street lighting, recreation area development, facilities shown on the approved preliminary plan and marked spaces. A field inspection by appropriate inspection officials shall be conducted to verify the installation of required improvements.

(f) RV park requirements are as follows:

(1) Every RV park shall contain at least 15 spaces and at least 2 acres of land, excluding roads, common areas, buffer requirement areas and the like.

(2) Every space shall consist of a minimum area of 1,800 square feet and provide a minimum lot width of not less than 30 feet. Each space shall be clearly marked on the ground by markers, painted lines or monuments.

(3) Parking spaces sufficient to accommodate at least 1 motor and camping vehicle shall be constructed within each space. No more than 1 camping vehicle may be parked on any space.

(4) All spaces developed adjacent to a public street shall be set back a minimum of 25 feet from the street right-of-way or an exterior park boundary.

(5) All spaces shall be located on sites with elevations that are not susceptible to flooding. The spaces shall be graded to prevent any water from ponding or accumulating within the park. Each space shall be properly graded to drain all water away from the RV space. The developer shall provide an adequate drainage system within the park.

(6) The park shall have well maintained roads that directly abut each space and that provide access to a publicly maintained road. All road travel surfaces shall be graded and surfaced with crushed stone, gravel or other suitable material to provide a stable surface that will reduce dust and erosion. Roads shall be a minimum of 20 feet wide. Roads within the park shall have a designated right-of-way/easement of 30 ft.

(7) No space shall have direct vehicular access to a public road.

(8) The park shall be developed with proper drainage system to meet the requirements of Article XIII of the Land Use Ordinance.

(9) Cul-de-sacs or dead end roads shall not exceed five-hundred fifty (550) feet in length measured from the entrance to the center of the turnaround. Any road designed to be permanently closed shall have a turnaround at the closed end with a minimum right-of-way radius of fifty (50) feet.

(10) The park shall provide access to a publicly maintained road. It is required that all utilities serving the site be installed underground.

(11) Each park shall have a Central Service building(s) that will provide separate toilet facilities for both sexes. This structure may also contain a retail sales counter and/or coin operated machine for the park residents use only, provided there is no exterior advertising. Vending machines also may be permitted in a sheltered area.

(12) No swimming pool or bathing area shall be installed, altered, improved, or used without compliance with applicable health department regulations.

(13) All toilet, shower, lavatory, and laundry facilities shall be provided and maintained in clean and sanitary condition and kept in good repair at all times.

(14) A safe, adequate, and conveniently located water supply and connection must be provided for each park space.

(15) At least one (1) sewage dumping station shall be provided in each park, and a sewer connection shall be provided for each RV space. All sewage wastes from each park, including wastes from toilets, showers, bathtubs, lavatories, wash basins, sinks, and water using appliances not herein mentioned, shall be piped into the park's sewage disposal system or systems.

(16) The park owner shall be responsible for refuse collection.

(17) Each park shall provide open space/recreation areas to serve the needs of the anticipated users. Open space and/or recreation areas equaling at least 10% of the total development area shall be required to be reserved. Wetlands and flood prone areas may be included in the required open space area unless it is determined, that such areas are not useable.

(18) It shall be unlawful for a person to park or store a manufactured home in an RV park. The residence / office of person(s) responsible for the operation and maintenance of the RV park shall be a stick-built structure or modular unit.

(19) Abandoned or inoperative motor vehicles shall not be allowed in any RV park.

(g) Landscaping, screening, and buffer requirements are established to improve the appearance of RV Parks; to protect, preserve and promote the character and value of all properties; and to promote the public health, safety and welfare through the reduction of noise pollution, air pollution, and glare.

(1) RV parks shall have a buffer strip adjacent to the park boundary extending along the entire perimeter of the park. The buffer strip shall consist of a planted strip of land at least ten(10) feet in width composed of indigenous deciduous and/or evergreen trees, spaced not more than ten (10) feet apart. Existing natural vegetation may be utilized for required buffers when appropriate. In lieu of the preceding a five (5) foot buffer strip may be provided along with an opaque screening fence eight (8) feet in height.

(2) All areas of the park that are disturbed shall be stabilized and maintained with an all-weather material or seeded or planted with vegetation to prevent on or off site erosion.

(h) The operator of a travel trailer park shall keep an accurate register containing a list and description of all RV's located in the park and the owner thereof. The operator shall keep the register available at all times for inspection by law enforcement officials, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register. The register shall contain the following information:

(1) Name and address of the owner/operator of each unit in each space of the park, along with a license, registration or serial number and detailed description of each unit.

(2) Date each registrant entered and/or left the park.

(3) The name and address of each known occupant of any unit if other than the owner.

(4) Pursuant to N.C.G.S. 105-316, a copy of the above described register which accurately reflects the tenants in the park as of January 1st of each year shall be forwarded to the Tax Supervisor of Halifax County, no later than January 15th of each year.

Section 151-170 Managers or Security Residence.

(a) Due to the nature of mini-storage facilities and hotels and motels, the following requirements are provided to ensure the overall objectives of the Land Use Ordinance are preserved while protecting the integrity of the ordinance.

(1) A residence shall have a minimum square footage of eight hundred (800 ft^2) square feet and a maximum of one thousand six hundred (1,600 ft^2) square feet.

(2) The residential dwelling may be stand alone, attached to, or incorporated within the primary commercial structure.

(3) The placement of one (1) accessory one-bedroom managers or security residence shall be allowed.

(4) The residence shall not be rented at any time.

(5) The residence shall only be occupied by the owner/operator or owner/employee.

(6) The exterior design of a stand-alone residence shall be designed to resemble the architecture of the principal commercial structure.

(7) Detached manufactured home residences are not allowed.

(8) The accessory dwelling, if detached, shall meet the building setback requirements of the R-20 residential zoning district and shall be oriented so as to be in close proximity to the front of the site.

Section 151-171 Electronic Gaming Operations.

The following regulations will apply to electronic gaming operations in all zoning districts, except the Entertainment Overlay District.

(a) Location. The operation shall not be located closer than:

(1) Five hundred (500) feet from any residence or residential zoning district;

(2) One-thousand (1,000) feet from any church or other religious institution, day care center, public or private elementary school or secondary educational school, public park or playground, public library, video arcade, or motion picture theater which shows G or PG-rated movies to the general public on a regular basis;

(3) One-thousand (1,000) feet from any existing Electronic Gaming Operation, Tattoo and Body Piercing Establishment, or Adult and Sexually Oriented Business.

(4) Measurement of distance separation shall be in a straight line from the closest point of the buildings at which the internet café/ sweepstakes business is located.

(b) The maximum number of machines permitted at an electronic gaming operation shall be determined by City Council during the conditional use permit application process utilizing criteria outlined in Section 151-60. In addition, the occupancy of each facility shall be determined using the regulations in the North Carolina Building Code as amended.

(c) The machines/terminals must not be prohibited by State or Federal law and must have all applicable permits and licenses.

(d) The issuance of a conditional use permit to operate an electronic gaming operation by City Council does not grant the owner or operator of such facility perpetual property rights to operate this facility. The operation shall at all times be in compliance with any State or Federal law or regulations.

Within the Entertainment Overlay District, the following regulations will apply:

(a) Location. The operation shall not be located closer than:

(1) Five hundred (500) feet from any residence or residential zoning district;

(2) One-thousand (1,000) feet from any church or other religious institution, day care center, public or private elementary school or secondary educational school, public park or playground, public library, video arcade, or motion picture theater which shows G or PG-rated movies to the general public on a regular basis;

(3) One-thousand (1,000) feet from any existing Electronic Gaming Operation, Tattoo and Body Piercing Establishment, or Adult and Sexually Oriented Business.

(4) Measurement of distance separation shall be in a straight line from the closest point of the buildings at which the internet café/ sweepstakes business is located.

(b) The maximum number of machines permitted at an electronic gaming operation shall be determined by City Council during the conditional use permit application process utilizing criteria outlined in Section 151-60. In addition, the occupancy of each facility shall be determined using the regulations in the North Carolina Building Code as amended.

(c) The machines/terminals must not be prohibited by State or Federal law and must have all applicable permits and licenses.

(d) The operation shall at all times be in compliance with any State or Federal law or regulations.

Section 151-172 Solar Energy Generating Facility, Accessory.

Solar collectors shall be permitted as an accessory use to new or existing structures or facilities in accordance with Section 151-149, subject to the following standards:

(a) *Roof-Mounted Solar Systems.* The collector surface and mounting devices for roof-mounted solar systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.

(1) *Pitched Roof Mounted Solar Systems.* For all roof-mounted systems other than a flat roof, a drawing shall be submitted showing the location of the solar panels.

(2) *Flat Roof Mounted Solar Systems.* For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building.

(b) *Ground-Mounted Solar Systems.* Ground-mounted solar collectors (accessory) shall meet the minimum zoning setback for the zoning district in which it is located, except that it may be located within the front yard setback in the R-40, R-20, B-2, and I-2 zoning districts when the system does not exceed six (6) feet in height and screening shall be required consistent with Article XIX.

(c) *Approved Solar Components.* Electric solar system components shall have a UL listing.

(d) *Compliance with Building and Electrical Code.* All solar collector systems shall be in conformance with the International Building Code with North Carolina amendments.

(e) *Compliance with Other Regulations.* All solar collector systems shall comply with all other applicable regulations. *(Amended 7/9/2013)*

Section 151-173 Wind Energy Generating Facility, Accessory.

Wind energy generating facilities (accessory) designed to supplement other electricity sources shall be permitted as an accessory use in accordance with Section 151-149, subject to the following standards:

(a) A wind energy generator (accessory) shall be setback from all property lines a distance equal to one linear foot for every foot of height of the highest structure that is part of the facility or the minimum setback for the zoning district, whichever is greater.

(b) A wind turbine may not be located between the front wall of the primary structure and the street.

(c) Rotor blades on wind turbines shall maintain at least twenty-four (24) feet of clearance between their lowest point and the ground.

(d) Maximum height of wind turbines shall be consistent with the requirements of the underlying zoning district. The height shall be measured from the ground to the highest point of the prop.

(e) *Installation and Design.*

(1) The installation and design of the wind energy generator (accessory) shall conform to applicable industry standards, including those of the American National Standards Institute.

(2) All electrical, mechanical, and building components of the wind energy generator (accessory) shall be in conformance with the International Building Code with North Carolina amendments.

(3) Any on-site transmission or power lines shall, to the maximum extent possible, be installed underground.

(4) Attachment to a building of any kind shall be prohibited.

(f) The visual appearance of wind energy generator (accessory) shall:

(1) Be constructed of a corrosion resistant material that will not fade, show rust spots, or otherwise change the appearance as a result of exposure to the elements and be a non-obtrusive color such as white, off-white, or gray.

(2) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

(3) Landscaping, buffering, and screening shall be provided in accordance with Article XIX.

(g) Any wind energy generator (accessory) that is not functional shall be repaired by the owner within a three (3) month period or be removed. In the event that the city becomes aware of any wind energy system that is not operated for a continuous period of three (3) months, the city will notify the landowner by certified mail and provide thirty (30) days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the city deems the timetable for corrective action as unreasonable, the city shall notify the landowner and such landowner shall remove the turbine within thirty (30) days of receipt of said notice. Any disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(h) *Compliance with Other Regulations.* All wind energy generators shall comply with all other application regulations. *(Amended 7/9/2013)*

Section 151-174 Solar Farm (Major Energy).

A Solar Farm developed as a principal use shall be permitted in accordance with Section 151-149, subject to the following:

(a) *Setbacks.* Solar farms shall meet the minimum zoning setbacks for the zoning district in which located.

(b) *Height.* 15 feet maximum.

(c) *Visibility.*

(1) Solar farms with panels located at least 150 feet from an adjacent public street right-of-way shall not require screening.

(2) Solar farms with panels located less than 100 feet from an adjacent public street right-of-way, a residentially zoned property, or a property currently utilized for residential purposes must be screened by a continuous screen of evergreen vegetation intended to be at least six (6) feet high and three (3) feet thick at maturity.

(d) *Application Requirements.*

(1) Submit a site plan denoting the dimensions of the parcel, proposed solar farm location (arrangement of panels), distance from the proposed area to all property lines, and location of the driveway(s). No portion of the system area may encroach into the required setbacks and any buffer area(s).

(2) The site plan should also show the location of required buffers.

(3) Submit horizontal and vertical (elevation) to-scale drawings with dimensions. The drawings must show the location of the system on the property.

(4) State and local stormwater permits may be required based upon ground cover.

(5) If applicable, the applicant must apply and receive from the North Carolina Department of Transportation (NCDOT) a driveway permit, or submit documentation from NCDOT that the existing site access is acceptable for the required use prior to final project approval.

(e) *Installation and Design.*

(1) Approval Solar Components – Electric solar energy system components must have a UL listing and must be designed with anti-reflective coating(s).

(2) Compliance with Building and Electrical Code – All solar farms shall meet all requirements of the International Building Code with North Carolina amendments. *(Amended 7/9/2013)*

Section 151-175 Wind Farm (Major Energy).

Wind farms developed as a principal use shall be permitted in accordance with Section 151-149, subject to the following:

(a) *Setbacks.*

Wind Energy Facility Type	Minimum Lot Size	Minimum Setback Requirements[1]				Maximum Height from Grade
		Occupied Buildings (Subject Property)[2]	Property Lines[2]	Public/ Private Right-of-Way[2]	Highway Corridor Overlay District	
Wind Farm	5 Acres	1.0	1.0	1.5	2.5	250 Ft.

[1] Measured from the center of the wind turbine base to the property line, right-of-way, or nearest point on the foundation of the occupied building. [2] Calculated by multiplying required setback number by wind turbine height.

(b) *Height.* Two hundred fifty feet (250') maximum.

(c) *Ground Clearance.* Rotor blades on wind turbines must maintain at least twenty-four feet (24') of clearance between their lowest point and the ground.

(d) *Visibility.*

(1) Wind farms located at least 150 feet from an adjacent public street right-of-way shall not require screening.

(2) Wind farms located less than 100 feet from an adjacent public street right-of-way, a residentially zoned property, or a property currently utilized for residential purposes must be screened by a continuous screen of evergreen vegetation intended to be at least six (6) feet high and three (3) feet thick at maturity.

(e) *Wind Farm Facility Noise, Shadow Flicker, and Electromagnetic Interference.*

(1) Audible sound from a wind turbine shall not exceed fifty-five (55) dBA, as measured at any occupied building of a Non-Participating Landowner.

(2) Shadow flicker at any occupied building on a Non-Participating Landowner's property caused by a Wind Energy Facility located within 2,500 feet of the occupied building shall not exceed thirty (30) hours per year.

(3) Wind turbines may not interfere with normal radio and television reception in the vicinity. The applicant shall minimize or mitigate any interference with electromagnetic communications, such as radio, telephone or television signals caused by any wind energy facility.

(f) *Application Requirements.*

(1) Provide identification and location of the property on which the proposed wind farm will be located.

(2) Submit a site plan denoting the dimensions of the parcel, proposed wind farm location (arrangement of turbines and related equipment), distance from the proposed area to all property lines, and location of the driveway(s). No portion of the wind farm area may encroach into the required setbacks and any buffer area(s).

(3) The site plan should also show the location of required buffers.

(4) Provide the representative type and height of the wind turbine in the form of horizontal and vertical (elevation) to-scale drawings, including its generating capacity, dimensions and respective manufacturer, and a description of ancillary facilities.

(5) Provide evidence of compliance with applicable Federal Aviation Administration regulations.

(6) State and Local Stormwater permits may be required based upon ground cover.

(7) If applicable, the applicant must apply and receive from the North Carolina Department of Transportation (NCDOT) a driveway permit, or submit documentation from NCDOT that the existing site access is acceptable for the required use prior to final project approval.

(8) An applicant for a Wind Farm conditional use permit shall include with the application an analysis of the potential impacts of the wind power project, proposed mitigative measures, and any adverse environmental effects that cannot be avoided, in the following areas:

(i) Demographics including people, homes, and businesses.
(ii) Noise.
(iii) Visual impacts.
(iv) Public services and infrastructure.
(v) Cultural and archaeological impacts.
(vi) Recreational resources.
(vii) Public health and safety, including air traffic, electromagnetic fields, and security and traffic.
(viii) Hazardous materials.
(ix) Land-based economics, including agriculture, forestry, and mining.
(x) Tourism and community benefits.
(xi) Topography.
(xii) Soils.
(xiii) Geologic and groundwater resources.
(xiv) Surface water and floodplain resources.
(xv) Wetlands.
(xvi) Vegetation.
(xvii) Avian impact assessment that includes an indication of the type and number of birds that are known or suspected to use a project site and the area surrounding that site.
(xviii) Wildlife.
(xix) Rare and unique natural resources.

(9) An applicant for Wind Farm conditional use permit shall state in the application whether a Certificate of Public Convenience and Necessity for the system is required from the North Carolina Utilities Commission and, if so, the anticipated schedule for obtaining the certificate. The city may ask the Utilities Commission

to determine whether a Certificate of Public Convenience and Necessity is required for a particular wind power project for which the city has received an application. The city shall not approve a project requiring a certificate unless and until such certificate is issued by the Utilities Commission. If a certificate is not required from the Utilities Commission, the permit shall include with the application a discussion of what the applicant intends to do with the power that is generated.

(g) *Installation and Design.*

(1) The installation and design of the wind generation facility shall conform to applicable industry standards, including those of the American National Standards Institute.

(2) All electrical, mechanical, and building components of the wind generation facility shall be in conformance with the International Building Code with North Carolina Amendments.

(3) Any on-site collection and distribution lines shall, to the maximum extent possible, be installed underground.

(4) Attachment to a building of any kind shall be prohibited.

(h) *Visual Appearance.*

(1) The wind turbine shall be constructed of a corrosion resistant material that will not face, show rust spots or otherwise change the appearance as a result of exposure to the elements, and be a non-obtrusive color such as white, off-white or gray; and

(2) The wind turbine shall not be artificially lit, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety.

(i) *Maintenance.* Any wind generation facility that is not functional shall be repaired by the owner within a 6-month period or be removed. In the event that the city becomes aware of any wind farm that is not operated for a continuous period of 6 months, the city will notify the landowner by certified mail and provide 30 days for a written response. In such a response, the landowner shall set forth reasons for the operational difficulty and provide a reasonable timetable for corrective action. If the city deems the timetable for corrective action as unreasonable, the city shall notify the landowner, and such landowner shall remove the turbine(s) with 180 days of receipt of said notice. Any disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

(j) *Decommissioning.*

(1) The applicant must remove the wind generation facility if, after the completion of the construction, the wind generation facility fails to begin operation, or becomes inoperable for a continuous period of one (1) year.

(2) The one-year period may be extended upon a showing of good cause to the Roanoke Rapids Board of Adjustment.

(3) Applicants proposing development of a Wind Farm must provide to the city a form of surety equal to 125% of the entire cost, as estimated by the applicant and approved by the City Attorney, either through a surety performance bond, irrevocable letter of credit or other instrument readily convertible into cash at face value, either with the city or in escrow with a financial institution designated as an official depository of the city, to cover the cost of removal in the event the applicant is unable to perform any required removal and the city chooses to do so. Following initial submittal of the surety, the cost calculation shall be reviewed every 12 months by the applicant and adjusted accordingly based upon the estimated decommissioning costs in current dollars. The adjustment must be approved by the city. Failure to comply with any requirement of this paragraph shall result in the immediate termination and revocation of all prior approvals and permits; further, the City of Roanoke Rapids 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 Wind Farm, even if still operational. *(Amended 7/9/2013)*

Section 151-176 through 151-180 Reserved.

ARTICLE XII: DENSITY AND DIMENSIONAL REGULATIONS

Section 151-181 Minimum Lot Size

Subject to the provisions of Sections 151-187 (Cluster Subdivisions), all lots in the following zones shall have at least the amount of square footage indicated in the following table:

Zone	Minimum Square Feet
R-3	6,000
R-5	5,000
R-6	6,000
R-8	8,000
R-12	12,000
R-20	20,000
R-40	40,000
B-1	No Minimum
B-2	No Minimum
B-3	No Minimum
B-4	No Minimum
B-5	No Minimum
I-1	No Minimum
I-2	No Minimum

Section 151-182 Residential Density.

(a) Subject to the provisions of Sections 151-187 (Cluster Subdivisions), every lot used for single-family residential purposes shall have at least the number of square feet indicated as the minimum permissible in the zone where the use is located, according to Section 151-181.

(b) Every lot developed for two-family residences in an R-6 zoning district shall have at least eight thousand (8,000) square feet and every lot developed for two-family residences in the R-3 zoning district shall have at least six thousand (6,000) square feet.

(c) Lots in the R-3 zoning district may be developed for mobile home parks at a density determined by dividing the total square footage of the lot by 5,000 square feet. Lots in other districts where multi-family developments (other than multi-family conversions and mobile home parks) are permissible may be developed at a density

determined by dividing the total square footage of the lot by 3,000 square feet. Fractions shall be rounded to the nearest whole number, and the result yields the number of dwelling units permissible on the tract.

(d) With respect to lots where multi-family conversions are proposed, the lot must contain at least the number of square feet equal to 150% of the minimum required for single family residency if a conversion into three dwelling units is proposed and 200% of the minimum required for single family residency if a conversion into four dwelling units is proposed.

Section 151-183 Minimum Lot Widths.

(a) No lot may be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:

(1) Could be used for purposes that are permissible in that zoning district; and

(2) Could satisfy any applicable setback requirements for that district.

(b) Without limiting the generality of the foregoing standard, the following minimum lot widths are recommended and are deemed presumptively to satisfy the standard set forth in subsection (a). The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at opposite sides of the lot.

ZONE	**WIDTH (FT)**
R-40	100
R-20	100
R-12	75
R-8	70
R-6	50
R-5	50
R-3	50
B-1	None
B-2	70
B-3	70
B-4	70
B-5	50
I-1	50
I-2	100

(c) No lot created after the effective date of this chapter that is less than the recommended width shall be entitled to a variance from any building setback requirement.

(d) Every lot developed for duplex purposes in an R-6 zoning district shall have a minimum lot width of 60 feet.

Section 151-184 Building Setback Requirements.

(a) Subject to the other provisions of this section, no portion of any building may be located on any lot closer to any lot line or to the street right-of-way line than is authorized in the table set forth below. The term "lot boundary line" refers to lot boundaries other than those that abut streets.

ZONE	Minimum Distance From Street Right-Of-Way Line	Minimum Distance From Lot Boundary Line
R-40	50	20
R-20	30	10
R-12	25	10
R-8	25	8
R-6	20	8
R-5	20	5
R-3	20	5
B-1	--	--
B-2	20	--
B-3	20	--
B-4	20	--
B-5	30	--
I-1	30	15
I-2	40	25

(b) Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district or a lot upon which a residential use is located, then the lot in the nonresidential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot or a setback of eight (8) feet, whichever is greater.

(c) Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).

The following are exceptions to lot boundary and/or street right-of-way setback requirements:

(1) Retaining walls, terraces, fences, and other landscape structures shall be exempt from the lot boundary setback requirements.

(2) HVAC units and associated connection lines, open or enclosed fire escapes, outside stairways, balconies and other necessary unenclosed projections, but not porches, may extend into the lot boundary setback no more than one-half (½) of its required width. However, none shall extend closer than three (3) feet to a lot boundary line.

(3) Every part of a required lot boundary setback shall be open from its lowest ground point to the sky unobstructed; except for the ordinary projection of sills, belt courses, cornices, buttresses, ornamental features, and eaves; provided, however, they shall not extend into a lot boundary or street right-of-way setback more than thirty (30) inches.

(4) It is also recognized by the City Council that, due to unusual characteristics, topography, lot size or pre-existing conditions, it is not prudent to establish inflexible application of this section concerning the lot boundary setback requirements for HVAC units that are appurtenant to legally permitted existing structures. Therefore, the permit issuing authority may permit deviations from the presumptive requirements of this section for HVAC units and may allow a lesser lot boundary line setback provided the units are installed so as to insure that the public safety, health and general welfare are not adversely affected. Under no circumstances may a HVAC unit exceed any lot boundary line.

(5) Modifications to street yards in residential districts: The minimum required street yard depths in all residential districts shall not apply to a lot in any block where lots comprising at least fifty (50%) or more of the frontage on any one side of the street within the block has been developed with primary buildings that have a maximum street yard variation that results in a setback that is less than that required by Section 151-184(a).

In such cases no building hereinafter erected, moved, or structurally altered shall project into the street yard required by section 151-184(a) a distance greater than that determined to be compatible with the adjoining properties in the neighborhood as determined by the Land Use

Administrator. Under no circumstances shall a primary structure be located closer to a street right-of-way than the adjoining primary structure(s) on either side.

Provided further this regulation shall not be construed to require a street yard greater in depth than the minimum street yard specified in Section 151-184(a) for the district in which such lot is located. This provision does not apply to accessory structures. As in all cases the final decision of the Land Use Administrator may be appealed to the Board of Adjustment.

(6) A street right-of-way setback is not required on the interstate side of commercially zoned properties abutting an interstate highway and not having direct access to an interstate highway.

(7) Within the second element of a PUD containing a higher density residential element of which one corresponds to the R-6 zoning district established by Section 151-135, the minimum required lot boundary line setback may be reduced by three (3) feet to a distance of five (5) feet while all other development must be in accordance with the regulations of the R-6 residential district.

Whenever the permit issuing authority allows a deviation from the presumptive requirements set forth in this Section, it shall enter on the face of the permit the requirements that must be met and the reasons for allowing the deviation.

(d) Whenever a private road that serves more than three lots or more than three dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three dwelling units is located along a boundary, then:

(1) If the lot is not also bordered by a public street, buildings and freestanding signs shall be set back from the centerline of the private road just as if such road were a public street.

(2) If the lot is also bordered by a public street, then the setback distance on lots used for residential purposes (as set forth above in the column labeled "Minimum Distance from Lot Boundary Line") shall be measured from the inside boundary of the traveled portion of the private road.

(e) Reserved. *(Amended 7/9/2013)*

(f) Whenever a building site is proposed for a use that involves proposed structures that may be placed on or across existing platted lot lines or portions of previously platted lots, in violation of established building setback requirements, a recombination survey and deed shall be required prior to the issuance of a zoning permit or building permit even though the lots may be in same ownership. This recombination survey and deed shall be properly recorded in the Halifax County Public Registry and proof furnished of same to the Planning and Development Department prior to issuance of any construction permits.

(g) During the construction and inspection process, it shall be necessary for the building permit applicant to provide a notarized certificate indicating verification of compliance, for the structure they are placing on a site, with all applicable zoning setback requirements prior to a foundation or any other inspections by City staff following a footing inspection.

Section 151-185 Accessory Building Setback Requirements.

(a) All accessory buildings in residential districts (i.e., those established by Section 151-135) must comply with the street right-of-way setbacks set forth in Section 151-184 but (subject to the remaining provisions of this subsection) shall be required to observe only a three-foot setback from side and rear lot boundary lines unless the high point of the roof of any appurtenance of the accessory building exceeds sixteen (16) feet in height, in which event, the accessory building shall be set back from side and rear lot boundary lines an additional two (2) feet for every foot of height exceeding sixteen (16) feet. In no case shall the calculated required setback exceed the lot boundary line setbacks set forth in Section 151-184.

(b) Accessory buildings to a residential use shall not have a ground floor area which exceeds fifty (50) percent of the ground floor area of the principal building unless the area of land occupied by the principal building and all accessory buildings does not exceed twenty-five (25) percent of the entire parcel of land. Exceptions shall require a special use permit to be obtained from the City Council.

(c) Accessory buildings in commercial and manufacturing districts (i.e., those established by Sections 151-136 and 151-137) must comply with the lot boundary setbacks set forth in Section 151-184 but shall be required to observe only the lesser of the street right-of-way setback established in Section 151-184 or a street right-of-way setback of twenty feet. Notwithstanding the foregoing, a canopy, awning, or marquee may observe a street right-of-way setback of ten (10) feet only if the supporting members observe the otherwise required setback.

Section 151-186 Building Height Limitations.

(a) For purposes of this section:

(1) The height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building.

(2) A point of access to a roof shall be the top of any parapet wall or the lowest point of the roof surface, whichever is greater. Roofs with slopes greater than seventy-five percent are regarded as walls.

(b) Subject to subsection (c), building height limitations in the various zoning districts shall be as follows:

ZONE	HEIGHT
R-40	35'
R-20	"
R-12	"
R-8	"
R-6	"
R-5	"
R-3	"
B-1	50'
B-2	35'
B-3	"
B-4	*** see below**
B-5	60'
I-1	45'
I-2	"

*** Height as allowed and in conformity with the 2002 Edition, as amended, of the North Carolina Building Code and the 2002 Edition of the North Carolina Fire Prevention Code.**

(c) Notwithstanding subsection (b), in any zoning district the vertical distance from the ground to a point of access to a roof surface of any nonresidential building or any multi-family residential building containing four or more dwelling units may not exceed thirty feet unless the fire chief certifies to the permit-issuing authority that such building is designed to provide adequate access for firefighting personnel or the building inspector certifies that the building is otherwise designed or equipped to provide adequate protection against the dangers of fire.

Section 151-187 Cluster Subdivisions.

(a) In any single-family residential subdivision in the zones indicated below, a developer may create lots that are smaller than those required by Section 151-181 if such developer complies with the provisions of this section and if the lots so created are not smaller than the minimums set forth in the following table:

Zone	Min. Square Feet	Min. Lot Width
R-6	5,250	40'
R-8	6,000	50'
R-12	9000	55'
R-20	15,000	70'

(b) The intent of this section is to authorize the developer to decrease lot sizes and leave the land "saved" by so doing as usable open space, thereby lowering development costs and increasing the amenity of the project without increasing the density beyond what would be permissible if the land were subdivided into the size of lots required by Section 151-181.

(c) The amount of usable open space that must be set aside shall be determined by:

(1) Subtracting from the standard square footage requirement set forth in Section 151-181 the amount of square footage of each lot that is smaller than that standard;

(2) Adding together the results obtained in (1) for each lot.

(d) The provisions of this section may only be used if the usable open space set aside in a subdivision comprises at least 10,000 square feet of space.

(e) The setback requirements of Section 151-184 and 151-185 shall apply in cluster subdivisions.

Section 151-188 Density on Lots Where Portion Dedicated to City.

(a) Subject to the other provisions of this section, if (i) any portion of a tract lies within an area designated on any officially adopted city plan as part of a proposed public park, greenway, or bikeway, and (ii) before the tract is developed, the owner of the tract, with the concurrence of the city, dedicates

to the city that portion of the tract so designated, then, when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated in accordance with the provisions of this section.

(b) If the proposed use of the remainder is a single family residential subdivision, then the lots in such subdivision may be reduced in accordance with the provisions of Section 151-187 except that the developer need not set aside usable open space to the extent that an equivalent amount of land has previously been dedicated to the city in accordance with subsection (a).

(c) If the proposed use of the remainder is a multi-family project, then the permissible density at which the remainder may developed shall be calculated by regarding the dedicated portion of the original lot as if it were still part of the lot proposed for development.

(d) If the portion of the tract that remains after dedication as provided in subsection (a) is divided in such a way that the resultant parcels are intended for future subdivision or development, then each of the resultant parcels shall be entitled to its pro rata share of the "density bonus" provided for in subsections (b) and (c).

Sections 151-189 through 151-195 Reserved

ARTICLE XIII: STORMWATER MANAGEMENT

Section 151-196 Purpose.

The purpose of this article is to regulate the design and placement of storm drainage facilities, manage localized flooding, manage soil erosion and obstruction of drainage, prevent the undermining of public streets, and provide procedures and conditions for managing stormwater in the City in the most economical manner possible within reasonable resources. All development shall have sufficient stormwater management controls to ensure the adequate protection of life and property. To this end, as a minimum, development shall be provided with management of stormwater runoff from a ten year frequency 24 hour duration rainfall event, so that the on-site and off-site effects of development are equal to or less than pre-development conditions.

Section 151-197 Definitions.

Clearing - Any activity that removes or disturbs vegetative ground cover.

Design Event - The storm of an intensity expected to occur on the average of once in 10 years, and of 24-hour duration.

Development - Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil thus altering the hydrological characteristics of the area.

Erosion - The process by which the ground surface is worn by the action of wind, water, ice, or gravity.

Erosion and sedimentation measures - A system of structural and/or vegetative measures that minimize soil erosion and off-site sedimentation. The term, where appropriate, shall include stormwater management measures.

Excavation - Any act, or the conditions resulting therefrom, which soil, earth, sand, gravel, rock, or similar material is cut into, dug, uncovered, removed, displaced, or relocated.

Fill - Any act, or the conditions resulting therefrom, by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, pulled, or transported.

Grading - Any act causing disturbance of the earth. This shall include but not be limited to any excavation, filling, stockpiling of earth materials, grubbing of root material, or topsoil disturbance, or any combination of each.

Ground Cover - Means any vegetative growth or other material that renders the soil surface stable against accelerated erosion.

Impervious - The condition of being impenetrable by water.

Impervious Structure - Is any structure which prevents the infiltration of precipitation into the soil, including, but not limited to, buildings, paved roads, gravel roads, paved parking lots, gravel parking lots, and paved or gravel driveways.

Imperviousness - The degree to which a site is impervious.

Off-site stormwater management facility - With respect to any particular site, shall mean a stormwater management facility serving said site, but not located on said site.

On-site stormwater management facility - With respect to any particular site, shall mean a stormwater management facility serving the subject site and located thereon the site.

Pre-development State - A site in its existing condition prior to any proposed development activity.

Private Facility - Any stormwater facility not owned, operated, or the responsibility of the City. Site - That portion of land, lot or parcel of land, or combination of continuous lots or parcels of land to be developed.

Stormwater Drainage Facility - Any system which serves to collect and convey stormwater through and from a given drainage area.

Stormwater Management Plan - A plan designed to minimize erosion, prevent off-site sedimentation, and manage and control stormwater. The plan shall be signed and sealed by a professional engineer licensed in the State of North Carolina. The plan shall be in accordance with this chapter as well as standard and acceptable engineering principles.

Stormwater Management System - A system of vegetative and/or structural measures which control increased volume and rate of surface runoff caused by development, and which has the effect of maintaining the pre-development patterns of flood magnitudes and frequency.

Stormwater Runoff - The direct runoff of water resulting from precipitation in any form.

Swale - An elongated depression in the land surface that is at least seasonally wet, is usually vegetated, and is normally without flowing water. Swales channel stormwater into primary drainage channels.

Velocity - Means the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest.

Watercourse or Drainage Way - Any natural or artificial watercourse, including, but not limited to, streams, rivers, creeks, ponds, lakes, ditches, channels, canals, pipes, culverts, drains, gullies, or washes in which waters flow in a definite direction or course

either continuously or intermittently, and including any area adjacent thereto which is subject to inundation by reasons of overflow or flood waters.

Section 151-198 General Requirements.

1. All development shall include adequate stormwater drainage facilities to protect the proposed development and surrounding properties from any flooding and water damage. Developers shall take all reasonable measures to protect all public and private property on and off-site of the development from water damage that is contributive from this development, during and after construction.

2. Before the issuance of any permit authorized herein a developer shall submit a stormwater management plan for review and approval. Individual residential lots being developed are required to have a stormwater management plan only if the lot contains 70% or greater imperviousness.

3. Stormwater management plans shall be signed and sealed by a professional engineer licensed in the State of North Carolina.

Section 151-199 Basic Control Objectives.

The basic control objectives that are to be considered in developing and implementing a stormwater management plan include:

1. Identify Critical Areas - On-site areas which are subject to severe erosion, and off-site areas which are vulnerable to damage from erosion, sedimentation, and or stormwater damage, are to be identified and receive special attention, and appropriate mitigation measures shall be designed to protect those areas.

2. Manage Stormwater Runoff - When an increase in the peak flow rates and velocity of stormwater resulting from development is sufficient to cause increased runoff within or erosion of the receiving watercourse, plans are to include measures to control the velocity and rate of release at the point of discharge so as to minimize runoff and erosion of the site and of downstream properties. All sites that have 30,000 square feet of imperviousness shall provide on-site stormwater detention such that post-development peak discharge from the design event is not greater than the pre-developed peak discharge at the point(s) of discharge, unless the following:

The City determines that it is in the best interest of the City to not have stormwater detention on a particular site; or,

The developer can demonstrate through hydrologic and hydraulic calculations performed by a professional engineer licensed in the State of North Carolina that the development will not have an adverse impact on the downstream properties

and storm drainage facilities during the design event. The analysis shall be performed to a point downstream where the post-development design event peak discharge from the development is equal to or less than 10 percent of the total drainage area peak discharge from the same design event.

3. Develop Stormwater Drainage Facility - Stormwater from a site, including upstream drainage flowing into the site, is to be systematically controlled to manage localized flooding in the site and to minimize the effects of the development and drainage on downstream properties.

4. Any control measures, structures, and devices for the protection of stream banks and channels shall be so planned, designed, and constructed as to provide control of any increase in accelerated erosion or sedimentation of the receiving stream from the calculated peak rates of runoff from the design event. Runoff rates shall be calculated using the USDA Soil Conservation Service's "National Engineering Field Manual for Conservation Practices", or other acceptable calculation procedures, and all design and calculations shall be prepared and signed by a professional engineer licensed to practice in North Carolina. Runoff computations shall be based on rainfall data published for the area by the National Weather Service.

Section 151-200 Standards for Stormwater Management.

Stormwater management activities shall be in accordance with the following standards:

1. Drainage System: The developer shall connect to an existing stormwater drainage facility when such a facility, in the opinion of the City, is reasonably accessible, even if the existing facility is off-site. The developer shall do all grading and provide all structures necessary to connect properly to the existing stormwater drainage facility. If off-site improvements are required to discharge stormwater to an adequate outfall, the developer shall obtain easement(s) from the affected property owner to perform such improvements. The easement shall be signed and recorded prior to approval of stormwater management plan.

2. Allowable Runoff: After development of a site, the calculated peak rate of stormwater runoff from the design event shall be no greater than the pre-development peak rate of stormwater runoff.

Section 151-201 Public Road Stormwater Drainage Facility

Public road stormwater drainage facilities shall be approved by the City pursuant to the following guidelines:

1. Design shall be in accordance with the latest edition of the North Carolina Department of Transportation Guidelines for Drainage Studies and Hydraulics Design unless otherwise noted.

2. The hydraulic gradient for the design event shall be less than six inches below the ground elevation.

3. The hydraulic gradient for the design event shall be less than 5 feet above the crown of the pipe.

4. The diameter of any culvert beneath a roadway shall not be less than 18 inches.

Section 151-202 Detention and Retention Facilities.

1. Retention and detention facilities may be used to retain and/or detain the increased and accelerated runoff that the development generates. Water shall be released from detention ponds into a stormwater drainage facility.

2. The banks of detention and retention facilities shall slope not to exceed 4 feet horizontally and 1 foot vertically.

3. Detention and retention facilities shall be surrounded by a minimum 6-ft. high fence. Facilities designed to store water not to exceed a maximum depth of thirty (30) inches may use a 4-ft. high fence. For facilities with side bank slopes not greater than 3:12, the fencing requirement may be waived by the Administrator.

4. Access for maintenance shall be provided to detention and retention facilities.

5. All detention and retention facilities shall be designed to pass safely the peak discharge from the 100 year, 24 hour duration rainfall event with one foot of freeboard.

Section 151-203 Standards for Development Activity.

No development activity subject to this ordinance shall be undertaken except in accordance with the following standards:

1. Alteration of Watercourses: Natural watercourses shall not be dredged, cleared of vegetation, deepened, widened, straightened, stabilized, or other-wise altered except with approval of the City.

2. Wetlands Protection: Wetlands and other water bodies shall not be used as sediment traps during development.

3. Artificial Watercourses: Any artificial watercourse (where the need is demonstrated) shall be designed considering soil type so that the velocity of flow is low enough to prevent accelerated erosion.

4. Grassed Swales: Stormwater within the site shall be accommodated by the natural drainage way whenever possible. The use of grassed drainage ways to channel stormwater shall be encouraged. The maximum velocity of travel in grassed swales shall range between 2 to 4 feet per second.

Section 151-204 Permanent Downstream Protection of Stream Banks and Channels.

1. The developer shall provide permanent protection of off-site stream banks and channels from the erosive effects of increased velocity and volume of stormwater runoff resulting from the development.

2. Stream banks and channels downstream from any development shall be protected from increased erosion caused by increased velocity and/or volume of runoff from a development

Section 151-205 Alternate Management Measures.

Alternate management measures, applied alone or in combination with standard management measures, to satisfy the intent of this article are acceptable if there are no objectionable secondary consequences and provided they conform to standard and acceptable engineering principles, and they comply with other existing City development standards. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Examples of alternative management measures might include:

1. Avoiding increases in stormwater runoff volume and velocity by including measures to promote infiltration.

2. Avoiding increases in stormwater velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections.

3. Providing energy dissipaters at outlets of storm drainage facilities to reduce flow velocities at the point of discharge; these may range from simple rip-rapped sections to complex structures.

Section 151-206 through 151-209 Reserved.

ARTICLE XIV: STREETS AND SIDEWALKS

Section 151-210 Street Classification.

(a) In all new subdivisions, streets that are dedicated to public use shall be classified as provided in subsection (b).

(1) The classification shall be based upon the projected volume of traffic to be carried by the street, stated in terms of the number of trips per day;

(2) The number of dwelling units to be served by the street may be used as a useful indicator of the number of trips but is not conclusive.

(3) Whenever a subdivision street continues an existing street that formerly terminated outside the subdivision or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

(b) The classification of streets shall be as follows:

(1) Minor: A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine dwelling units and is expected to or does handle up to seventy-five trips per day.

(2) Local: A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least ten but no more than twenty-five dwelling units and is expected to or does handle between seventy-five and two-hundred trips per day.

(3) Cul-de-sac: A street that terminates in a vehicular turn-around.

(4) Subcollector: A street whose principal function is to provide access to abutting properties but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least twenty-six but no more than one hundred dwelling units and is expected to or does handle between two hundred and eight hundred trips per day.

(5) Collector: A street whose principal function is to carry traffic between minor, local, and subcollector streets and arterial streets but that may also provided direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than one hundred dwelling units and is designed to be used or is used to carry more than eight hundred trips per day.

(6) Arterial: A major street in the city's street system that serves as an avenue for the circulation of traffic into, out, or around the city and carries high volumes of traffic.

(7) Marginal Access Street: A street that is parallel to and adjacent to an arterial street and that is designed to provide access to abutting properties so that these properties are somewhat sheltered from the effects of the through traffic on the arterial street and so that the flow of traffic on the arterial street is not impeded by direct driveway access from a large number of abutting properties.

Section 151-211 Access to Public Streets in General.

(a) Every lot shall have either direct or indirect access to a public street. A lot has direct access to a public street if a sufficient portion of a boundary of the lot abuts the public street right-of-way so that an access way meeting the criteria set forth in subsection (b) can be established. A lot has indirect access if it connects to a public street by means of one or more private roads that are of sufficient size to meet the criteria set forth in subsection (b).

(b) The access provided must be adequate to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

Section 151-212 Access to Arterial Streets.

Whenever a major subdivision that involves the creation of one or more new streets borders on or contains an existing or proposed arterial street, no direct driveway access may be provided from the lots within this subdivision onto this street.

Section 151-213 Entrances to Streets.

(a) All driveway entrances and other openings onto streets within the city's planning jurisdiction shall be constructed so that:

(1) Vehicles can enter and exit from the lot in question without posing any substantial danger to themselves, pedestrians, or vehicles traveling in abutting streets; and

(2) Interference with the free and convenient flow of traffic in abutting or surrounding streets in minimized.

(b) As provided in G.S. 136-93, no person may construct any driveway entrance or other opening onto a state-maintained street except in accordance with a permit issued by the North Carolina Department of Transportation. Issuance of this permit is prima facie evidence of compliance with the standard set forth in subsection (a).

(c) All driveway entrances and other openings into city-maintained streets shall, at a minimum, conform to the requirements set forth in the N. C. Department of Transportation's Policy on Street and Driveway Access (1987 edition). If driveway entrances and other openings onto city-maintained streets are constructed in accordance with the foregoing specifications and requirements, this shall be deemed prima facie evidence of compliance with the standard set forth in subsection (a).

(d) For purposes of this section, the term "prima facie evidence" means that the permit-issuing authority may (but is not required to) conclude from this evidence alone that the proposed development complies with the subsection (a).

Section 151-214 Coordination with Surrounding Streets.

(a) The street system of a subdivision shall be coordinated with existing, proposed and anticipated streets outside the subdivision or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.

(b) Collector streets shall intersect with surrounding collector or arterial streets at safe and convenient locations.

(c) Subcollector, local, and minor residential streets shall connect with surrounding streets where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons, but connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through-traffic.

(d) Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the anticipated or proposed street is expected. In addition, the permit issuing authority may require temporary turnarounds to be constructed at the end of such streets pending their extension when such turnarounds appear necessary to facilitate the flow of traffic

or accommodate emergency vehicles, Notwithstanding the other provisions of this subsection, no temporary dead-end street in excess of 1,000 feet may be created unless no other practicable alternative is available.

Section 151-215 Relationship of Streets to Topography.

(a) Streets shall be related appropriately to the topography. In particular, streets shall be designed to facilitate the drainage and storm water runoff objectives set forth in Article XIII, and street grades shall conform as closely as practicable to the original topography.

(b) In no case may streets be constructed with grades that, in the professional opinion of the public works director, create a substantial danger to the public safety.

Section 151-216 Street Width, Sidewalk, and Drainage Requirements in Subdivisions.

(a) Street rights-of-way are designed and developed to serve several functions: (1) to carry motor vehicle traffic, and in some cases, allow on-street parking; (2) to provide a safe and convenient passageway for pedestrian traffic; and (3) to serve as an important link in the city's drainage system. In order to fulfill these objectives, all public streets shall be constructed to meet either the standards set forth in subsections (b) or (e).

(b) All streets shall be constructed with two foot (2') curb and gutter and shall conform to the other requirements of this subsection. Standard 90-degree curb shall be used, except that roll-type curb or valley gutter shall be permitted along minor and local streets within residential subdivisions. Street pavement width shall be measured from curb face to curb face where 90-degree curb is used, and from the center of the curb where roll-type curb or valley gutter is used.

TYPE STREET	MINIMUM RIGHT OF WAY	MINIMUM PAVEMENT WIDTH REQUIREMENT	SIDEWALK
Minor	50'	25'	None
Local	60'	32'	See (g)
Subcollector	60'	32'	See (g)
Collector	60'	43'	See (g)

(c) The sidewalks required by this section shall be at least four feet in width and constructed according to the specifications set forth by the City, except that the permit-issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:

(1) Such walkways would serve the residents of the development as adequately as concrete sidewalks; and

(2) Such walkways would be more environmentally desirable or more in keeping with the overall design of the development.

(d) Whenever the permit issuing authority finds that a means of pedestrian access is necessary from the subdivision to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the streets, the developer may be required to reserve an unobstructed easement of at least ten feet in width to provide such access.

(e) Pursuant to an application for a Conditional Use Permit located within the R-40 zoning district for a Major Subdivision the City Council may permit the construction of the following classifications of streets utilizing six foot wide shoulders and drainage swales in lieu of the otherwise required concrete curb and gutter. Such streets shall be constructed pursuant to the criteria in the following table and the standards established in this article except that no sidewalk shall be required.

TYPE STREET	MINIMUM RIGHT-OF-WAY	MINIMUM PAVEMENT WIDTH REQUIREMENT
Minor	60’	24’
Local	60’	24’
Subcollector	60’	28’

(f) Notwithstanding the foregoing, public streets constructed outside the city shall be constructed to meet the standards promulgated by the NC Department of Transportation to the extent that such standards are more demanding than those set forth herein.

(g) The establishment of sidewalks along streets shall be determined on a case by case basis by an evaluation of relevant criteria such as, but not limited to, the nature of the area, location of existing sidewalks, need to serve the general public, and proximity of community facilities such as schools, recreation areas, parks and daycare facilities. As a part of review and evaluation by the Planning Board a recommendation shall be forwarded to City Council concerning the provision of sidewalks on either/or both of the sides of any proposed streets. City Council shall make the final determination of requirement.

Section 151-217 General Layout of Streets.

(a) Subcollector, local, and minor, residential streets shall be curved whenever practicable to the extent necessary to avoid conformity of lot appearance.

(b) Cul-de-sacs and loop streets are encouraged within residential subdivisions so that through traffic is minimized. Similarly, to the extent practicable, driveway access to collector streets shall be minimized to facilitate the free flow of traffic and avoid traffic hazards.

(c) All permanent dead-end streets (as opposed to temporary dead-end streets, see Subsection 151-214(d)) shall be developed as cul-de-sacs in accordance with the standards set forth in subsection (d). Except where no other practicable alternative is available, such streets may not extend more than 550 feet (measured to the center of the turn-around).

(d) The right-of-way of a cul-de-sac shall have a radius of fifty feet. The radius of the paved portion of the turn-around (measured to the outer edge of the pavement) shall be forty feet, and the pavement width shall be eighteen feet. The unpaved center of the turn-around area shall be landscaped.

(e) Half streets (i.e., streets of less than the full required right-of-way and pavement width) shall not be permitted except where such streets, when combined with a similar street (developed previously or simultaneously) on property adjacent to the subdivision, creates or comprises a street that meets the right-of-way and pavement requirements of this chapter.

(f) Streets shall be laid out so that residential blocks do not exceed 1,000 feet, unless no other practicable alternative is available.

Section 151-218 Street Intersections.

(a) Streets shall intersect as nearly as possible at right angles, and no two streets may intersect at less than 60 degrees . Not more than two streets shall intersect at any one point, unless the public works director certifies to the permit issuing authority that such an intersection can be constructed with no extraordinary danger to public safety.

(b) Whenever possible, proposed intersections along one side of a street shall coincide with existing or proposed intersections on the opposite side of such street. In any event, where a centerline offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 150 feet.

(c) No two streets may intersect with any other street on the same side at a distance of less that 400 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance between intersecting streets shall be at least 1,000 feet.

Section 151-219 Construction Standards and Specifications.

Construction and design standards and specifications for streets, sidewalks, and curbs and gutters shall comply with the standards and specifications on file with the Roanoke Rapids Department of Public Works. In addition, the following shall apply:

(a) Grades

(1) Changes in grades shall be governed by the design criteria adopted by the American Association of State Highways and Transportation officials as stated in A Policy on Geometric Design of Highways and Streets.

(2) Changes in street grade shall be connected by vertical curves of at least one hundred (100) feet, or the equivalent, in feet, rounded upward to even multiples of fifty (50) feet, of the value of K times the algebraic difference of the two grades in percent, whichever is greater. Values of K are determined from the following table:

Street Classification	Value of K
Collector and subcollector	70
Local	50
Minor	35

(3) The minimum grade of any street shall be not less than one-half of one percent nor shall the maximum exceed eight percent.

(b) Radii of Curvature

Where a street center line deflection of more than ten (10) degrees occurs, a curve shall be introduce, having a radius of curvature on said centerline to accommodate the design speed of the street. When determining the roadway design criteria relative to American Association of highway and Transportation officials (AASHTO) standards, the design speed criteria for each street shall be based on the following:

Street Classification	Speed Limit
Collector and subcollector	45
Local	35
Minor	25

(c) Tangents

A tangent of not less than one hundred (100) feet or as required to meet conditions of subsection (b) above, whichever is greater, shall be provided between reverse curves on all streets.

Section 151-220 Road and Sidewalk Requirements in Unsubdivided Development

(a) Within unsubdivided developments, all private roads and access ways shall be designed and constructed to facilitate the safe and convenient movement of motor vehicle and pedestrian traffic. Width of roads, use of curb and gutter, and paving

specifications shall be determined by the provisions of this chapter dealing with parking (Article XVIII) and drainage (Article XVI). To the extent not otherwise covered in the foregoing articles, and to the extent that the requirements set forth in this article for subdivision streets may be relevant to the roads in unsubdivided developments, the requirements of this article may be applied to satisfy the standard set forth in the first sentence of this subsection.

(b) Whenever a road in an unsubdivided development connects two or more subcollector, collector, or arterial streets in such a manner that any substantial volume of through traffic is likely to make use of this road, such road shall be constructed in accordance with the standards applicable to subdivision streets and shall be dedicated. In other cases when roads in unsubdivided developments within the city are constructed in accordance with developments within the city are constructed in accordance with the specifications for subdivision streets, the city may accept an offer of dedication of such streets.

(c) In all unsubdivided multifamily residential development, sidewalks shall be provided linking dwelling units with other dwelling units, the public streets and onsite activity centers such as parking areas, laundry facilities, and recreational areas and facilities.

(d) Whenever the permit-issuing authority finds that a means of pedestrian access is necessary from an unsubdivided development to schools, parks, playgrounds, or other roads or facilities and that such access is not conveniently provided by sidewalks adjacent to the roads, the developer may be required to reserve an unobstructed easement of at least ten (10) feet to provide such access.

(e) The sidewalks required by this section shall be at least four feet wide and constructed according to the specifications set forth by the City, except that the permit issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that:

(1) Such walkways would serve the residents of the development as adequately as concrete sidewalks; and

(2) Such walkways could be more environmentally desirable or more in keeping with the overall design of the development.

<u>Section 151-221 Attention to Handicapped in Street and Sidewalk Construction.</u>

(a) As provided in G.S. 136-44.14, whenever curb and gutter construction is used on public streets, wheelchair ramps for the handicapped shall be provided at intersections and other major points of pedestrian flow. Wheelchair ramps and depressed curbs shall be constructed in accordance with published standards of the N.C. Department of Transportation, Division of Highways.

(b) In unsubdivided developments, sidewalk construction for the handicapped shall conform to the requirements of Volume 1-C of the North Carolina State Building Code.

Section 151-222 Street Names and House Numbers.

(a) Street names shall be assigned by the developer subject to the approval of the permit issuing authority, pursuant to Section 98.09 of the Roanoke Rapids City Code. Proposed streets that are obviously in alignment with existing streets shall be given the same name. Newly created streets shall be given names that neither duplicate nor are phonetically similar to existing streets within the city's planning jurisdiction, regardless of the use of the different suffixes.

(b) Building numbers shall be assigned by the City, pursuant to Section 98.09 of the Roanoke Rapids City Code.

Section 151-223 Bridges.

All bridges in subdivided and unsubdivided developments shall be constructed in accordance with the standards and specifications of the North Carolina Department of Transportation, except that bridges on roads not intended for public dedication in unsubdivided developments may be approved if designed by a licensed architect or engineer.

Section 151-224 Utilities.

Utilities installed in public rights-of-way or along private roads shall conform to the requirements set forth in Article XV, Utilities.

Section 151-225 Road Requirements in Family Subdivisions.

(a) Private roads and access ways shall be designed and constructed to facilitate the safe and convenient movement of motor vehicle traffic and shall be designed to meet the standards of the requirements of Section 151-211 and Section 151-213.

(b) Construction and design standards and specifications for private roads and access ways shall comply with the standards and specifications on file with the Roanoke Rapids Department of Public Works. A minimum width of eighteen (18) feet of pavement is required. Exception to the requirement of curb and gutter as referenced in Section 151-216 is hereby provided.

(c) All private roads shall have a minimum right-of-way width of fifty (50) feet.

(d) Extension of utilities shall be in accordance with Article XV of the Land Use Ordinance.

(e) Each lot shall meet the minimum required lot frontage, density and dimensional requirements of Article XIII. Minimum lot frontage for each lot created shall be provided along the private road right-of-way.

Section 151-226 through 151-235 Reserved.

ARTICLE XV: UTILITIES

Section 151-236 Utility Ownership and Easement Rights.

In any case in which a developer installs or causes the installation of water, sewer, electrical power, telephone, or cable television facilities and intends that such facilities shall be owned, operated or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

Section 151-237 Lots Served by Governmentally Owned Water or Sewer Lines.

(a) Whenever it is legally possible and practicable in terms of topography to connect a lot with a sanitary district or county water line or a sanitary district sewer line by running a connecting line not more than 500 feet from the lot to such line, then no use requiring water or sewage disposal service may be made of such lot unless connection is made to such line.

(b) Connection to such water or sewer line is not legally possible if, in order to make connection with such line by a connecting line that does not exceed 500 feet in length, it is necessary to run the connecting line over property not owned by the owner of the property to be served by the connection, and after diligent effort, the easement necessary to run the connecting line cannot reasonably be obtained.

(c) For purposes of this article, a lot is "served" by a governmentally owned water or sewer line if connection is required by this section.

Section 151-238 Sewage Disposal Facilities Required.

Every principal use and every lot within a subdivision shall be served by a sewage disposal system that is adequate to accommodate the reasonable needs of such use or subdivision lot, and that complies with all applicable health regulations.

Section 151-239 Determining Compliance with Section 151-238.

(a) Primary responsibility for determining whether a proposed development will comply with the standard set forth in Section 151-238 often lies with an agency other than the city, and the developer must comply with the detailed standards and specifications of such other agency. The relevant agencies are listed in subsection (b). Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed sewage disposal system, the authority issuing a permit under this chapter may rely upon a preliminary review by such agency of the

basic design elements of the proposed sewage disposal system to determine compliance with Section 151-238. However, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.

(b) In the following table, the column on the left describes the type of development and the column on the right indicates the agency that must certify to the city whether the proposed sewage disposal system complies with the standard set forth in Section 151-238.

	IF	**THEN**
(1)	The use is located on a lot that is served by the sewer system or a previously approved, privately owned package treatment plant, and the use can be served by a simple connection to the system (as in the case of a single-family residence) rather than the construction of an internal collection system (as in the case of a shopping center or apartment complex):	No further certification necessary.

(2) The use (other than a subdivision) is located on a lot that is served by the sewer system but service to the use necessitates construction of an internal collection system (as in the case of a shopping center or apartment complex); and

a. The internal collection system is to be transferred to and maintained by the Sanitary District:

The Sanitary District must certify to the city that the proposed internal collection system meets the District's specifications and will be accepted by the District. (A "Permit to Construct" must be obtained from the Division of Environmental Management of the NC Department of Environment and Natural Resources - DENR).

b. The internal collection system is to be privately maintained:

The Sanitary District must certify that the proposed collection system is adequate.

(3) The use (other than a subdivision) is served by a privately operated sewage treatment system (that has not previously been approved) with 3000 gallons or less design capacity, the effluent from which does not discharge to surface waters:

The Halifax County Health Department (HCHD) must certify to the city that the proposed system complies with all applicable state and local health regulation.

(4) The use (other than a subdivision) is to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity of more than

The Division of Environmental Management of DENR must certify to the city that the proposed system complies with all applicable state regulations. (A "Permit to Construct" and "Permit to Discharge" must be obtained from D.E.M.).

3000 gallons or that discharges effluent into surface waters:

(5) The proposed use is a subdivision: and

a. Lots within the subdivision are to be served by simple connection to existing sewer lines or lines of a previously approved private system;

No further certification necessary.

b. Lots within the subdivision are to be served by the sewer system but the developer will be responsible for installing the necessary additions to the district system.

The Sanitary District must certify to the city that the proposed system meets the district's specifications and will be accepted by the District. (A "Permit to Construct" must be obtained from the Division of Environmental Management of DENR).

c. Lots within the subdivision are to be served by a sewage treatment system that has not been approved, that has a design capacity of 3000 gallons or less and that does not discharge into surface waters:

The Halifax County Health Department must certify that the proposed system complies with all applicable state and local health regulations. If each lot within the subdivision is to be served by a separate on-site disposal system, the HCHD must certify that each lot shown on a major subdivision preliminary plat can probably be served, and each lot on a major or minor subdivision final plat can be served by an on-site disposal system.

d. Lots within the subdivision are to be served by a privately operated sewage treatment system (not previously approved) that has a design capacity in excess of 3000 gallons or that discharges effluent into surface waters:

The Division of Environmental Management of DENR must certify that the proposed system complies with all applicable state regulations. (A "Permit to Construct" and a "Permit to Discharge" must be obtained from DEM.)

Section 151-240 Water Supply System Required.

Every principal use and every lot within a subdivision shall be served by a water supply system that is adequate to accommodate the reasonable needs of such use or subdivision use or subdivision lot and that complies with all applicable health regulations.

Section 151-241 Determining Compliance with Section 151-240.

(a) Primary responsibility for determining whether a proposed development will comply with the standard set forth in Section 151-240 often lies with an agency other than the city and the developer must comply with the detailed standards and specifications of such other agency. The relevant agencies are listed in subsection (b). Whenever any such agency requires detailed construction or design drawings before giving its official approval to the proposed water supply system, the authority issuing a permit under this chapter may rely upon a preliminary review by such agency of the basic design elements of the proposed water supply system to determine compliance with section 151-240. However, construction of such system may not be commenced until the detailed plans and specifications have been reviewed and any appropriate permits issued by such agency.

(b) In the following table, the column on the left describes the type of development and the column on the right indicates the agency that must certify to the city whether the proposed water supply system complies with the standard set forth in Section 151-240.

IF	THEN
The use is located on a lot that is served by the Sanitary District or county water system or a previously approved, privately owned public water supply system and the use can be served by a simple connection to the system (as in the case of a single-family residence) rather than the construction of an internal distribution system (as in the case of a shopping center or apartment complex):	No further certification is necessary.
(2) The use (other than a subdivision) is located on a lot that is served by the district or county water system but service to the use necessitates construction of an internal distribution system (as in the case of a shopping center or apartment complex); and	
(a) The internal distribution system is to be transferred to and maintained by the district or county:	The county or the Sanitary District, as applicable, must certify to the city that the proposed internal distribution system meets district or county specifications and will be accepted by the district or county. (A "Permit to Construct" must be obtained from the Division of Heath Service of DENR).
(b) The internal distribution system is to be privately maintained:	The Sanitary District must certify that the proposed distribution system is adequate.
(3) The use (other than a subdivision) is located on a lot not served by the district or county system or a previously owned public water supply system; and	

a. The use is to be served by a privately owned public water supply system that has not previously been approved:	The Division of Health Services of DENR must certify that the proposed system complies with all applicable state and federal regulations. (A "Permit to Construct" must be obtained from D.H.S.). The Division of Environmental Management of DENR must also approve the plans if the water source is a well and the system has a design capacity of 100,000 gallons per day or is located in certain areas designated by D.E.M. The Sanitary District must also approve the distribution lines for possible future additions to the District system.
b. The use is to be served by some other source (such as an individual well).	The Halifax County Health Department must certify that the proposed system meets all applicable state and local regulations.
(4) The proposed use is a subdivision; and	
a. Lots within the subdivision are to be served by simple connection to existing district or county lines or lines of a previously approved public water supply system:	No further certification is necessary.
b. Lots within the subdivision are to be served by the district or county system but the	The County or the Sanitary District as applicable must certify to the city that the proposed system meets district or county specifications and will be accepted by the district or county. (A "Permit to Construct" must be obtained from the Division of Health Services of DENR).

	developer will be responsible for installing the necessary additions to such system:	
c.	Lots within the subdivision are to be served by a privately owned public water supply system that has not previously been approved.	The Division of Health Services DENR must certify that the proposed system complies with all applicable state and federal regulations. (A "Permit to Construct" must be obtained from D.H.S.) The Division of Environmental Management of DENR must also approve the plans if the water source is a well and the system has a design capacity of 100,000 gallons per day or is located within certain areas designated by D.E.M. The Sanitary District must also approve the distribution lines for possible future additions to the city system.
d.	Lots within the subdivision are to be served by individual wells.	The Halifax County Health Department must certify to the city that each lot intended to be served by a well can be served in accordance with applicable health regulations.

Section 151-242 Lighting Requirements.

(a) Subject to subsection (b), all public streets, sidewalks, and other common areas or facilities in subdivisions created after the effective date of this chapter shall be sufficiently illuminated to ensure the security of property and the safety of persons using such streets, sidewalks, and other common areas or facilities.

(b) To the extent that fulfillment of the requirement established in subsection (a) would normally require street lights installed along public streets, this requirement shall be applicable only to subdivisions located within the corporate limits of the city. Streetlights shall be rated a minimum of 8000-lumen, and shall be 100 watt high pressure sodium vapor located at all intersections and midblock locations with intervals not exceeding 300 feet.

(c) All roads, driveways, sidewalks, parking lots, and other common areas and facilities in unsubdivided developments shall be sufficiently illuminated to ensure the security of property and the safety of persons using such roads, driveways, sidewalks, parking lots, and other common areas and facilities.

(d) All entrances and exits in substantial buildings used for non-residential purposes and in multi-family residential dwellings containing more than four dwelling units shall be adequately lighted to ensure the safety of persons and the security of the building.

Section 151-243 Excessive Illumination.

Lighting within any lot that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of such other lot is prohibited. Lighting unnecessarily illuminates another lot if it clearly exceeds the standard set forth in Section 151-242 or if the standard set forth in Section 151-242 could reasonably be achieved in a manner that would not substantially interfere with the use or enjoyment of neighboring properties.

Section 151-244 Electric Power.

Every principal use and every lot within a subdivision shall have available to it a source of electric power adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

(1) If the use is not a subdivision and is located on a lot that is served by an existing power line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment

complex or shopping center), then no further certification is needed.

(2) If the use is a subdivision or is not located on a lot served by an existing power line or a substantial internal distribution system will be necessary, then the electric utility service provider must review the proposed plans and certify to the city that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

Section 151-245 Telephone Service.

Every principal use and every lot within a subdivision must have available to it a telephone service cable adequate to accommodate the reasonable needs of such use and every lot within such subdivision. Compliance with this requirement shall be determined as follows:

(1) If the use is not a subdivision and is located on a lot that is served by an existing telephone line and the use can be served by a simple connection to such power line (as opposed to a more complex distribution system, such as would be required in an apartment complex or shopping center), then no further certification is necessary.

(2) If the use is a subdivision or is not located on a lot served by an existing telephone line or a substantial internal distribution system will be necessary, then the telephone utility company must review the proposed plans and certify to the city that it can provide service that is adequate to meet the needs of the proposed use and every lot within the proposed subdivision.

Section 151-246 Underground Utilities.

All electric power lines, (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters or capacitors which may be pad mounted), telephone, gas distribution, and cable television lines in residential subdivisions and multi-family residential developments shall be placed underground in accordance with the specifications and policies of the respective utility service providers and located in accordance with the City's design standards and construction specifications.

Section 151-247 Utilities To Be Consistent With Internal and External Development.

(a) Whenever it can reasonably be anticipated that utility facilities constructed in

one development will be extended to serve other adjacent or nearby developments, such utility facilities (e.g., water or sewer lines) shall be located and constructed pursuant to the provisions of Subsection 151-237 (c).

(b) All utility facilities shall be constructed in such a manner as to minimize interference with pedestrian or vehicular traffic and to facilitate maintenance without undue damage to improvements or facilities located within the development.

Section 151-248 As-Built Drawings Required.

Whenever a developer installs or causes to be installed any utility line in any public right-of-way, the developer shall, as soon as practicable after installation is complete, and before acceptance of any water or sewer line, furnish the city four copies of a drawing that shows the exact location of such utility lines. Such drawings must be verified as accurate by the utility service provider. Compliance with this requirement shall be a condition of the continued validity of the permit authorizing such development.

Section 151-249 Fire Hydrants.

(a) Every development (subdivided or unsubdivided) which is served by a public water system shall include a system of fire hydrants sufficient to provide adequate fire protection for the buildings located or intended to be located within such development.

(b) The presumption established by this ordinance is that to satisfy the standard set forth in subsection (a), fire hydrants must be located so that all parts of every building within the development may be served by a hydrant by laying not more than 500 feet of hose connected to such hydrant. However, the fire chief may authorize or require a deviation from this standard if, in his professional opinion, another arrangement more satisfactorily complies with the standard set forth in subsection (a).

(c) The fire chief shall determine the precise location of all fire hydrants, subject to the other provisions of this section. In general, fire hydrants shall be placed six feet behind the curb line of publicly dedicated streets that have curb and gutter.

(d) The Fire Chief shall determine the design standards of all hydrants based on fire flow needs. Unless otherwise specified by the Fire Chief, all hydrants shall have two 2 ½ inch hose connections and one 4 ½ inch hose connection. The 4 ½ inch hose connection shall be located at least fifteen inches from the ground level and shall face the traveled portion of the street (if located on a street) or as directed by the Fire Chief. All hydrant threads shall be national standard threads.

(e) Water lines that serve hydrants shall be at least six-inch lines, and unless no other practicable alternative is available, no such lines shall be dead-end lines.

Section 151-250 Sites for and Screening of Dumpsters.

(a) Every development that, under the city's solid waste collection policies, is or will be required to provide one or more dumpsters for solid waste collection shall provide sites for such dumpsters that are:

(1) Located to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way;

(2) Constructed according to specifications established by the public works director to allow for collection without damage to the development site or the collection vehicle.

(3) Constructed to provide for a minimum concrete dimension of 10' x 10' In addition, there shall be a minimum of a 10' x 10' concrete approach pad located in front of the dumpster pad.

(b) All such dumpsters shall be opaquely screened by a fence, wall, berm or other means acceptable to the Land Use Administrator.

ARTICLE XVI: FLOOD DAMAGE PREVENTION (AMEND. 6-26-07)

Division 1. Statutory Authorization, Findings of Fact, Purpose and Objectives

Section 151-251 Statutory Authorization.

Municipal: The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 160A; and Article 8 of Chapter 160A of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the City Council of Roanoke Rapids, North Carolina, does ordain as follows:

Section 151-252 Finding of Facts.

(1) The flood prone areas within the jurisdiction of Roanoke Rapids are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

Section 151-253 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:

(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;

(2) require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(5) prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

Section 151-254 Objectives.

The objectives of this ordinance are to:

(1) protect human life, safety, and health;

(2) minimize expenditure of public money for costly flood control projects;

(3) minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) minimize prolonged business losses and interruptions;

(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;

(6) help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(7) ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

Section 151-255 Definitions.

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

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

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

"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 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)".

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

"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".

"Building" see "Structure".

"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.

"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.

"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.

"Encroachment" means the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

"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 the initial effective date of the floodplain management regulations adopted by the community.

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

(1) the overflow of inland or tidal waters; and/or
(2) the unusual and rapid accumulation of runoff of surface waters from any source.

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

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

"Flood Insurance" 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 Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

"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 Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

"Flood Prone Area" see "Floodplain"

"Floodplain" 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.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

"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.

"Freeboard" means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater that the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation 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, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

"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.

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

"Lowest Floor" means 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.

"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.

"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.

"Mean Sea Level" means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

"New Construction" means structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

"Non-Encroachment Area" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

"Post-FIRM" means construction or other development for which the "start of construction" occurred on or after 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 the effective date of the initial Flood Insurance Rate Map.

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

"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; and
(d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Reference Level" is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99 or AO.

"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 two (2) feet of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) 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.

"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 151-256 (B) 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.

"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 Divisions 2 & 3 is presumed to be in violation until such time as that documentation is provided.

"Water Surface Elevation (WSE)" means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of 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 151-256 General Provisions.

(1) Lands to Which This Ordinance Applies.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs) if applicable, of the City of Roanoke Rapids.

(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 Flood Insurance Study (FIS) and its accompanying Flood Insurance Rate Maps (FIRM), for Halifax County dated July 3, 2007, which are adopted by reference and declared to be a part of this ordinance.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:

Halifax County Unincorporated Area, dated May 5, 1981
City of Roanoke Rapids, dated April 17, 1978

Section 151-257 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 151-256 (B) of this ordinance.

Section 151-258 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 151-259 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 151-260 Interpretation.

In the interpretation and application of this ordinance, all provisions shall be:

(a) considered as minimum requirements;
(b) liberally construed in favor of the governing body; and
(c) deemed neither to limit nor repeal any other powers granted under State statutes.

Section 151-261 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 City of Roanoke Rapids 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 151-262 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 misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $50.00 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 City of Roanoke Rapids from taking such other lawful action as is necessary to prevent or remedy any violation.

Division 2. Administration

Section 151-263 Designation of Floodplain Administrator.

The Planning Director, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this ordinance.

Section 151-264 Floodplain Development Application, Permit and Certification Requirements.

(1) Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(i) the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(ii) the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 151-256 (B), or a statement that the entire lot is within the Special Flood Hazard Area;

(iii) flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 151-256 (B);

(iv) the boundary of the floodway(s) or non-encroachment area(s) as determined in Section 151-256 (B);

(v) the Base Flood Elevation (BFE) where provided as set forth in Section 151-256 (B); Section 151-265; or Section 151-270;

(vi) the old and new location of any watercourse that will be altered or relocated as a result of proposed development;

(vii) the certification of the plot plan by a registered land surveyor or professional engineer.

(b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

(i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

(ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be flood-proofed; and

(iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed;

(c) If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

(d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

(i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);

(ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 151-269 (3) (c) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30;

(e) Usage details of any enclosed areas below the lowest floor.

(f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(g) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)

(h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 151-269, subsections (6) and (7) of this ordinance are met.

(i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(2) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

(a) A description of the development to be permitted under the floodplain development permit.

(b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 151-256 (B).

(c) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(d) The regulatory flood protection elevation required for the protection of all public utilities.

(e) All certification submittal requirements with timelines.

(f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(g) The flood openings requirements, if in Zones A, AO, AE or A1-30.

(3) Certification Requirements.

(a) Elevation Certificates

(i) An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(ii) A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) Floodproofing Certificate

If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a Floodproofing Certificate (FEMA Form 81-65), 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 mean sea level. 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.

(c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 151-269 (3) (B).

(d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(e) Certification Exemptions. The following structures, if located within Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

(i) Recreational Vehicles meeting requirements of Section 151-269(6)(A);

(ii) Temporary Structures meeting requirements of Section 151-269(B)(7); and

(iii) Accessory Structures less than 150 square feet meeting requirements of Section 151-269B(8).

Section 151-265 Duties and Responsibilities of the Floodplain Administrator.

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

(2) Advise permittee if additional Federal or State permits (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.) are required and assure that copies of such permits are provided and maintained on file with the floodplain development permit.

(3) Notify adjacent communities and the North Carolina Department of Crime Control and 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).

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 151-272 are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with Section 151-264 B(3).

(7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 151-264 B(3).

(8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 151-264 B(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 151-264 B(3) and Section 151-269 (B).

(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.

(11) When Base Flood Elevation (BFE) data has not been provided in accordance with, Section 151-256 (B), obtain, review, and reasonably utilize any Base Flood Elevation (BFE) data, along with floodway data or non-encroachment area data available from a Federal, State, or other source, including data developed pursuant to Section 151-256 (B), in order to administer the provisions of this ordinance.

(12) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with Section 151-256 (B), obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a Federal, State, or other source in order to administer the provisions of this ordinance.

(13) When the lowest 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 Base Flood Elevation, advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the Letter of Map Amendment (LOMA) issued by FEMA in the floodplain development permit file.

(14) Permanently maintain all records 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.

(15) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(16) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing 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.

(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.

(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 the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(19) Follow through with corrective procedures of Section 151-266.

(20) Review, provide input, and make recommendations for variance requests.

(21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with Section 151-256 (B) of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-F) and Letters of Map Revision (LOMR).

Section 151-266 Corrective Procedures.

(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.

(2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(a) that the building or property is in violation of the floodplain management regulations;

(b) that a hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(c) that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, they shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, they may order that corrective action be taken in such lesser period as may be feasible.

(4) Appeal: Any owner who has received an order to take corrective action may appeal 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.

(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 misdemeanor and shall be punished at the discretion of the court.

Section 151-267 Variance Procedures.

(1) The Roanoke Rapids Area Board of Adjustment as established by the City of Roanoke Rapids, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this ordinance.

(2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(3) Variances may be issued for:

(a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure.

(b) functionally dependent facilities if determined to meet the definition as stated in this ordinance, provided provisions of Section 151-267 (9)(b), (c), and (e) 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.

(c) any other type of development, provided it meets the requirements of this Section.

(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:

(a) the danger that materials may be swept onto other lands to the injury of others;

(b) the danger to life and property due to flooding or erosion damage;

(c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) the importance of the services provided by the proposed facility to the community;

(e) the necessity to the facility of a waterfront location as defined under this ordinance as a functionally dependent facility, where applicable;

(f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) the compatibility of the proposed use with existing and anticipated development;

(h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(5) A written report addressing each of the above factors shall be submitted with the application for a variance.

(6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the Base Flood Elevation increases risks to life and property, and that the issuance of a variance to construct a structure below the Base Flood Elevation will result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(9) Conditions for Variances:

(a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

(b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued prior to development permit approval.

(e) Variances shall only be issued upon:

(i) a showing of good and sufficient cause;

(ii) a determination that failure to grant the variance would result in exceptional hardship; and

(iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public

expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.

(a) The use serves a critical need in the community.

(b) No feasible location exists for the use outside the Special Flood Hazard Area.

(c) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.

(d) The use complies with all other applicable Federal, State and local laws.

(e) The City of Roanoke Rapids has notified the Secretary of the North Carolina Department of Crime Control and Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

Section 151-268 General Standards.

In all Special Flood Hazard Areas the following provisions are required:

(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.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(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.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

(9) 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.

(10) 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 151-267(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 151-264 B(3).

(11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) 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.

(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) 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.

(15) 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.

(16) 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 base flood elevation shall apply.

Section 151-269 Specific Standards.

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 151-256 (B), or Section 151-270 , the following provisions, in addition to the provisions of Section 151-273 (2), are required:

(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 151-255 of this ordinance.

(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 151-255 of this ordinance. Structures located in A, AE, AO, and A1-30 Zones 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 151-273 (2). A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 151-264B(3), along with the operational and maintenance plans.

(3) Manufactured Homes.

(a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the regulatory flood protection elevation, as defined in Section 151-255 of this ordinance.

(b) 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.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 151-269 (4).

(d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management coordinator.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(a) shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(b) shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation;

(c) shall include, in Zones A, AO, AE, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

(iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(iv) The bottom of all required flood openings shall be no higher than one (1) foot above the adjacent grade;

(v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Additions/Improvements.

(a) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(i) not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(b) Additions to post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

(c) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(i) not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.

(ii) a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) be on site for fewer than 180 consecutive days and 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); or

(b) meet all the requirements for new construction.

(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:

(a) 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;

(b) the name, address, and phone number of the individual responsible for the removal of the temporary structure;

(c) 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);

(d) a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(e) designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(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:

(a) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with the provisions of Section 151-258(1);

(f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 151-258 (4) and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with the provisions, Section 151-269 (4)(c).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 151-264 (B) (3).

Section 151-270 Standards for Floodplains Without Established Base Flood Elevations.

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 151-256 (B), where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 151-268 and Section 151-269, shall apply:

(1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:

(a) When Base Flood Elevation (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 Section 151-268 and Section 151-269.

(b) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 151-256 (B) and utilized in implementing this ordinance.

(c) When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated to or above the regulatory flood protection elevation, as defined in Section 151-255.

Section 151-271 Standards for Riverine Floodplains with BFE 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:

(1) Standards of Section 151-268 & Section 121-269; and

(2) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

Section 151-272 Floodways and Non-encroachment Areas.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 151-256 (B). The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section 151-268 & Section 151-269, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

(a) it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on

hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit, or

(b) a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(2) If Section 151-272(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

(a) the anchoring and the elevation standards of Section 151-269 (B); and

(b) the no encroachment standard of Section 151-272.

Section 151-273 Standards for Areas of Shallow Flooding (Zone AO).

Located within the Special Flood Hazard Areas established in Section 151-256 (B), are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate.

In addition to Section 151-268 & Section 151-269, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two(2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 151-273(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 151-264 (B) (3) & Section 151-269 (B)

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

Section 151-274 Legal Status Provisions.

A. 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 flood damage prevention ordinance enacted July 14, 1987 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 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 the City of Roanoke Rapids enacted on July 14, 1987, as amended, which are not reenacted herein are repealed. The date of the initial flood damage prevention ordinance for Halifax County is July 5, 1988.

B. 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.

C. Effective Date.

This ordinance shall become effective July 3, 2007.

Section 151-275 Adoption Certification.

I hereby certify that this is a true and correct copy of the flood damage prevention ordinance as adopted by the City Council of Roanoke Rapids, North Carolina, on the 26th day of June, 2007.

ARTICLE XVII: SIGNS

Section 151-276 Definitions.

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

(1) Sign. Any device that (1) is sufficiently visible to persons not located on the lot where such device is located to accomplish either of the objectives set forth in subdivision two of this definition, and (2) is designed to attract the attention of such persons or to communicate information to them.

(2) Building Sign. A sign that is attached to a building wall or structure.

(3) Freestanding Sign. A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of a building or other structure whose principal function is something other than the support of a sign. A sign that stands without supporting elements, such as "sandwich sign," is also a freestanding sign.

(4) Off-Premises Signs/Outdoor Advertising Display. A sign that draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity that is conducted, sold or offered at a location other than the premises on which the sign is located.

(5) Temporary Sign. A sign that (I) is used in connection with a circumstance, situation, or event that is designed, intended or expected to take place or to be completed within a reasonably short or definite period after the erection of such sign, or (ii) is intended to remain on the location where it is erected or placed for a period of not more than fifteen days. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

Section 151-277 Permit Required for Signs.

(a) Except as otherwise provided in Section 151-278 (Signs Excluded From Regulation) and 151-279 (Certain Temporary Signs: Permit Exceptions and Additional Regulations) no sign may be erected, moved, enlarged, or substantially altered except in accordance with and pursuant to:

(1) A zoning permit, conditional use permit, or special use permit if the sign is erected, moved, enlarged, or altered as part of development activity that requires such a permit; or

(2) A sign permit if the development activity does not involve a change in use and therefore none of the permits specified in subsection (1) is required; or

(3) A conditional use permit if such a permit is required to be received pursuant to the provision of Section 151-277 (g).

(b) The permits listed in subsection (a) may be issued only if the plans submitted demonstrate that the signs, if constructed in accordance with those plans, will conform to all of the requirements of this chapter.

Section 151-278 Signs Excluded From Regulation.

The following signs are exempt from regulation under this chapter except for those stated in Subsections 151-286 (b) through (e).

(1) Signs not exceeding four square feet in area that are customarily associated with residential use and that are not of a commercial nature, such as (1) signs giving property identification names or numbers or names of occupants, (2) signs on mailboxes or paper tubes, and (3) signs posted on private property relating to private parking or warning the public against trespassing or danger from animals.

(2) Signs erected by or on behalf of or pursuant to the authorization of a governmental body, including legal notices, identification and informational signs, and traffic, directional or regulatory signs.

(3) Official signs of a noncommercial nature erected by public utilities.

(4) Flags, pennants or insignia of any governmental or nonprofit organization when not displayed in connection with a commercial promotion or as an advertising device.

(5) Integral decorative or architectural features of buildings or works of art, so long as such features or works do not contain letters, trademarks, moving parts, or lights.

(6) Signs directing and guiding traffic on private property that do not exceed four square feet each and that bear no advertising matter.

(7) Church bulletin boards, church identification signs, and church directional signs that do not exceed one per abutting street and thirty-two square feet in area and that are not internally illuminated.

(8) Signs painted on or otherwise permanently attached to currently licensed motor vehicles that are not primarily used as signs.

(9) Signs proclaiming religious, political, or other non-commercial messages (other than those regulated by Subsection 151-279 (a) (5) that do not exceed one per abutting street and sixteen square feet in area and that are not internally illuminated.

Section 151-279 Certain Temporary Signs; Permit Exemptions and Additional Regulations.

(a) The following temporary signs are permitted without a zoning, special use, conditional use, or sign permit. However, such signs shall conform to the requirements set forth below as well as contained in Sections 151-282 through 151-284.

(1) Signs containing the message that the real estate on which the sign is located (including buildings) is for sale, lease, or rent, together with information identifying the owner or agent. Such signs may not exceed six square feet in area and shall be removed immediately after sale, lease, or rental. For lots of less than five acres, a single sign on each street frontage may be erected. For lots of five acres or more in area and having a street frontage of more than six hundred feet, a second sign not exceeding six square feet in area may be erected.

(2) Construction site identification signs. Such signs may identify the project, the owner or developer, architect, engineer, contractor and subcontractors, funding sources, and may contain related information. Not more than one such sign may be erected per site, and it may not exceed thirty-two square feet in area. Such signs shall not be erected prior to the issuance of a building permit and shall be removed within ten days after the issuance of the final occupancy permit.

(3) Signs attached temporarily to the interior of a building window or glass door. Such signs, individually or collectively, may not cover more than fifty percent of the surface area of the transparent portion of the window or door to which they are attached. Such signs shall be removed within thirty days after placement.

(4) Displays, including lighting, erected in connection with the observance of holidays. Such signs shall be removed within ten days following the holidays.

(5) Signs erected in connection with elections or political campaigns. Such signs shall be removed within three days following the election or conclusion of the campaign. No such sign may exceed sixteen square feet in surface area.

(6) Signs, indicating that a special event such as a fair, carnival, circus, festival or similar happening is to take place on the lot where the sign is located. Such signs may be erected not sooner than two weeks before the event and must be removed not later than three days after the event.

(7) Temporary signs not covered in the foregoing categories, so long as such signs meet the following restrictions:

(a) Not more than one such sign may be located on any lot.

(b) No such sign may exceed four square feet in surface area.

(c) Such sign may not be displayed for longer than ten consecutive days nor more than thirty days out of any 365-day period.

(b) Other temporary signs not listed in subsection (a) shall be regarded and treated in all respects as permanent signs, except that (as provided in Section 151-281) temporary signs shall not be included in calculating the total amount of permitted sign area.

Section 151-280 Determining the Number of Signs.

(a) For the purpose of determining the number of signs, a sign shall be considered to be a single display surface or display device containing elements organized, related, and composed to form a unit. Where matter is displayed in a random manner without organized relationship of elements, each element shall be considered a single sign.

(b) Without limiting the generality of subsection (a), a multi-sided sign shall be regarded as one sign.

Section 151-281 Computation of Sign Area.

(a) The surface area of a sign shall be computed by including the entire area within a single, continuous, rectilinear perimeter of not more than eight straight lines, or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem or other display, together with material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is place, but not including any supporting framework or

bracing that is clearly incidental to the display itself.

(b) If the sign consists of more than one section or module, all of the area, including that between sections or modules, shall be included in the computation of the sign area.

(c) With respect to three dimensional or multi-sided signs, the surface area shall be computed by including the total of all sides designed to either attract attention or communicate information.

(d) The sign surface area of any sign located on the wall of a structure shall be computed by multiplying the total surface area of the structure wall (determined in accordance with the other provisions of this section) by .10.

(e) Unless otherwise provided in this Article, the maximum sign surface area permitted on any lot in any residential district (See Section 151-135) is four square feet.

Section 151-282 Building Signs.

(a) Subject to the other provisions of this section, the maximum building sign area permitted on a lot in a commercial (Section 151-136) or manufacturing (Section 151-137) district shall not exceed ten (10) percent of the total surface area of the building wall on which the sign is located.

(1) The sign surface area of any sign located on the wall of a structure where the closest element of the sign is one hundred (100) feet or more from the street centerline shall not exceed fifteen (15) percent of the total surface area of the building wall on which the sign is located, except when a sign is to be located on only one wall of a building having two or more adjoining walls eligible for signage, the total surface area shall not exceed twenty-five (25) percent of the total surface area of the building wall on which the sign is to be located.

(2) The square footage of only one (1) sign located on the walls of a structure may be increased by twenty (20) square feet, provided the sign incorporates a message board, with a minimum square footage of thirty-two (32) square feet. The incorporation of the message board is intended to encourage effective communication to the public of important consumer information in an organized central manner. This additional signage shall not be allowed on a lot in conjunction with nonconforming signs i.e. portable signs, “A” frame signs, banners, etc.

(b) No building sign may extend above any parapet or be place upon any roof surface, except for purposes, of this section, roof surfaces constructed at an angle of seventy-five degrees or more from horizontal shall be regarded as building wall. This subsection shall not apply to displays, including lighting, erected in connection with the observation of holidays on the roofs of structures.

(c) No building sign or supporting structure may be located in or over the traveled portion of any public right-of-way unless the sign is attached to a structural element of a building and an encroachment permit has been obtained from the city (and from the State, if necessary).

Section 151-283 Freestanding Signs.

(a) The Council recognizes that because there may be some unusual character of the surrounding area and/or topography of lands bordering a proposed freestanding sign on a parcel of land, it is not prudent to establish inflexible application of subsection (e), (f) and (h) that follow concerning height and area requirements for such signs. Therefore, as provided in this section, the permit issuing authority may permit deviations from the presumptive requirements of this section and may allow deviations that allow a higher or larger sign, whenever it finds such deviations are more likely to satisfy the standard set forth in this section.

(b) Without limiting the generality of subsection (a), the permit-issuing authority may modify the presumptive sign requirements for residential, commercial and industrial related businesses or developments if:

(1) There exists a significant difference in grade separation between the property on which the sign is to be located and the adjacent street or highway;

(2) There is significant screening of property on which the sign is to be located caused by its close proximity to an existing freestanding sign or structure so as to render the proposed sign ineffective;

(3) There is any particular unusual features unique to the parcel of land on which the sign is to be located itself.

(4) There is any existing features unique to adjoining properties which adversely affect a parcel of land on which the sign is to be located.

(c) Whenever the permit-issuing authority allows a deviation from the presumptive requirements set forth in this Section, it shall enter on the face of the permit the requirements that must be met and the reasons for allowing the deviation.

(d) The provisions of this section shall apply to freestanding signs except for off-premises signs/outdoor advertising displays and hi-rise interstate signs. For purposes of this section, a side of a freestanding sign is any plane or flat surface included in the calculation of the sign surface area as provided in Section 151-281. For example, building signs typically have one side. Freestanding signs typically have two (2) sides (back to back) although four-sided and other multi-sided signs are also common.

(e) Except as authorized by this subsection, a single side of a freestanding sign may not exceed one (1) square foot in surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented except that in no case may a single side of a freestanding sign exceed one hundred forty (140) square feet in surface area in the B-4, I-1 and I-2 district, one hundred twenty (120) square feet in surface area in the B-2 and B-3 district and one hundred (100) square feet in surface area in the B-1 and all other districts if the lot on which the sign is located has less than four hundred (400) feet of frontage and two hundred (200) square feet on lots with four hundred (400) or more feet of frontage.

(1) The square footage of a single side of a primary sign may be increased by twenty (20) square feet, provided the sign incorporates a message board, with a minimum square footage of thirty-two (32) square feet. The incorporation of the message board is intended to encourage effective communication to the public of important consumer information in an organized central manner. This additional signage shall not be allowed on a lot in conjunction with nonconforming signs i.e. portable signs, “A” frame signs, banners, etc.

(f) With respect to freestanding signs that have no discernable `side', such as spheres or other shapes not composed of flat planes, no such freestanding sign may exceed one (1) square foot in total surface area for every linear foot of street frontage along the street toward which such sign is primarily oriented. However, in no such case may such sign exceed one hundred fifty (150) square feet in surface area.

(g) Freestanding signs shall observe a minimum setback requirement of two (2) feet from all street right-of-way and lot boundary lines. Notwithstanding this provision, however, no sign may be located in such a manner as to create potentially a hazard to motorists or pedestrians by interfering with visibility at driveways or intersections.

(h) No part of a freestanding sign may exceed a height, measured from the adjacent ground level or mean centerline street grade, greater than forty-five (45) feet in the B-4, I-1 and I-2 districts, thirty-five (35) feet in the B-2 and B-3 districts and thirty (30) feet in all other districts.

(i) Except as authorized by this subsection, no development may have more than one freestanding sign.

(1) If a development is located on a corner lot that has at least 200 feet of frontage on each of the two intersecting public streets, then the development may have not more than one freestanding sign along each side of the development bordered by such streets.

(2) If a development is located on a lot that is bordered by two (2) public streets that do not intersect at the lot's boundaries (double front lot), then the development may have not more than one freestanding sign on each side of the development bordered by such streets.

(3) If a development is located on a lot having a single public street frontage of at least two hundred (200) feet, a second sign may be permitted. The second sign, if permitted, shall not exceed fifty (50) percent of the surface area permitted for a primary sign in its respective district with an overall height not to exceed twenty (20) feet. The secondary sign must be located a minimum of seventy-five (75) feet from the primary sign.

Section 151-284 Off Premises Signs/Outdoor Advertising Displays.

(a) A single side of an off-premises sign/outdoor advertising display may not exceed four hundred (400) square feet in surface area on interstate highways nor more than ninety-six (96) square feet on all other arteries. However, in no case may the total surface area of three-dimensional and multi-sided signs exceed eight hundred (800) square feet in surface area on interstate highways nor more than one hundred ninety-two (192) square feet on all other arteries.

No off-premises sign/outdoor advertising display shall be erected on Smith Church Road, NC Highway 125 from I-95 to Smith Church Road, Fourth Avenue from Old Farm Road to Premier Boulevard or any portion of Old Farm Road.

(b) No off-premises sign/outdoor advertising display may be located closer to any other off-premises sign/outdoor advertising display on the same side of the highway than five hundred (500) feet for interstate highways and two thousand (2,000) feet for all other arteries.

(c) Off-premises signs/outdoor advertising displays shall observe the setback requirements established for buildings set forth in Section 151-184.

(d) The maximum height of an off-premises sign/outdoor advertising display shall not exceed fifty (50) feet on interstate highways nor more than twenty five (25) feet on all other arteries measured from the average finished grade

at the sign or finished grade of the highway directly adjacent to the sign, whichever is higher, to the top of the sign/display.

(e) As provided in the Table of Permissible Uses (use classification 27.000), no off-premises sign/outdoor advertising display (except those exempt from regulation or from permit requirements under Section 151-278 or 151-279) may be located in any district other than a B-4 district.

(f) No off-premises sign/outdoor advertising display may be located closer than 200 feet to any residential use or district within the same block and on the same side of the street.

(g) Off-premise signs/outdoor advertising displays shall be supported solely by a steel monopole.

Section 151-285 Subdivision and Multi-Family Development Entrance Signs.

(a) Residential Subdivision and Multi-Family Entrance Signs

(1) At any entrance to a subdivision or multifamily development, there may be not more than two (2) signs identifying such subdivision or development. A single side of any such sign may not exceed thirty-two (32) square feet, nor may the total surface area of all such signs located at a single entrance exceed sixty-four (64) square feet.

(b) Commercial and/or Industrial Subdivision Entrance Pylon Signs

(1) Entrance pylon signs to include tenant identification to a commercial or industrial subdivision may have a maximum single face size of fifty (50) square feet for subdivisions of five (5) acres in size. The sign surface area may be increased four (4) additional square feet in area for each additional acre or fraction thereof over five (5) acres. One (1) sign may be installed at each main entrance. Subdivisions greater than twenty-five (25) acres in size may have one (1) additional sign placed within the subdivision.

(2) Sign standard shall be setback two (2) feet from all street right-of-way lines and property lines and shall not exceed an overall height of 20 feet.

Section 151-286 Miscellaneous Restrictions.

(a) Lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into a public right-of-way or residential premises.

(b) Subject to subsection (d), illuminated tubing or strings of lights that outline property lines, sales area, roof lines, doors, windows, or similar areas are prohibited.

(c) Subject to subsection (d), no sign may contain or be illuminated by flashing or intermittent lights or lights of changing degrees of intensity, except signs indicating the time, date or weather conditions.

(d) Subsections (c) and (d) do not apply to temporary signs erected in connection with observance of holidays.

(e) No sign may be located so that it substantially interferes with the view necessary for motorists to proceed safely through intersections or to enter onto or exit from public streets to or private roads.

(f) No sign may be erected so that by its location, color, size, shape, or nature of message it would tend to obstruct the view of or be confused with official traffic signs or other signs erected by governmental agencies.

(g) Freestanding signs and off-premises sign/outdoor advertising displays and hi-rise interstate signs shall be securely fastened to the ground or to some other substantial supportive structure so that there is virtually no danger that either the sign or the supportive structure may be moved by wind or other forces of nature and cause injury to persons or
property.

(h) Portable signs, including any signs painted or displayed on vehicles or trailers used to serve primarily as a sign if the vehicle or trailer is parked in a location for the primary purpose of displaying the sign, except for signs that are painted or attached to commercial vehicles which are not parked for the primary purpose of displaying the sign shall be prohibited except that portable signs used as temporary signs as defined in 151-276(5) and in compliance with 151-286 are permitted.

Section 151-287 Hi-rise Interstate Signs.

(a) The Council recognizes that because of the unusual character and topography of lands bordering the hi-rise interstate sign zone, and the inherent nature of hi-rise interstate signs, it is not prudent to establish inflexible application of subsection (d) and (g) below concerning height and area requirements for such signs. Therefore, as provided in this section, the permit issuing authority may permit deviations from the presumptive requirements of this section and may allow deviations that allow a higher or larger sign, whenever it finds such deviations are more likely to satisfy the standard set forth in this section.

(b) Without limiting the generality of subsection (a), the permit-issuing authority may modify the presumptive sign requirements for interstate related businesses or developments if:

(1) There exists a significant difference in grade separation between the property on which the sign is to be located and the adjacent Interstate highway;

(2) There is significant screening of property on which the sign is to be located caused by its close proximity to an interchange overpass;

(3) There is any particular unusual features unique to the parcel of land on which the sign is to be located itself.

(4) There is any existing features unique to adjoining properties which adversely affect a parcel of land on which the sign is to be located.

(c) Whenever the permit-issuing authority allows a deviation from the presumptive requirements set forth in this Section, it shall enter on the face of the permit the requirements that must be met and the reasons for allowing the deviation.

(d) A single side of a hi-rise interstate sign may not exceed three hundred fifty (350) square feet in surface area. However, in no case may the total surface area of three-dimensional and multi-sided signs exceed seven hundred (700) square feet in surface area.

(e) A hi-rise interstate sign may be located within one thousand (1000) feet of an interstate (I-95) exit ramp's outer intersection with a state road (US, NC or SR) or within four hundred (400) feet of any other interstate right of way line. This type and dimension sign shall be permitted for businesses or developments determined to be interstate related only, as determined by the Land Use Administrator.

(f) Hi-rise interstate signs shall observe a setback requirement of twenty (20) feet from all street right of way or lot boundary lines.

(g) The maximum height of a hi-rise interstate sign shall not exceed eighty (80) feet measured from the average finished grade at the sign or the mean centerline street grade to the top of the sign. The minimum height to the bottom of the sign shall be forty-five (45) feet above grade.

(h) No hi-rise interstate sign (except those exempt from regulation or from permit requirements under Section 151-278 or 151-279) may be located in any district other than a B-4 district.

(i) No hi-rise interstate sign may be located closer than one hundred (100) feet to any residential use or district within the same block and on the same side of the street.

(j) Hi-rise interstate signs shall be supported solely by a steel monopole.

(k) Except as authorized by this subsection, no business or development may have more than one hi-rise interstate sign.

Section 151-288 Entertainment Overlay District Identification Sign

(a) An Entertainment Overlay District, (EOD), Identification Sign shall be designed to promote overall entertainment related activities and attractions within the district.

(b) EOD Identification Signs shall observe a minimum setback requirement of two (2) feet from all street right of way or lot boundary lines.

(c) An EOD may have one (1) district EOD Identification Sign located within the district's boundaries. The district may also have one (1) additional EOD Identification Sign for each public entrance of the EOD.

Section 151-289 Reserved.

ARTICLE XVIII: PARKING

Section 151-290 Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined below shall have the meaning indicated when used in this section.

(1) Circulation Area. That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

(2) Driveway. That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

(3) 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.

(4) Loading and Unloading Area. That portion of the vehicle accommodation area used to satisfy the requirements of Section 151-300.

(5) Vehicle Accommodation Area. That portion of a lot that is used by vehicles for access, circulation, parking and loading and unloading. It comprises that total of circulation areas, loading and unloading areas, and parking areas, (spaces and aisles).

(6) Parking Area Aisles. That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

(7) Parking Space. A portion of the vehicle accommodation area set for the parking of one vehicle.

Section 151-291 Number of Parking Spaces Required.

(a) All developments in all zoning districts other than the B-1 district 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.

(b) The presumptions established by this article are that: (1) a development must comply with the parking standards set forth in subsection (e) to satisfy the requirement stated in subsection (a), and (2) any development that does meet these standards is in compliance. However, the Table of Parking Requirements is only intended to establish

a presumption and should be flexibly administered, as provided in Section 151-292.

(c) Uses in the Table of Parking Requirements (subsection (e)), are indicated by a numerical reference keyed to the Table of Permissible Uses, Section 151-149. 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.

(d) The Council recognizes that the Table of Parking Requirements set forth in subsection (e) cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit issuing authority is authorized to determine the parking requirements using this table as a guide.

Required parking spaces for the primary use of a structure for commercial purposes shall be determined by applying a combination of the gross square footage of the customer/retail sales area for the appropriate category in subsection (e) and applying a factor of one (1) space per 400 ft² for areas used exclusively for storage. Restrooms, break rooms, closets, offices and similar areas shall be calculated as customer/retail sales areas.

(e) Table of Parking Requirements.

Use	Parking Requirement
1.110 1.120	2 spaces plus one space per room rented out (see Accessory Uses, Section 151-150)
1.130	3 spaces
1.200	2 spaces for each dwelling unit, except that one bedroom units require only one space.
1.310	1 ½ spaces for each one and two bedroom unit, 2 spaces for each
1.330	unit with three or more bedrooms, plus 1 additional space for every four units in the development.
1.320	2 spaces for each mobile home.
1.400	3 spaces for every five beds except for uses exclusively serving children under 16, in which case 1 space for every 3 beds shall be required.
1.510	1 space for each bedroom
1.520	1 space for each room to be rented plus additional space

1.530	(in accordance with other sections of this table) for restaurant or other facilities
1.700	4 spaces for offices of physicians or dentists; 2 spaces for attorneys, 1 space for all others.
2.111 2.112	1 space per 200 square feet of gross floor area
2.113	1 space per 150 square feet of gross floor area
2.120 2.130	1 space per 400 square feet of gross floor area
2.140	1 space per 200 square feet of gross floor area
2.210	1 space per 200 square feet of gross floor area
2.220 2.230	1 space per 400 square feet of gross floor area
3.110	1 space per 200 square feet of gross floor area
3.120	1 space per 400 square feet of gross floor area
3.130	1 space per 150 square feet of gross floor area
3.140	1 space per 150 square feet of gross floor area
3.210	1 space per 200 square feet of gross floor area
3.220	1 space per 400 square feet of gross floor area
3.230	1 space per 200 square feet of area within main building plus reservoir lane capacity equal to five spaces per window (10 spaces if window serves two stations).
4.110 4.120 4.200	1 space for every two employees on the maximum shift except that, if permissible in the commercial districts, such uses may provide 1 space per 200 square feet of gross floor area
5.110	1.75 spaces per classroom in elementary and middle schools; 5 spaces per classroom in high schools.
5.120	1 space per 100 square feet of gross floor area
5.130	1 space per 150 square feet of gross floor area

5.200	1 space for every four seats in the portion of the church building to be used for services plus spaces for any residential use as determined in accordance with the parking requirements set forth above for residential uses, plus 1 space for every 200 square feet of gross floor area designed to be used neither for services nor residential purposes.
5.300 5.400	1 space per 300 square feet of gross floor area.
6.110	1 space for every 3 persons that the facilities are designed to accommodate when fully utilized (if they can be measured in such a fashion--example tennis courts or bowling alleys) plus 1 space per 200 square feet of gross floor area used in a manner not susceptible to such calculation.
6.120 6.130 6.140	1 space for every four seats 1 space per 175 square feet of area within enclosed buildings, plus 1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.
6.210 6.220	1 space per 200 square feet of area within enclose buildings, plus 1 space for every 3 persons that the outdoor facilities are designed to accommodate when used to the maximum capacity.
6.230	Miniature golf course, skateboard park, water slide, and similar uses--1 space per 300 square feet of area plus 1 space per 200 square feet of building gross floor area; Driving range--1 space per tee plus 1 space per 200 square feet in building gross floor area; Par Three Course--2 spaces per golf hole plus 1 space per 200 square feet of building gross floor area.
6.240	1 space per horse that could be kept at the stable when occupied to maximum capacity.
6.250	1 space for every three seats
6.260	1 space per speaker outlet

6.300	1 and 1.5 spaces for every two (2) electronic gaming machines plus 1 space for each employee on the shift of greatest employment.
7.100	2 spaces per bed or 1 space per 150 square feet of gross floor area, whichever is greater
7.200	3 spaces for every 5 beds
7.300 7.400	1 space for every two employees on maximum shift
8.100	1 space per 100 square feet of gross floor area plus one space for every four outside seats plus reservoir lane capacity equal to five spaces per drive-in window.
8.200 8.300	1 space per 100 square feet of gross floor area.
9.100 9.200 9.300 9.400	1 space per 200 square feet of gross floor area
9.500	1 space per 200 square feet of gross floor area of building devoted primarily to gas sales operation, plus sufficient parking area to accommodate vehicles at pumps without interfering with other parking spaces.
9.600	Conveyer type--1 space for every three employees on the maximum shift plus reservoir capacity equal to five times the capacity of the washing operation. Self service type--2 spaces for drying and cleaning purposes per stall plus two reservoir spaces in front of each stall.
10.210 10.220	1 space for every two employees on the maximum shift but not less than 1 space per 5,000 square feet of area devoted to storage (whether inside or outside).
11.000	1 space per 200 square feet of gross floor area
12.000	1 space per 200 square feet of gross floor area
13.000	1 space per 200 square feet of gross floor area
14.000	1 space for every two employees on maximum shift

15.100 15.200	1 space per 200 square feet of gross floor area
15.300	1 space per 100 square feet of gross floor area
15.400	1 space per 100 square feet of gross floor area
16.000	1 space per 200 square feet of gross floor area
19.000	1 space per 1,000 square feet of lot area used for storage, display, or sales
20.000	1 space per 100 square feet of gross floor area
21.200	1 space per 200 square feet of gross floor area
22.000	1 space per employee plus 1 space per 200 square feet of gross floor area
24.000	1 space per 200 square feet of gross floor area
25.000	1 space per 200 square feet of gross floor area

Section 151-292 Flexibility in Administration Required.

(a) The Council recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in Subsection 151-291 (e) 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 results in a waste of money as well as a waste of space that could more desirably be used for valuable development or environmentally useful open space. Therefore, as suggested in Section 151-291, the permit-issuing authority may permit deviations from the presumptive requirements of Subsection 151-291 (e) 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 Subsection 151-291 (a).

(b) Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth in Subsection 151-291 (e) when it finds that:

(1) A residential development is irrevocably oriented toward the elderly;

(2) A business is primarily oriented to walk-in trade.

(c) Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in Subsection 151-291 (e), it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.

(d) If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by Subsection 151-291 (e) for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in Article XX.

Section 151-293 Parking Space Dimensions.

(a) Subject to subsections (b) and (c), each parking space shall contain a rectangular area at least nineteen feet long and nine feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.

(b) In parking areas containing ten or more parking spaces, up to twenty percent of the parking spaces need to contain a rectangular area of only 7.5 feet in width by 15 feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.

(c) Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-two feet by nine feet.

Section 151-294 Required Widths of Parking Area Aisles and Driveways.

Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

	Parking Angle				
Aisle Width	0	30	45	60	90
One Way Traffic	13	11	13	18	24
Two Way Traffic	19	20	21	23	24

(b) Driveways shall be no less than ten feet in width for one way traffic and eighteen feet in width for two way traffic, except that ten feet wide driveways are permissible for two way traffic when (i) the driveway is not longer that fifty feet, (ii) it provides access to not more than six spaces, and (iii) sufficient turning space is provided so that vehicles need not back into a public street.

Section 151-295 General Design Requirements.

(a) Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial streets is discouraged.

(b) Vehicle accommodation areas of all development shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.

(c) Every vehicle accommodation area shall be designed so that vehicles cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to bump against or damage any wall, vegetation, or other obstruction.

(d) Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.

(e) Circulation areas shall be designed to allow vehicular movement between adjacent properties without resorting to exiting one property to access another.

(f) Vehicle accommodation areas shall be designed so that vehicles do not obstruct visibility at street or driveway intersections.

Section 151-296 Vehicle Accommodation Area Surfaces.

(a) Vehicle accommodation areas required by this article that (I) include lanes for drive-in windows or (ii) contain parking areas that are required to have more than five (5) parking spaces and that are used regularly at least five (5) days per week shall be graded and surfaced with a minimum of 1 1/2" of asphalt or 4" of concrete to provide protection against potholes, erosion, and dust with the exception of Section 151-149, 6.220, Publicly-owned and operated outdoor recreational facilities.

(b) Vehicle accommodation areas that are not provided with the type of surface specified in subsection (a) shall be graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets), shall be paved as provided in subsection (a) for a distance of twenty (20) feet back from the edge of the paved street.

(c) Parking spaces in areas surfaced in accordance with subsection (a) shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (b) shall be demarcated whenever practicable.

(d) Vehicle accommodation areas shall be properly maintained in all respects. In particular, and without limiting the foregoing, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.

Section 151-297 Joint Use of Required Parking Spaces.

(a) One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.

(b) To the extent that developments that wish to make joint use of the same parking spaces operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90% vacant on weekends, another development that operates only on weekends could be credited with 90% of the spaces on that lot. Or, if a church parking lot is generally occupied only to 50% of capacity on days other than Sunday, another development could make use of 50% of the church lot's spaces on those other days.

(c) If the joint use of the same parking spaces by two or more principal uses involves satellite-parking spaces, then the provisions of Section 151-298 are also applicable.

Section 151-298 Satellite Parking.

(a) If the number of off-street parking spaces 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 in accordance with the provisions of this section. These off-site spaces are referred to in this section as "satellite" parking spaces.

(b) All such satellite parking spaces (except spaces intended for employee use) must be located within 400 feet of a public entrance of a principal building housing the use associated with such parking is located if the use in not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance.

(c) The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence that he has the permission of the owner or other person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment that the continuing validity of his permit

depends upon his continuing ability to provide the requisite number of parking spaces.

Section 151-299 Special Provisions For Lots With Existing Buildings.

(a) Notwithstanding any other provisions of this chapter, whenever (1) there exists a lot with one or more structures on it constructed before the effective date of this chapter, and (2) a change in use (other than a change to a 4.000 classification use in a commercial zoning district) that does not involve any enlargement of a structure is proposed for such lot, and (3) the parking requirements of Section 151-291 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, then the developer need only comply with the requirements of Section 151-291 to the extent that (1) parking space is practicably available on the lot where the development is located, and (2) satellite parking space is reasonably available as provided in Section 151-297. 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.

(b) In accordance with section 151-299 (a), if a change in use causes an increase in the required number of parking spaces, such additional spaces shall be provided in accordance with the requirements of this Ordinance; except that if the change in use would require an increase of less than five percent (5%) in the required number of parking spaces or fewer than (5) spaces, no additional parking shall be provided.

Section 151-300 Loading and Unloading Area.

(a) Whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in a safe and convenient manner.

(b) The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

Gross Leasable Area of Building	Number of spaces with minimum dimensions of 12 feet x 55 feet and overhead clearance of 14 feet from street grade
1,000 - 19,999	1
20,000 - 79,999	2
80,000 - 127,999	3
128,000 - 191,999	4
192,000 - 255,999	5
256,000 - 319,999	6
320,000 - 391,999	7

Plus one (1) for each additional 72,000 square feet or fraction thereof.

(c) Loading and unloading areas shall be so located and designed that the vehicles intended to use them can (i) maneuver safely and conveniently to and from a public right of way, and (ii) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

(d) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

Sections 151-301 through 151-303 Reserved.

ARTICLE XIX: SCREENING AND TREES

Part I. Screening

Section 151-304 Council Findings Concerning the Need for Screening Requirements.

The Council finds that:

(1) Screening between two lots lessens the transmission from one lot to another of noise, dust, and glare.

(2) Screening can lessen the visual pollution that may otherwise occur within an urbanized area. Even minimal screening can provide an impression of separation of spaces, and more extensive screening can shield entirely one use from the visual assault of an adjacent use.

(3) Screening can establish a greater sense of privacy from visual or physical intrusion, the degree of privacy varying with the intensity of the screening.

(4) The provisions of this part are necessary to safeguard public health, safety and welfare.

Section 151-305 General Screening Standard.

Every development shall provide sufficient screening so that:

(1) Neighboring properties are shielded from any adverse external effects of that development.

(2) The development is shielded from the negative impacts of adjacent uses such as streets or railroads.

Section 151-306 Compliance With Screening Standard.

(a) The table set forth in Section 151-308, in conjunction with the explanations in Section 151-307 concerning the types of screens, establishes screening requirements that, presumptively, satisfy the general standards established in Section 151-305. However, this table in only intended to establish a presumption and should be flexibly administered in accordance with Section 151-309.

(b) The numerical designations contained in the Table of Screening Requirements (Section 151-308) are keyed to the Table of Permissible Uses (Section 151-146), and the letter designations refer to types of screening as described in Section 151-307. This table indicates the type of screening that is presumptively required between two uses.

Where such screening is required, only one of the two adjoining uses is responsible for installing the screening. The use assigned this responsibility is referred to as the "burdened" use in Section 151-308, and the other use is the "benefited" use. To determine which of two adjoining uses is to install the screening, find the use classification number of one of the adjoining uses in the burdened use column and follow that column across the page to its intersection with the use classification number in the benefited use column that corresponds to the other adjoining uses. If the intersecting square contains a letter, then the use whose classification number is in the burdened column is responsible for installing that level of screening. If the intersecting square does not contain a letter, then begin the process again, starting this time in the burdened column with the other adjoining use.

(c) If, when the analysis described in subsection (b) is performed, the burdened use is an existing use but the required screening is not in place, then this lack of screening shall constitute a nonconforming situation, subject to all the provisions of Article VIII of this chapter.

(d) Notwithstanding any other provision of this article, a multifamily development shall be required at the time of construction, to install any screening that is required between it and adjacent existing uses according to the table set forth in Section 151-308, regardless of whether, relation to such other uses, the Multi-family development is the benefited or burdened use.

(e) Unless a use within the 11.000 use classification in the Table of Permissible Uses is required to install screening in accordance with the Table of Screening Requirements set forth in Section 151-308, said 11.000 use shall, at the time of development, install a Type "A" Opaque Screen as described in Section 151-307 between it and adjacent vacant property.

(f) Notwithstanding any other provisions of this article, any use, other than a use within the 1.110 use classification in the Table of Permissible Uses established upon property which has a nonresidential zoning classification shall, at the time of construction, install a Type "A" Opaque Screen as described in Section 151-307 between it and adjacent vacant property which has a residential zoning classification.

Section 151-307 Descriptions of Screens.

The following three (3) basis types of screens are hereby established and are used as the basis for the Table of Screening Requirements set forth in Section 151-308.

(1) Opaque Screen, Type "A". A screen that is opaque from the ground to a height of at least eight feet. An opaque screen is intended to exclude completely all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation.

Compliance of planted vegetative screens or natural vegetation will be judged based on the average mature height and density of foliage of the subject species or field observation of existing vegetation. The screen must be opaque in all seasons of the year. Suggested planting patterns that will achieve this standard are included in Appendix D.

(2) Broken Screen, Type "B". A screen composed of intermittent visual obstructions from the ground to a height of at least eight feet. The broken screen is intended to create the impression of a separation of spaces without necessarily eliminating visual contact between the spaces. It may be composed of a wall, fence, landscaped earth berm, planted vegetation, or existing vegetation. Compliance of planted vegetative screens or natural vegetation will be judged based on the average mature height and density of foliage of the subject species, or field observation of existing vegetation. No opening between opaque portions of the screen shall exceed eight feet. The opaque portion of the screen must be opaque in all seasons of the year, while the unobstructed openings may contain deciduous plants. Suggested planting patterns that will achieve this standard are included in Appendix D.

(3) Opaque Screen, Type "C". A screen that is opaque to a height of at least eight (8) feet. An opaque screen is intended to exclude completely all visual contact between uses and to create a strong impression of spatial separation. The opaque screen may be composed of a wall, fence, or earth berm.

Section 151-308 Table of Screening Requirements.

Section 151-309 Flexibility in Administration Required.

(a) The Council recognizes that because of the wide variety of types of developments and the relationships between them, it is neither possible nor prudent to establish inflexible screening requirements. Therefore, as provided in Section 151-306, the permit issuing authority may permit deviations from the presumptive requirements of Section 151-308 and may require either more intensive or less intensive screening whenever it finds such deviations are more likely to satisfy the standard set forth in Section 151-305 without imposing unnecessary costs on the developer.

(b) Without limiting the generality of subsection (a), the permit-issuing authority may modify the presumptive requirements for:

BURDENED	BENEFITTED	1 .110	1 .120	1 .130	.200	.300	.410	.420	.430	.440	.510	.520	.530	2 .100	2 .200	3 .100	3 .200	4 .100	4 .200	5 .100	5 .200	6 .100	6 .210	.220	.230	.240	.250	.260	7.000	8.000	9.000	10.000	11.000	12.000	13.000	14 .100	14 .200	15 .100	15 .200	.300	.400	16.000	17.000	18 .100	18 .200	19.000	20.000	21 .100	21 .200	22.000	24.000	25.000	26.000	27.000	STREETS	RAILROADS
	1	.110 .130				A					B		A	A	A	A	A	C	C	A	A	A	A	A	A	A	C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.120				B							A	A	C	A	A	A	C	A	A	A	A	A	A	A	C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.200		B	B	A				B			A	A	C	A	A	C	C	A	A	A	A	A	A	A	C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.300		B	B								B	B	C	B	B	C	C	A	A	A	B	A	A	A	C	C	A	A	C	C	C	B	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.410 .420 .430											A	A	A	A	A	A	A	A	A	A	A	A	A	A	C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.440								B			B	B	A	A	A	A	A	A	A	A	A	A	A	A	C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.510 .520								B			B	B	A	B	B	A	A	A	A	A	B	A	A	A	C	C	A	A	C	C	C	A	B	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.530													A			B	A	A	A	A			A	A	C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	2	.100				A									A			A	A								A	A			C	C	C	A			C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.200																A	A								A	A			C	C	C	A			C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	3	.100																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.200																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	4	.100																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.200																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	5	.100																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.200																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	6	.100																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.210 .220																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.230																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.240																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.250																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.260																A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	7.000																	A	A								A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	8.000																	A	A								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	9.000																	C	C								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	10.000																	C	C								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	11.000																	C	C								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	12.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	13.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	14 .100																	C	C								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.200																C	C								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.300																C	C								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.400																C	C								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	15 .100																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.200																A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.300																A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.400																C	C								C	C	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	16.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.400																A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	17.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	18 .100																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.200																A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	19.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	20.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	21 .100																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
		.200																A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	22.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	24.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	25.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	26.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	27.000																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	STREETS																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A
	RAILROADS																	A	A								A	A	A	A	C	C	C	A	A	A	C	C	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A

(1) Commercial developments located adjacent to residential uses in business zoning districts;

(2) Commercial uses located adjacent to other commercial uses within the same zoning district;

(3) Uses located within planned unit developments, or planned residential developments.

(c) Whenever the permit-issuing authority allows or requires a deviation from the presumptive requirements set forth in Section 151-308, it shall enter on the face of the permit the screening requirement that it imposes to meet the standard set forth in Section 151-305 and the reasons for allowing or requiring the deviation.

(d) If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that a presumption established by Section 151-308 is erroneous, it shall initiate a request for an amendment to the Table of Screening Requirements in accordance with the procedures set forth in Article XX.

Section 151-310 Combination Uses.

(a) In determining the screening requirements that apply between a combination use and another use, the permit-issuing authority shall proceed as if the principal uses that comprise the combination use were not combined and reach its determination accordingly, relying on the table set forth in Section 151-308, interpreted in the light of Section 151-309.

(b) When two or more principal uses are combined to create a combination use, screening shall not be required between the composite principal uses unless they are clearly separated physically and screening is determined to be necessary to satisfy the standard set forth in Section 151-305.

Section 151-311 Subdivisions.

When undeveloped land is subdivided and undeveloped lots only are sold, the subdivider shall not be required to install any screening. Screening shall be required, if at all, only when the lots are developed, and the responsibility for installing such screening shall be determined in accordance with the other requirements of Part I of this article.

Section 151-312 and 151-313 Reserved.

Part II. Shading

Section 151-314 Council Findings and Declaration of Policy on Shade Trees.

(a) The Council finds that:

(1) Trees are proven producers of oxygen, a necessary element for human survival;

(2) Trees appreciably reduce the ever-increasing, environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe;

(3) Trees precipitate dust and other particulate air-borne pollutants from the air and create temporary conditions of narcosis allowing air-borne pollutants to settle to the ground;

(4) Trees transpire considerable amounts of water each day and hereby purify the air much like the air-washer devices used on commercial air conditioning systems.

(5) Trees have an important role in neutralizing waste water passing through the ground from the surface to ground water tables and lower aquifers;

(6) Trees, through their root systems, stabilize the ground water tables and play an important and effective part in soil conservation, erosion control and flood control;

(7) Trees are an invaluable physical, aesthetic and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare and breaking the monotony of human development on the land, particularly parking areas; and

(8) For the reasons indicated in subdivision (7), trees have an important impact on the desirability of land, and consequently, on property values.

(b) Based upon the findings set forth in subsection (a), the Council declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the city's planning jurisdiction, present and future, to protect certain existing trees and, under the circumstances set forth in this article, to require the planting of new trees in certain types of developments.

Section 151-315 Required Trees Along Dedicated Streets

(a) No tree shall be removed, mutilated or significantly pruned within the right-of-way of a dedicated street without the approval of the City Manager pursuant to the City's Tree Policy.

(b) Along both sides of all newly-created streets with respect to which an offer of dedication is required to be made by this chapter, sufficient trees may be retained or may be planted so that, between the paved portion of the street and the right-of-way, there is for every fifty feet of street frontage at least an average of one deciduous tree that has or will have when fully mature a trunk at least twelve inches in diameter. When trees are to be planted to satisfy the requirement, responsibility shall be conveyed to the initial developer(s) of the individual lots fronting on the street and the administrator shall approve trees that meet the standards set forth in Appendix B.

Section 151-316 Retention and Protection of Large Trees

(a) Every development shall retain all existing trees eighteen inches in diameter or more unless the retention of such trees would unreasonably burden the development.

(b) No excavation or other subsurface disturbance may be undertaken within the innermost two-thirds portion of the drip line of any tree eighteen inches in diameter or more, nor may any impervious surfaces (including, but not limited to paving or buildings) be located within this area of any tree eighteen inches in diameter or more unless compliance with this subsection would unreasonably burden the development. For purposes of this subsection, a drip line is defined as a perimeter formed by the points farthest away from the trunk of a tree where precipitation falling from the branches of that tree lands on the ground.

(c) The retention or protection of trees eighteen (18) inches in diameter or more as provided in paragraphs (a) and (b) unreasonably burdens a development if, to accomplish such retention or protection, the desired location of improvements on a lot or the proposed activities on a lot would have to be substantially altered and such alteration would work an unreasonable hardship upon the developer, or if the reasonable development of the lot results in substantial alterations to the tree's environment, the effect of which would require the severe pruning of the tree and thereby destroy its aesthetic and environmental qualities.

(d) If space that would otherwise be devoted to parking cannot be so used because of the requirements of subsections (a) or (b), and, as a result, the parking requirements set forth in Article XVIII cannot be satisfied, the number of required spaces may be reduced by the number of spaces "lost" because of the provisions of subsections (a) and (b), up to a maximum of fifteen percent of the required spaces.

Section 151-317 Shade Trees in Parking Areas.

(a) Vehicle accommodation areas that are required to be paved by Section 151-296 must be shaded by deciduous trees (either retained or planted by the developer) that have or will have when fully mature a trunk of eight to twelve inches in diameter. When trees are planted by the developer to satisfy the requirements of this subsection, the administrator shall approve trees that meet the standards set forth in Appendix B. In Appendix B, B-5, (c) Large-Maturing Trees for Shading and (d) Small-Maturing Trees for Shading may be used.

(b) Each Large Maturing Tree of the type described in subsection (a) shall be presumed to shade a circular area having a radius of fifteen feet and each Small Maturing Tree of the type described in subsection (a) shall be presumed to shade a circular area having a radius of twelve feet with the trunk of the tree as the center, and there must be sufficient trees so that, using this standard, fifteen percent of the vehicle accommodation area will be shaded. No more than 75% of the trees required by this section may be located on the perimeter of the vehicle accommodation area.

(c) No paving may be placed within 12.5 feet (measured from the center of the trunk) of any tree retained to comply with subsection (a), and new trees planted to comply with subsection (a) shall be located so that they are surrounded by at least 200 square feet of unpaved area.

(d) Vehicle accommodation areas shall be laid out and detailed to prevent vehicles from striking trees. Vehicles will be presumed to have a body overhang of two feet six inches.

Section 151-318 and 151-319 Reserved.

ARTICLE XX: RESERVED

Section 151-320 through 151-329 Reserved.

NOTE: Article XX Amendments deleted; refer to Article V, Section 151-91. *(Amended 7/9/2013)*

ARTICLE XXI: RESERVED

Sections 151-330 through 151-339 Reserved.

NOTE: Article XXI, Parallel Conditional Use Districts deleted in its entirety. *(Amended 7/9/2013)*

ARTICLE XXII: STATUTORY VESTED RIGHTS

Section 151-340 Purpose.

The purpose of this article is to implement the provisions of General Statutes 160A-385.1 pursuant to which a statutory zoning vested right is established upon the approval of a site specific development plan.

Section 151-341 Definitions.

Unless otherwise specifically provided or unless clearly required by the context, the following terms shall have the meaning indicated, when used in this article:

Approval Authority - City Council or the Administrator designated as being authorized to grant the specific land use permit that constitutes a site specific development plan.

Site Specific Development Plan - A plan of land development submitted to the City for purposes of obtaining a zoning permit or a conditional use permit. Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

Zoning Vested Right - A right pursuant to G.S. 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

Section 151-342 Establishment of a Zoning Vested Rights.

(a) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by City Council, of a site specific development plan, following notice and public hearing.

(b) City Council may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare.

(c) Notwithstanding subsections (a) and (b), approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.

(d) A site specific development plan shall be deemed approved upon the effective date of the approval authority's action relating thereto.

(e) The establishment of a zoning vested right shall not preclude the application of overlay zoning that imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land use regulation by the city, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration of termination of the vested right in accordance with this article.

(f) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site specific development plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

Section 151-343 Approval Procedures and Approval Authority.

(a) Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by the land use ordinance and shall be considered by the designated approval authority for the specific type of land use permit for which application is made.

(b) Notwithstanding the provisions of subsection (a), if the authority to issue a particular land use permit has been delegated to the administrator, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the City Council following notice and a public hearing as provided in Section 151-102.

(c) In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the city, that a zoning vested right is being sought.

(d) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation: "Approval of this plan establishes a zoning vested right under G.S. 160A-385.1. Unless terminated at an earlier date, the zoning vested right shall be valid until (date)."

(e) Following approval or conditional approval of a site specific development plan, nothing in this article shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approval.

(f) Nothing in this article shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or the land use ordinance.

Section 151-344 Duration.

(a) A zoning right that has been vested as provided in this article shall remain vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by City Council at the time the amendment or modification is approved.

(b) Upon issuance of a building permit, the expiration provisions of G.S. 160A-418 and the revocation provision of G.S. 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running out of the time while a zoning vested right under this section is outstanding.

Section 151-345 Termination.

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

(a) at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(b) with the written consent of the affected landowner;

(c) upon findings by the City Council, by ordinance after notice and a public hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plans;

(d) upon payment of 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's fees incurred after approval by the city, 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;

(e) upon findings by the City Council, by ordinance 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 by City Council of the site specific development plan; or

(f) 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 City Council 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 a hearing.

Section 151-346 Voluntary Annexation.

A petition for annexation filed with the city under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under G.S. 160A-385.1 or G.S. 153A-344.1. A statement that declares that no zoning vested right has been established under G.S. 160A-385.1 or G.S. 153A-344.1, or the failure to sign a statement declaring whether or not zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

Section 151-347 Limitations.

Nothing in this article is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 160A-385.1.

Sections 151-348 and 151-349 Reserved.

ARTICLE XXIII: WATER SUPPLY WATERSHED PROTECTION

Section 151-350 Purpose.

The purpose of this article is to regulate the development and land use that will limit exposure of water supply watersheds to pollution. Sources of pollution include leachate from septic tank nitrification fields, storm water runoff, accidental spillage from residential, commercial and industrial operations, discharge of process and cooling water, runoff from intense agricultural uses, etc.

These occurrences can contribute biological contamination, turbidity form soil erosion and sedimentation, nutrient enhancement, and heavy metal pollution - all of which endanger the water supplies of communities dependent on watersheds' life-giving and life-sustaining water.

As required by the Water Supply Watershed Protection Act of 1989, the State of North Carolina has reclassified each of the state's drinking water supply watersheds to its most appropriate classification. The Roanoke River watershed is classified as "WS IV" which are protected water supplies rather than a reactive approach of treatment prior to consumption. In order to have a healthy economic climate it is essential that adequate drinking water supplies by assured.

Section 151-351 Authority.

Statutory authority for this section is derived from North Carolina General Statues Chapter 160A, Article 8, Section 174, Section 193, and Chapter 143-214.5 and General Statues 160A360.

Section 151-352 Exceptions to Applicability.

(A) Existing development, as defined in this section, is not subject to the requirements of this section. Expansions to structures classified as existing development must meet the requirements of this section; however, the built-upon area of the existing development is not required to be included in the density calculations.

(B) A pre-existing lot owned by an individual prior to the effective date of this section, regardless of whether a vested right has been established, may be developed for single family residential purposes without being subject to the restrictions of this section.

(C) If a use or class of use is not specifically indicated as being allowed in the

watershed protection districts, such use or class of use is prohibited.

(D) If the requirements of this section conflict with other portions of this ordinance, the more restrictive of each particular item shall apply.

Section 151-353 Development Regulations.

(A) Establishment of Watershed Areas

(1) Critical Watershed Overlay District (CWP)
The CWP District (critical area) is intended to accommodate a moderate to high land use intensity pattern, single family residential uses are allowed on lots with a minimum area of twenty thousand (20,000) square feet. All other residential and nonresidential development shall be allowed up to twenty-four (24%) built-upon area. New sludge application sites and landfills are specifically prohibited.

a. Allowed uses in CWP District:

1. Agriculture is allowed subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990. Agricultural activities conducted after January 1, 1993 shall maintain a minimum ten (10) foot wide vegetative buffer, or equivalent control, as determined by the Soil and Water Conservation commission, along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies.

2. Silviculture is allowed subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

3. Residential development is allowed.

4. Non-residential development is allowed, excluding: 1) the storage of toxic and hazardous materials unless a spill containment plan is implemented: 2) landfills; and 3) sites for land application of sludge/residuals or petroleum contaminated soils.

b. Density and Built-upon Limits:

1. Single Family Residential - minimum lot area shall not be less than twenty-thousand (20,000) square feet per lot, except in an approved cluster development.

2. For the purpose of calculating the built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(2) Watershed Protection Overlay District (WP)
The WP District (protected area) is intended to accommodate a moderate to high land use intensity pattern, single family residential uses are allowed on lots with a minimum lot area of twenty-thousand (20,000) square feet. All other residential and non-residential development shall be allowed at a maximum of twenty-four percent (24%) built-upon area.

a. Allowed Uses in WP District

1. Agriculture is allowed, subject to the provisions of the Food, Agriculture, Conservation Act of 1990.

2. Silviculture is allowed, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 1I.6101-.0209).

3. Residential development is allowed.

4. Non-residential development is allowed, excluding the storage of toxic and hazardous materials unless a spill containment plan is implemented.

b. Density and Built-upon Limits:

1. Single Family Residential - minimum lot area shall not be less than twenty-thousand (20,000) square feet, except in an approved cluster development.

2. All other residential and non-residential

development shall not exceed twenty-four percent (24%) built-upon area per project. For the purpose of calculating the built-upon area, total project area shall include acreage in the tract on which the project is to be developed.

Section 151-354 Buffer Area Required.

A. A minimum thirty (30) foot wide vegetative buffer is required for all new development along all perennial waters indicated on the most recent version of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

B. No new development is allowed in the buffer except for water dependent structures and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices.

Section 151-355 Existing Development.

Any existing development as defined herein, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this ordinance. However, the built-upon area of the existing development is not required to be included in the density calculations.

A. *Vacant Lots*: Vacant lots, for which plats or deeds have been recorded in the office of the Register of Deeds of Halifax County may be used for any of the uses allowed in the watershed area in which it is located, subject to the following provision:

(1) Where the lot area is below the minimum specified in this ordinance, the zoning administrator is authorized to issue a certificate of zoning compliance if all their zoning requirements are met.

B. *Uses of Land.* Uses existing at the time of the effective date of this section, but which would not be permitted to be established hereafter in the watershed protection district(s) in which they are located, may continue except as follows. They are:

(1) When such of land has been changed to an allowed use, it

shall not thereafter revert to any prohibited use.

(2) Such use of land shall be changed only to an allowed use.

(3) When such use or occupancy ceases for a period of at least one hundred eighty (180) continuous days, it shall not be reestablished.

C. *Reconstruction of Buildings or Built-upon Areas.* Any existing building or built-upon area not in conformance with the restrictions of this section that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided it meets the following conditions:

(1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.

(2) The total amount of built-upon area may not be increased, except as provided for herein.

Section 151-356 Public Health Regulations.

A. *Public Health, in general.* No activity, situation, structure or land use shall be allowed within the watershed that poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption, inadequate sedimentation and erosion control measures, the improper storage or disposal of junk, trash or other refuse within a buffer area, the absence or improper implementation of a spill containment plan for toxic and hazardous materials, improper management of storm water runoff, or any other situation found to pose a threat to water quality.

B. *Abatement.*

(1) The land use administrator shall monitor land use activities within the watershed protection districts to identify situations that may pose a threat to water quality.

(2) The land use administrator shall report all findings to the planning director. The zoning administrator may consult with any public agency or official and request recommendations.

(3) Where the land use administrator finds a threat to water quality and the public health, safety and welfare, the zoning administrator shall

institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation (See Article 20).

Section 151-357 Administration.

A. The land use administrator shall keep records of all amendments to the water supply watershed regulations and shall provide copies of all amendments upon adoption to the Supervisor of the Classification and Standards Group, Water Quality Section, Division of Environmental Management.

B. The land use administrator or his or her duly authorized representative, may enter any building, structure, or premises, as provided by law, to perform any duty imposed upon him or her by this ordinance.

C. The land use administrator shall keep a record of variances to this section. The record shall be submitted to the Supervisor of the Classification and Standards Group. Water Quality Section, Division of Environmental Management by January 1 for the preceding year and shall provide a description of each project receiving a variance and the reasons for granting the variance.

Section 151-358 Variances

A. The Board of Adjustment shall have the power to authorize, in specific cases, minor variances, as defined herein, from the terms of this section as will not be contrary to the public interest. Application for a variance shall be made in accordance with Article 21 of this ordinance.

B. If the application for a variance calls for the granting of a major variance, as defined herein, and if the board of adjustment decides in favor of granting the variance, the board shall prepare a preliminary record of the hearing within thirty (30) days. The preliminary record of the hearing shall include:

(1) The variance application;

(2) The hearing notices;

(3) The evidence presented;

(4) Motions, offers of proof, objections to evidence, and rulings on them;

(5) Proposed findings and exceptions; and,

(6) The proposed decision, including all conditions proposed to be added to the permit.

C. The preliminary record shall be sent to the Environmental Management Commission for its review as follows.

(1) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and that (a) the property owner can secure no reasonable return from, nor make any practical use of the property unless the proposed or approve the proposed variance with conditions. The commission shall prepare a Commission decision and send it to the Board of Adjustment. If the Commission approves the variance as proposed, the Board of Adjustment shall prepare a final decision granting the proposed variance. If the commission approves the variance with conditions and stipulations, the Board shall prepare a final decision, including such conditions and stipulations, granting the proposed variance.

(2) If the Commission concludes from the preliminary record that the variance qualifies as a major variance and (a) the property owner can secure a reasonable return from or make a practical use of the property without the variance or (b) the variance, if granted, will result in a serious threat to the water supply, then the Commission shall deny approval of the variance as proposed. The Commission shall prepare a Commission decision and send it to the Board of Adjustment. The Board shall prepare a final decision denying the variance as proposed.

Section 151-359 Definitions.

The intent of the definitions found within this section is to apply specifically to watershed management measures. These terms are intended to supplement the definitions found in Article II herein.

A. *Agricultural Use*: The use of waters for stock watering, irrigation, and other farm purposes.

B. *Animal Unit*: A unit of measurement developed by the U.S. Environmental Protection Agency that is used to compare different types of animal operations.

C. *Buffer (watershed protection only)*: An area of natural or planted vegetation through which storm water runoff flows in a diffuse manner so

that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

D. *Built-upon Area*: That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g. tennis courts), etc. (Note: wooden slatted decks and the water area of a swimming pool are considered pervious).

E. *Cluster Development*: The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

F. *Composting Facility*: A facility in which only stumps, limbs, leaves, grass and untreated wood and like materials collected from land clearing or landscaping operations is deposited.

G. *Critical Area*: The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half (½) mile from the normal pool elevation of the reservoir in which the intake is located or to the ridgeline of the watershed (whichever comes first).

H. *Development*: Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

I. *Development (existing*): Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of this ordinance based on at least one of the following criteria.

(1) substantial expenditure of resources (time, labor, money) based on good faith reliance upon receiving a valid local government approval to proceed with the project, or

(2) having an outstanding valid building permit as authorized by the General Statutes (G.S. 160-385.1), or

(3) having expended substantial resources (time, labor, money) and having an approved site specific development plan as authorized

by General Statutes (G.S. 160A-385.1).

J. *Development (non-residential*): All development other than residential development, agriculture and silviculture.

K. *Development (residential*): Buildings for residences such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc. and their associated accessory structures such as garages, storage buildings, gazebos, etc. and customary home occupations.

L. *Hazardous Material*: Any substance listed as such in: SARA section 302, Extremely Hazardous Substances, CERCA Hazardous Substances or Section 311 of the Clean Water Act (oil and hazardous substances).

M. *Landfill (discharging*): A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and which the leachate is treated on site and discharged to a receiving stream. (See sanitary landfill in Article 2.)

N. *Protected Area*: The area adjoining and upstream of the critical area in which protection measures are required. The boundaries of the protected area are defined as extending five (5) miles upstream and draining to water supply reservoirs (measured from normal pool elevation) or to the ridgeline of the watershed (whichever comes first).

O. *Single-family Residential*: For watershed protection purposes, single family residential shall mean the following "housing types" as found in Article II herein; single family detached and manufactured home. Garage apartments and accessory apartments may be allowed in conjunction with single-family dwelling as provided for herein.

P. *Toxic Substance*: Any substance: Any substance or combination of substances (including disease causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their offspring or other adverse health effects.

Q. *Variance (major)*: A variance that results in any one or more of the following:

(1) the complete waiver of a management requirement;

(2) the relaxation, by a factor of more than ten percent (10%), of any management requirement that takes the form of a numerical standard;

(3) the relaxation of any management requirement that applies to a development proposal intended to quality under the high-density option.

R. *Variance (minor)*: A variance that does not qualify as a major variance.

S. *Water Dependent Structure*: Any structure for which the use requires access to or proximity to or situated within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, and bulkheads: Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water dependent structures.

T. *Watershed*: The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

Section 151-360 through 151-361 Reserved.

ARTICLE XXIV: OVERLAY DISTRICTS (Adopted May 24, 2005)

Part I. Entertainment Overlay District

Section 151-362 Entertainment Overlay District Purpose and Intent.

The Roanoke Rapids City Council finds that Roanoke Rapids is rich in natural scenic beauty within its planning jurisdiction. The City also strives to enhance the continued development of its commercial areas. The City Council finds the general welfare will be served by orderly development within an Entertainment Overlay District (EOD) in a fashion which would preserve natural scenic beauty, and enhance trade, tourism, job creation, capital investment, and the general welfare within defined commercially zoned areas within the City and its surrounding area. The Council therefore establishes these regulations designated herein as "Entertainment Overlay Districts" to further those objectives while encouraging the orderly development of land within the City. The establishment of Entertainment Overlay Districts will serve to protect health, safety and environmental quality for persons and property within and adjacent to areas specifically suited to development for commercial entertainment purposes. The provisions contained herein shall be used to define acceptable and appropriate use, space, and activity relationships between adjacent sites so that the area's importance as a regional entertainment venue may be realized.

The Entertainment Overlay District (EOD) is unique within the Roanoke Rapids planning jurisdiction and allows uses not permitted in other zoning districts.

Section 151-363 Entertainment Overlay District.

(1) Location of EOD: An entertainment overlay district may be located over any B-4 business zoning district within the zoning jurisdiction of the City of Roanoke Rapids upon approval of City Council. Upon adoption, the area encompassed will be shown on the official zoning map maintained in the City Planning Department.

(2) Permits Required: Within the Entertainment Overlay District, all developments shall be required to submit a site plan and receive subdivision plat approval pursuant to other provisions of the Land Use Ordinance prior to the issuance of building permits.

(3) Lot Dimensional Requirements: All dimensional requirements, including minimum lot area and minimum lot width requirements are established in the underlying zones.

(4) Maximum Building Height: The required building height requirements shall be

as set forth in the underlying zones.

(5) Minimum Building Setback Requirements: The required building setback requirements shall be as set forth in the underlying zones.

(6) Buffering and Screening: The required buffering and screening requirements shall be as set forth in the underlying zones.

(7) Sign Regulations: See Article XVII of this Ordinance.

(a) All signs shall comply with the requirements of the underlying commercial zone setbacks.

(8) Permitted Uses:

(a) The following uses are the only uses permitted in the Entertainment Overlay District as indicated by an (X) under the applicable column:

Table of Permitted Uses in the Entertainment Overlay District			
Use	**By Right**	**By Special Use Permit**	**By Conditional Use Permit**
ABC stores	X		
Accessory Uses	X		
Antiques	X		
Arcades	X		
Art galleries	X		
Arts & craft shops	X		
Athletic fields	X		
Aquariums	X		
Bakeries	X		
Banks	X		
Bars	X		
Boating	X		
Book stores	X		
Bowling alleys	X		
Bumper cars	X		
Bungee jumps	X		
Candy, ice cream, etc. shops	X		
Car washes	X		
Clothing shops	X		
Coliseums & Stadiums		X	
Comedy club	X		
Convenient marts	X		
Department stores	X		
Dwellings, multi-family residence		X	
Fuel sales	X		
Gift shops	X		

Table of Permitted Uses in the Entertainment Overlay District			
Use	**By Right**	**By Special Use Permit**	**By Conditional Use Permit**
Golf courses	X		
Golf, miniature	X		
Hobby & game shops	X		
Hotels	X		
Home furnishings	X		
Jewelry shops	X		
Libraries	X		
Motels	X		
Motor vehicle raceway			X
Movie theaters	X		
Multi-use outdoor recreation facility			X
Museums	X		
Nightclubs	X		
Parks	X		
Parks – RV	X		
Parks – water	X		
Pharmacies	X		
Photography studios	X		
Public buildings/services	X		
Restaurants	X		
Roller coasters	X		
Signs, off premises		X	
Signs, on premises	X		
Skateboard parks	X		
Skating rinks	X		
Special events	X		
Specialty food shops	X		
Subdivisions – major		X	
Subdivisions – minor	X		
Swimming pools	X		
Tennis, racquetball, etc. courts	X		
Theaters – drive-in	X		
Theaters – dinner	X		
Theaters – movie	X		
Theaters – outdoor amphitheater	X		
Theaters – performing arts & music	X		
Towers – less than 50’	X		
Towers – greater than 50’		X	
Transportation facilities		X	
Urgent care facilities	X		
Utilities – public	X		
Vehicle sales – recreation vehicles	X		
Winery/Distillery	X		

(9) Prohibited Uses: The following uses are explicitly prohibited:

- truck terminals
- mobile home parks
- manufactured housing and/or mobile home sales lots
- scrap material salvage yards, junkyards, automobile graveyards
- sanitary (reclamation) landfill, transfer station and other solid waste collection or disposal facility
- body shops and motor vehicle repair shops
- storage of radioactive or otherwise hazardous wastes
- outside kennels

(10) Underground Utilities: All electric power lines, (not to include transformers or enclosures containing electrical equipment including, but not limited to, switches, meters or capacitors which may be pad mounted), telephone, gas distribution, cable television and other telecommunications lines in Entertainment Overlay Districts are encouraged to be placed underground in accordance with the specifications and policies of the respective utility service providers and located in accordance with the City's design standards and construction specifications.

Section 151-364 through 151-366 Reserved.

ARTICLE XXV: WIRELESS COMMUNICATION FACILITIES (Adopted 6-13-06)

Section 151-367 Purpose and Intent.

The purpose and intent of this ordinance is to:

1. Promote the health, safety and general welfare of the public by regulating the siting of wireless communication facilities (WCF's).
2. Minimize the impacts of wireless communication facilities on surrounding areas by establishing standards for location, structural integrity and compatibility.
3. Encourage the location and colocation of wireless communication equipment on existing structures thereby minimizing new visual, aesthetic, and public safety impacts, effects upon the natural environment and wildlife, and to reduce the need for additional antenna support structures.
4. Accommodate the growing need and demand for wireless communication services.
5. Encourage coordination between suppliers and providers of wireless communication services.
6. Establish predictable and balanced codes governing the construction and location of wireless communications facilities, within the confines of permissible local regulations.
7. Establish review procedures to ensure that applications for wireless communications facilities are reviewed and acted upon within a reasonable period of time.
8. Respond to the policies embodied in the *Telecommunications Act of 1996* in such a manner as not to unreasonably discriminate between providers of functionally equivalent personal wireless services or to prohibit or have the effect of prohibiting personal wireless services.
9. Protect the character of the City while meeting the needs of its citizens to enjoy the benefits of wireless communications services.
10. Encourage the use of public lands, buildings, and structures as locations for wireless telecommunications infrastructure demonstrating concealed (stealth) technologies and revenue generating methodologies.
11. Consideration of and compatibility with the goals and objectives of the Roanoke Rapids Land Use Plan/Comprehensive Plan/other applicable regulations.
12. This section is intended to comply with and be consistent with the United States Telecommunication Act of 1996. *(Amended 7/9//2013)*

Section 151-368 Definitions.

Ancillary Structure means, for the purposes of this ordinance, any form of development associated with a wireless communications facility, including but not limited to: foundations, concrete slabs on grade, guy anchors, generators, and transmission cable supports; however, specifically excluding equipment cabinets.

Anti-Climbing Device means a piece or pieces of equipment, which are either attached to an antenna support structure, or which are freestanding and are designed to prevent people from climbing the structure. These devices may include but are not limited to fine mesh wrap around structure legs, “squirrel-cones,” or other approved devices, but excluding the use of barbed or razor wire.

Antenna means any apparatus designed for the transmitting and/or receiving of electromagnetic waves, including but not limited to: telephonic, radio or television communications. Types of elements include, but are not limited to: omni-directional (whip) antennas, sectionerized (panel) antennas, multi or single bay (FM & TV), yagi, or parabolic (dish) antennas.

Antenna Array means a single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

Antenna Element means any antenna or antenna array.

Antenna Support Structure means a vertical projection composed of metal or other material with or without a foundation that is designed for the express purpose of accommodating antennas at a desired height. Antenna support structures do not include any device used to attach antennas to an existing building, unless the device extends above the highest point of the building by more than twenty (20) feet. Types of support structures include the following:

Guyed Structure means a style of antenna support structure consisting of a single truss assembly composed of sections with bracing incorporated. The sections are attached to each other, and the assembly is attached to a foundation and supported by a series of wires that are connected to anchors placed in the ground or on a building.

Lattice Structure means a tapered style of antenna support structure that consists of vertical and horizontal supports with multiple legs and cross bracing, and metal crossed strips or bars to support antennas.

Monopole Structure means a style of freestanding antenna support structure consisting of a single shaft usually composed of two or more hollow sections that are in turn attached to a foundation. This type of antenna support structure is designed to support itself without the use of guy wires or other stabilization devices. These facilities are

mounted to a foundation that rests on or in the ground or on a building's roof.

Base Station means the electronic equipment utilized by the wireless providers for the transmission and reception of radio signals.

Breakpoint Technology means the engineering design of a monopole wherein a specified point on the monopole is designed to have stresses concentrated so that the point is at least five percent more susceptible to failure than any other point along the monopole so that in the event of a structural failure of the monopole, the failure will occur at the breakpoint rather than at the base plate, anchor bolts, or any other point on the monopole.

Colocation means the practice of installing and operating multiple wireless carriers, service providers, and/or radio common carrier licensees on the same antenna support structure or attached wireless communication facility using different and separate antenna, feed lines and radio frequency generating equipment.

Combined Antenna means an antenna or an antenna array designed and utilized to provide services for more than one wireless provider for the same or similar type of services.

Development Area means the area occupied by a wireless communications facility including areas inside or under the following: an antenna-support structure's framework, equipment cabinets, ancillary structures and access ways.

Equipment Compound means the fenced area surrounding the ground-based wireless communication facility including the areas inside or under the following: an antenna support structure's framework and ancillary structures such as equipment necessary to operate the antenna on the WCF that is above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures.

Equipment Cabinet means any structure above the base flood elevation including: cabinets, shelters, pedestals, and other similar structures. Equipment cabinets are used exclusively to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Feed Lines means cables used as the interconnecting media between the transmission/receiving base station and the antenna.

Flush-Mounted means any antenna or antenna array attached directly to the face of the support structure or building such that no portion of the antenna extends above the height of the support structure or building. Where a maximum flush-mounting distance is

given, that distance shall be measured from the outside edge of the support structure or building to the inside edge of the antenna.

Guyed Structure (see Antenna Support Structure)

Geographic Search Ring means an area designated by a wireless provider or operator for a new base station, produced in accordance with generally accepted principles of wireless engineering.

Handoff Candidate means a wireless communication facility that receives call transference from another wireless facility, usually located in an adjacent first "tier" surrounding the initial wireless facility.

Lattice Structure (see Antenna Support Structure)

Least Visually Obtrusive Profile means the design of a wireless communication facility intended to present a visual profile that is the minimum profile necessary for the facility to properly function.

Master Telecommunications Plan means a plan developed to enforce applicable development standards, state statues, and federal regulations related to the deployment of wireless telecommunications infrastructure.

Mitigation means a modification of an existing antenna support structure to increase the height, or to improve its integrity, by replacing or removing one or several antenna support structure(s) located in proximity to a proposed new antenna support structure in order to encourage compliance with this ordinance or improve aesthetics or functionality of the overall wireless network.

Monopole Structure (see Antenna Support Structure)

Personal Wireless Service means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, as defined in the *Telecommunications Act of 1996*.

Public Safety Communications Equipment means all communications equipment utilized by a public entity for the purpose of ensuring the safety of the citizens of City and operating within the frequency range of 700 MHz and 1,000 MHz and any future spectrum allocations at the direction of the FCC.

Radio Frequency Emissions means any electromagnetic radiation or other communications signal emitted from an antenna or antenna-related equipment on the ground, antenna support structure, building, or other vertical projection.

Replacement (see Mitigation)

Satellite Earth Station means a single or group of parabolic (or dish) antennas are mounted to a support device that may be a pole or truss assembly attached to a foundation in the ground, or in some other configuration. A satellite earth station may include the associated separate equipment cabinets necessary for the transmission or reception of wireless communications signals with satellites.

Stealth (see Wireless Communications Facility Concealed)

Tower (see Antenna Support Structure)

WCF (see Wireless Communication Facility)

Wireless Communications means any personal wireless service, which includes but is not limited to, cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), unlicensed spectrum services utilizing devices described in Part 15 of the FCC rules and regulations (e.g., wireless internet services and paging).

Wireless Communication Facility (WCF) means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, transmission cables, and equipment cabinets, and may include an antenna support structure. The following developments shall be deemed a WCF: developments containing new, mitigated, or existing antenna support structures, public antenna support structures, replacement antenna support structures, colocation on existing antenna support structures, attached wireless communications facilities, concealed wireless communication facilities, and non-concealed wireless communication facilities. Excluded from the definition are: non-commercial amateur radio, amateur ham radio and citizen band antennas, satellite earth stations and antenna support structures, and antennas and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities.

Specific types of WCFs include:

> *Attached WCF* means an antenna or antenna array that is secured to an existing building or structure other than an antenna support structure with any accompanying pole or device which attaches it to the building or structure, together with transmission cables, and an equipment cabinet, which may be located either on the roof or inside/outside of the building or structure. An attached wireless communications facility is considered to be an accessory use to the existing principal use on a site. (See also Freestanding WCF.)
>
> *Concealed WCF*, sometimes referred to as a stealth or camouflaged facility, means a WCF, ancillary structure, or WCF equipment compound that is not readily identifiable as such, and is designed to be aesthetically compatible with existing and proposed building(s) and uses on a site. There are two types of concealed WCFs: 1)

attached and 2) freestanding. 1) Examples of concealed attached facility include, but are not limited to the following: painted antenna and feed lines to match the color of a building or structure, faux windows, dormers or other architectural features that blend with an existing or proposed building or structure. 2) Freestanding concealed WCFs usually have a secondary, obvious function which may be, but is not limited to the following: church steeple, windmill, bell tower, clock tower, cupola, light standard, flagpole with or without a flag, or tree. (See also Non-concealed WCF.)

Freestanding WCF means any staffed or unstaffed location for the transmission and/or reception of radio frequency signals, or other wireless communications, and usually consisting of an antenna or group of antennas, feed lines, and equipment cabinets, and may include an antenna support structure. A freestanding wireless communication facility includes, but is not limited to the following: guyed, lattice, or monopole antenna support structures. (See also Attached WCF.)

Non-concealed WCF means a wireless communication facility that is readily identifiable as such and can be either freestanding or attached. (See also Concealed WCF.)

Section 151-369 Applicability.

Except as provided in Section 151-370 (Exempt Installations), the following shall apply to development activities including installation, construction, or modification of the following wireless communications facilities:

1. Existing antenna support structures.
2. Proposed antenna support structures.
3. Public antenna support structures.
4. Replacement of existing antenna support structures.
5. Colocation on existing antenna support structures.
6. Attached wireless communications facilities.
7. Concealed wireless communications facilities.

Section 151-370 Exempt Installations.

The following items are exempt from the provisions of this ordinance; notwithstanding any other provisions contained in land development regulations:

1. Non-commercial, amateur radio station antennas.

2. Satellite earth stations that are one meter (39.37 inches) or less in diameter in all residential districts and two meters or less in all other zoning districts and which are not

greater than twenty feet above grade in residential districts and thirty-five feet above grade in all other zoning districts.

3. A government-owned wireless communications facility, upon the declaration of a state of emergency by federal, state or local government, and a written determination of public necessity by the City designee; except that such facility must comply with all federal and state requirements. No wireless communications facility shall be exempt from the provisions of this division beyond the duration of the state of emergency.

4. A government-owned wireless communications facility erected for the purposes of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety.

5. A temporary, commercial wireless communications facility, upon the declaration of a state of emergency by federal, state, or local government, or determination of public necessity by the City and approved by the City; except that such facility must comply with all federal and state requirements. The wireless communications facility may be exempt from the provisions of this division up to three (3) months after the duration of the state of emergency.

6. A temporary, commercial wireless communications facility, for the purposes of providing coverage of a special event such as news coverage or sporting event, subject to approved by the City, except that such facility must comply with all federal and state requirements. Said wireless communications facility may be exempt from the provisions of this division up to one week after the duration of the special event.

7. Antenna support structures, antennas, and/or antenna arrays for AM/FM/TV/HDTV broadcasting transmission facilities that are licensed by the Federal Communications Commission shall be regulated in accordance with federal and other applicable local regulations.

Section 151-371 Development Standards.

1. Generally.

a. Applicability: Unless otherwise specified within this Ordinance, all development standards upon which the WCF is located shall apply. Where permitted as provided in Sections 151-372 (Permitted Uses by Zoning District) and 151-373 (Siting Alternatives Hierarchy), the following development standards apply to all new, mitigated, colocated, or combined wireless facility installations. Where any historic or scenic overlay districts or corridor plans also apply, the most restrictive standards shall govern.

b. Equipment cabinets: Cabinets shall not be visible from public views. Cabinets may be provided within the principal building, behind a screen on a rooftop, or on

the ground within the fenced-in and screened equipment compound.

c. Fencing: All equipment compounds shall be enclosed with a wood/brick/masonry fence. Fencing shall be subject to the requirements as outlined in the Land Use Ordinance.

d. Buffers: The proposed WCF equipment compound shall be landscaped as outlined in the Land Use Ordinance.

e. Signage:

i. Attaching commercial messages for off-site and on-site advertising shall be prohibited.

ii. The only signage that is permitted upon a non-concealed antenna support structure, equipment cabinet, or fence shall be informational, and for the purpose of identifying the antenna support structure (such as ASR registration number), as well as the party responsible for the operation and maintenance of the facility, its current address and telephone number, security or safety signs, and property manager signs (if applicable).

iii. Where signs are otherwise permitted, a WCF may be concealed inside such signage, provided that all applicable standards for both the signage and the concealed WCF are met.

f. Lighting:

i. Lighting on WCFs, if required by the Federal Aviation Administration (FAA), shall not exceed the FAA minimum standards. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA to minimize the potential attraction to migratory birds. Dual lighting standards are required and strobe light standards are prohibited unless required by the FAA. The lights shall be oriented so as not to project directly onto surrounding residential property, consistent with FAA requirements.

ii. Any security lighting for on-ground facilities and equipment shall be in compliance with the Land Use Ordinance.

iii. Ground lighting used to respectfully illuminate the American flag on a concealed WCF flagpole shall be permitted subject to the Land Use Ordinance.

g. Conformance with building codes: WCFs and their equipment compounds shall be constructed and maintained in conformance with all applicable building code requirements.

h. Equipment compound:

i. Shall not be used for the storage of any excess equipment or hazardous waste (e.g., discarded batteries). No outdoor storage yards shall be allowed in a WCF equipment compound.

ii. Shall not be used as habitable space.

iii. Where feasible, one building with multiple compartments shall be constructed to serve the total number of collocation tenants. If the applicant can demonstrate that one building is not feasible or practical due to site design or other constraints, then a master site plan shall be provided to demonstrate how all-potential collocation equipment cabinets will be accommodated within the compound.

i. Compliance with federal standards for interference protection: Any applicant for facilities under this section shall certify that such proposed facility shall comply with all applicable federal regulations regarding interference protection.

j. Compliance with ANSI standards: In order to protect the public from excessive exposure to electromagnetic radiation, the WCF applicant shall certify through a written statement that the facility meets or exceeds current American National Standards Institute (ANSI) standards as adopted by the FCC.

k. Sounds: No sound emissions from machinery, alarms, bells, buzzers, or the like are permitted beyond the perimeter of the equipment compound and shall comply with the City of Roanoke Rapids Code of Ordinances.

l. Impact/development fee calculation: For the purposes of impact/development fee calculation, the floor area for a WCF shall be considered as only the total square footage of the equipment compound.

m. Abandonment:

i. WCFs and the equipment compound shall be removed, at the owner's expense, within one hundred eighty days (180) days of cessation of use, unless the abandonment is associated with a replacement antenna structure as provided in Section 151-374 (Submittal Requirements), in which case the removal shall occur within one hundred eighty days (180) days of cessation of use.

ii. An owner wishing to extend the time for removal or reactivation shall submit an application stating the reason for such extension. The City may extend the time for removal or reactivation up to ninety (90) additional days upon a showing of good cause. If the antenna support structure or antenna is not removed in a timely fashion, the City may give notice that it will contract for removal within sixty (60) days following written notice to the owner. Thereafter, the City may cause removal of the antenna support

structure with costs being borne by the current WCF or land owner.

iii. Upon removal of the WCF the equipment compound and at ground foundations including two feet below ground level, the development area shall be returned to its natural state and topography and vegetated consistent with the natural surroundings, or consistent with the current use of the land at the time of removal. The cost of rehabilitation shall be borne by the current WCF or land owner.

2. Attached Wireless Communication Facilities.

a. Generally.

i. *Height:* The top of the attached WCF shall not be more than twenty (20) feet above the existing or proposed building or structure.

ii. *Setbacks:* An attached WCF and its equipment compound shall be subject to the setbacks of the underlying zoning district. Antennas may extend a maximum of 30 inches into the setback. However no antenna or portion of any structure shall extend into any easement.

iii *Least visually obtrusive profile:* Feed lines and antennas shall be designed to architecturally match the façade, roof, wall, or structure on which they are affixed so that they blend with the existing structural design, color, and texture.

b. Attached non-concealed WCFs.

i. *Allowable locations:* Shall only be allowed on existing nonconcealed antenna support structures and, where the applicant has an agreement with the applicable utility or other authority that exercises jurisdiction over the subject right of way, on electrical distribution poles, transmission towers, and existing ball park light poles greater than fifty (50) feet in height, subject to approval of the designated staff or other appropriate agency designee and/or the utility company.

ii. *Equipment compound or cabinets:* Equipment compounds or cabinets for WCFs under this subsection shall be designed and located in such a manner as to not interfere with the subject right of way or its primary utilization.

3. Freestanding Wireless Communication Facilities.

a. Generally.

i. *Determination of need:* No new or mitigated freestanding WCF shall be permitted unless the applicant demonstrates that no existing

structure can reasonably accommodate the applicant's proposed use; or that use of such existing facilities would prohibit personal wireless services in the geographic search ring to be served by the proposed antenna support structure.

ii. *Determination of need:* No new or mitigated freestanding WCF shall be permitted unless the applicant substantiates either the proposed antenna elevation or the WCF additional height is needed to comply with provisions regarding co-location.

iii. *Designed for concealed collocation:* All new or mitigated freestanding WCF shall be designed for maximum collocation installations.

iv. *Designed for nonconcealed collocation:* All new or mitigated freestanding WCFs up to one hundred (100) feet in height shall be engineered and constructed to accommodate no less than two (2) antenna arrays. All WCFs between one hundred and one (101) feet and one hundred and twenty (120) feet shall be engineered and constructed to accommodate no less than three (3) antenna arrays. All WCFs between one hundred and twenty-one (121) and one hundred and fifty (150) feet shall be engineered and constructed to accommodate no less than four (4) antenna arrays. Where permitted, all WCFs between one hundred and fifty-one (151) feet and two hundred (200) feet shall be engineered and constructed to accommodate no less than five (5) antenna arrays.

v. *Minimum lot size:* All new and mitigated freestanding WCFs shall meet minimum lot size standards of the underlying zoning district and subject to the Land Use Ordinance.

vi. *Least visually obtrusive profile:* New freestanding antenna support structures shall be configured and located in a manner that shall minimize adverse effects including visual impacts on the landscape and adjacent properties. New freestanding WCFs shall be designed to match adjacent structures and landscapes with specific design considerations such as architectural designs, height, scale, color, and texture.

vii. *Grading:* Grading shall be minimized and limited only to the area necessary for the new WCF as accepted in accordance with the City's Land Use Ordinance.

viii. *Safety:* All support structures shall be certified to comply with the safety standards contained in the Electronics Industries Association/Telecommunications Industries Association (EIA/TIA) document 222-F, "Structural Standards For Steel Antenna Towers and Supporting Structures," as amended, by a Registered North Carolina Professional Engineer.

b. Freestanding concealed WCFs.

i. *Height:*

(1) In single-family residential zoning districts the maximum height shall be limited to fifty-five (55) feet above the allowable building height or a total of ninety (90) feet, whichever is less.

(2) In planned residential zoning districts, the maximum height shall be limited to fifty-five (55) feet above the allowable building height or a total of ninety (90) feet, whichever is less, except in designated common areas, where the maximum height shall be seventy-five (75) feet above the allowable building height or a total of one hundred and ten (110) feet, whichever is less.

(3) In multifamily residential zoning districts the maximum height shall be limited to sixty-five (65) feet above the allowable building height or a total of one hundred (100) feet, whichever is less.

(4) In all nonresidential zoning districts where permitted, the maximum height shall be limited to two hundred feet (200) feet.

(5) All height limits shall include above ground foundations, but exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

ii. *Setbacks:* In residential zoning districts, the concealed freestanding WCF and its equipment compound shall be subject to the setbacks of the zoning district and shall not be any closer to an adjoining property line than the proposed facility is to any dwelling unit on the property on which it is proposed to be located. In all other zoning districts, setbacks shall be subject to the zoning district.

c. Freestanding non-concealed WCFs.

i. *Antenna support structure:* Freestanding non-concealed WCFs shall be limited to monopole type antenna support structures unless the applicant demonstrates that such design is not feasible to accommodate the intended uses.

ii. *Height:*

(1) The maximum height in all nonresidential zoning districts shall be limited to one hundred and fifty (150) feet.

(2) The height limit shall include foundations, but exclude lightning rods or lights required by the FAA that do not provide any support for antennas.

iii. *Setbacks:*

A non-concealed freestanding WCF and its equipment compound shall be subject to the regulations applicable to the underlying zoning district, except where the minimum setback distance for an antenna support structure from any property line or public right-of-way is less than the height of the proposed antenna support structure. In that case:

(1) If the antenna support structure has been constructed using breakpoint design technology as defined in Section 151-368 (Definitions), the minimum setback distance shall be equal to 110 percent of the distance from the top of the structure to the breakpoint level of the structure, plus the minimum setback distance. For example, on a 100-foot tall monopole with a breakpoint at 80 feet, the minimum setback distance would be 22 feet (110 percent of 20 feet, the distance from the top of the monopole to the breakpoint) plus the minimum setback for that zoning district. Certification by a registered professional engineer licensed by the State of North Carolina of the breakpoint design and the design's fall radius must be provided together with the other information required herein from an applicant.

(2) If the antenna support structure has not been constructed using breakpoint design technology, the minimum setback distance shall be equal to the height of the proposed antenna support structure.

(3) However, in all instances, the minimum setback distance from the setback line of any residentially zoned property, with an inhabited residence or proposed residences, shall at least meet the minimum setback of the underlying zoning district.

iv. *Least visually obtrusive profile*:

(1) New antenna support structures shall maintain a galvanized gray finish or other approved contextual or compatible color, except as required by federal rules or regulations.

(2) New antenna shall be flush-mounted, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.

d. Mitigation of existing freestanding WCFs.

i. *Determination of need:* WCF mitigation shall accomplish a minimum of one of the following: reduce the number of WCFs, reduce the number of nonconforming WCFs, replace an existing WCF with one that is less visually obtrusive, or replace an existing WCF with a new WCF to improve network functionality resulting in compliance with this ordinance.

ii. *Height:* The height of a WCF approved for mitigation shall not exceed one hundred and fifteen (115) percent of the height of the tallest WCF that is being mitigated up to a maximum of two hundred (200) feet.

iii. *Setbacks:* A new WCF approved for mitigation of an existing WCF shall not be required to meet new setback standards so long as the new WCF

and its equipment compound are no closer to any property lines or dwelling units than the WCF and equipment compound being mitigated. For example, if a new WCF is replacing an old one, the new one is allowed to have the same setbacks as the WCF being removed, even if the old one had nonconforming setbacks. (The intent is to encourage the mitigation process, not penalize the antenna support structure owner for the change out of the old facility.)

iv. *Buffers:* At the time of mitigation, the WCF equipment compound shall be brought into compliance with any applicable requirements in the Land Use Ordinance.

v. *Least visually obtrusive profile:* Mitigated antenna-supporting structures shall be configured and located in a manner that minimizes adverse effects on the landscape and adjacent properties, with specific design considerations as to height, scale, color, texture, and architectural design of the buildings on the same and adjacent zone lots.

4. Colocated or Combined Facilities.

a. Generally.

i. *Buffers:* At the time of installation, the WCF equipment compound shall be brought into compliance with any applicable buffer requirements of Section 151-307 & 308 (Generally).

ii. *Height:* A colocated or combined WCF shall not increase the height of an existing antenna support structure by more than twenty (20) feet.

iii. *Setbacks*:

(1) A colocated or combined WCF, its equipment compound, and any ancillary equipment shall be subject to the setbacks of the underlying zoning district.

(2) When a colocated or combined WCF is to be located on a nonconforming building or structure, then the existing permitted nonconforming setback shall prevail.

iv. *Visibility:* New antenna shall be flush-mounted onto existing WCFs, unless it is demonstrated through RF propagation analysis that flush-mounted antennas will not meet the network objectives of the desired coverage area.

Section 151-372 Permitted Uses by Zoning District. *(Amended 7/9/2013)*

Zoning District	Concealed Attached WCF	Non-concealed Attached WCF*	Concealed Freestanding WCF	Non-Concealed Freestanding WCF	Mitigation of Existing WCF	Antenna Element Replacement	Colocated or Combined on Existing WCF**	Expanding Existing Antenna Array
R-40, R-20, R-12, R-8, R-6, R-5, R-3	P	N	C	N	C	P	P	P
B-1	P	N	C	N	C	P	P	P
B-2	P	N	C	N	C	P	P	P
B-3	P	N	C	N	C	P	P	P
B-4	P	N	P	N	P	P	P	P
B-5	P	N	C	N	C	P	P	P
I-1	P	P	P	C	P	P	P	P
I-2	P	P	P	C	P	P	P	P
PUD	P	N	C	N	C	P	P	P

*** P - Permitted C – Conditional Use Permit N- Not Permitted

Section 151-373 Siting Alternatives Hierarchy.

Siting of a wireless communications facility (WCF) (as herein defined) shall be in accordance with the following siting alternatives hierarchy:

1. Colocated or Combined on Existing Antenna Support Structure Facility, Utility Pole, Distribution Tower or Ball Park Light Pole
   a. On City-owned property
   b. On other publicly-owned property
   c. On privately-owned property
2. Concealed Attached Wireless Communications Facility
   a. On City-owned property
   b. On other publicly-owned property
   c. On privately-owned property
3. Freestanding Concealed Wireless Communications Facility
   a. On City-owned property
   b. On other publicly-owned property

c. On privately-owned property
d. In public rights-of-way (optional)

4. Non-concealed Freestanding Wireless Communications Facility
   a. On City-owned property
   b. On other publicly-owned property
   c. On privately-owned property

For attached, colocated, or combined WCF, the order of ranking preference, highest to lowest, shall be from 1a to 1c and 2a to 2c. Where a lower ranked alternative is proposed, the applicant must file relevant information as indicated in Section 151-374(1) (General Submittal Requirements) including, but not limited to, an affidavit by a radio frequency engineer demonstrating that despite diligent efforts to adhere to the established hierarchy within the geographic search area, higher ranked options are not technically feasible, practical or justified given the location of the proposed wireless communications facility.

Where a freestanding WCF is permitted the order of ranking preference from highest to lowest shall be from 3a to 3d and 4a to 4c. Where a lower ranked alternative is proposed, the applicant must file relevant information as indicated in Sections 151-374(1) (General Submittal Requirements) and 151-374(3) (Freestanding Concealed or Non-concealed WCFs, and Mitigation of WCFs) and demonstrate higher ranked options are not technically feasible, practical, or justified given the location of the proposed wireless communications facility, and the existing land uses of the subject and surrounding properties within 300 feet of the subject property.

This section shall not be interpreted to require applicants to locate on publicly-owned sites when lease negotiation processes are prohibitively lengthy or expensive relative to those of the private sector. The applicant is considered justified in selecting a lower-ranked privately-owned property option if the local government fails to approve a memorandum of agreement or letter of intent to lease a specified publicly-owned site within {ninety (90) days} of the application date, or if it is demonstrated that the proposed lease rate for the specified public-owned site significantly exceeds the market rate for comparable privately-owned sites.

Section 151-374 Submittal Requirements.

In addition to the submittal requirements of any subsection below, each applicant shall submit a completed application form and required application fees as part of its submittal package.

1. General Submittal Requirements.
   a. An affidavit by a radio frequency engineer demonstrating compliance with Section 151-373 (Siting Alternatives Hierarchy). If a lower ranking alternative is proposed, the affidavit must address why higher ranked options are not

technically feasible, practical, or justified given the location of the proposed wireless communications facility.

b. Six (6) sets (24″×36″) of signed and sealed site plans, including antenna support structure elevations, and landscape plans if required, and two (2) reduced copies (8½″×11″), of the foregoing preliminary grading plans may be included on site plans or separately submitted in equal quantities. The site plans shall identify adjacent land owners, land uses, height of principal building, size of lots, and existing zoning and land use designations.

c. If an adjacent property has a conditional use, special use, special exception, or other applicable designation, then a copy of any additional development conditions or approvals shall be included in the site plan submittal package.

d. An identification card for the subject property from the Halifax County Property Appraiser's Office or a tax bill showing the ownership of the subject parcel.

e. Proof that a property and/or antenna support structure owner's agent has appropriate authorization to act upon the owner's behalf (if applicable).

f. A signed statement from a qualified person, together with their qualifications, shall be included that certifies radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other existing facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.

g. Proposed maximum height of the proposed WCF, including individual measurement of the base, the antenna support structure, and lightning rod.

h. For all applications except collocations, photo--simulated post construction renderings of the completed proposed antenna support structure, equipment cabinets, and ancillary structures from locations to be determined during the pre-application conference (but shall, at a minimum, include renderings from the vantage point of any adjacent roadways and occupied or proposed non-residential or residential structures), proposed exterior paint and stain samples for any items to be painted or stained, exterior building material and roof samples, all mounted on color board no larger than 11″×17″.

i. For all applications except collocations, if the proposed WCF is subject to FAA regulation, then prior to issuance of a building permit, a copy of all material submitted by the applicant to the FAA and

j. For all applications except collocations, if the United States Fish and Wildlife Service require the applicant to submit any information to them concerning the proposed wireless communications facility, the applicant shall also furnish a copy of any material submitted to the United States Fish and Wildlife Service to the City as part of the application package.

k. Interference with public safety communications.

In order to facilitate the regulation, placement, and construction of WCFs, and to ensure that all parties comply to the fullest extent possible with the rules,

regulations, and/or guidelines of the FCC, each owner of a WCF or applicant for a WCF shall agree in a written statement to the following:

i. Compliance with "Good Engineering Practices" as defined by the FCC in its rules and regulations.

ii. Certification from the applicant that it complies with FCC regulations regarding susceptibility to radio frequency interference, frequency coordination requirements, general technical standards for power, antenna, bandwidth limitations, frequency stability, transmitter measurements, operating requirements, and any and all other federal statutory and regulatory requirements relating to radio frequency interference (RFI).

iii. In the case of an application for colocated telecommunications facilities, the applicant, together with the owner of the subject site, shall use their best efforts to provide a composite analysis of all users of the site to determine that the applicant's proposed facilities will not cause radio frequency interference with the City's public safety communications equipment and will implement appropriate technical measures, as described in Section 151-374(4) (Antenna Element Replacements), to attempt to prevent such interference.

iv. Whenever the City has encountered radio frequency interference with its public safety communications equipment, and it believes that such interference has been or is being caused by one or more WCFs, the following steps shall be taken:

(1) The City shall provide notification to all WCF service providers operating in the jurisdiction of possible interference with the public safety communications equipment. Upon such notification, the owners shall use their best efforts to cooperate and coordinate with the City and among themselves to investigate and mitigate the interference, if any, utilizing the procedures set forth in the joint wireless industry-public safety "Best Practices Guide," released by the FCC in February 2001, including the "Good Engineering Practices," as may be amended or revised by the FCC from time to time.

(2) If any WCF owner fails to cooperate with the City in complying with the owner's obligations under this section or if the FCC makes a determination of radio frequency interference with the City public safety communications equipment, the owner who fails to cooperate and/or the owner of the WCF which caused the interference shall be responsible, upon FCC determination of radio frequency interference, for reimbursing the City for all costs associated with ascertaining and resolving the interference, including but not limited to any engineering studies obtained by the jurisdiction to determine the source of the interference. For the purposes of this subsection, failure to cooperate shall include failure to initiate any response or action as described in the "Best Practices Guide" within twenty-four (24) hours of the City's notification.

l. If requested, materials detailing the locations of existing wireless communications facilities to which the proposed antenna will be a handoff candidate, including latitude and longitude of the proposed and existing antenna.

m. A map showing the designated search ring.

n. For all applications *except* colocations, a radio frequency analysis indicating the coverage of existing wireless communications sites, coverage prediction, and design radius, together with a certification from the applicant's radio frequency (RF) engineer that the proposed network design is intended to improve coverage or capacity potential or reduce interference and the proposed facility cannot be achieved by any higher ranked alternative such as a concealed (stealth) facility, attached facility, replacement facility, colocation, or new antenna support structure. Compliance letter from the State Historic Preservation Office (SHPO).

o. For all applications except collocations, completed checklist demonstrating compliance with the National Environmental Policy Act (NEPA).

p. A structural analysis of the proposed support structure, if it is a tower, by a Registered North Carolina Professional Engineer, which clearly indicates the structure fully loaded with all existing and proposed facilities shall comply with TIA/EIA 222-f, or current standard.

2. Attached, Colocated, and Combined WCFs.

a. Certification furnished by a Registered Professional Engineer licensed in the State of North Carolina that the WCF has sufficient structural integrity to support the proposed antenna and feed lines in addition to all other equipment located or mounted on the structure.

b. A signed statement from the antenna support structure owner or owner's agent agreeing to allow the colocation of other wireless equipment on the proposed antenna support structure, if the structure is designed or capable of additional wireless equipment.

c. A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.

3. Freestanding Concealed or Non-concealed WCFs, and Mitigation of WCFs.

a. A report and supporting technical data demonstrating that all antenna attachments and colocations, including all potentially useable utility distribution poles or transmission towers and other elevated structures within the proposed geographic search ring, and alternative antenna configurations have been examined, and found unacceptable. The report shall include reasons that existing facilities such as utility distribution poles and transmission towers and other elevated structures are not acceptable alternatives to a new freestanding WCF. The report regarding the adequacy of alternative existing facilities or the mitigation of existing facilities to meet the applicant's need or the needs of service providers indicating that no existing wireless communications facility could accommodate the applicant's proposed facility shall demonstrate any of the following:

i. No existing wireless communications facilities located within the geographic search ring meet the applicant's engineering requirements, and why.

ii. Existing wireless communications facilities are not of sufficient height to reasonably meet the applicant's engineering requirements, and cannot be increased in height.

iii. Existing wireless communications facilities do not have sufficient structural integrity to support the applicant's proposed wireless communications facilities and related equipment, and the existing facility cannot be sufficiently improved.

iv. Other limiting factors that render existing wireless communications facilities unsuitable.

b. Technical data included in the report shall included certification by a Registered Professional Engineer licensed in the State of North Carolina or other qualified professional, which qualifications shall be included, regarding service gaps or service expansions that are addressed by the proposed WCF, and accompanying maps and calculations demonstrating (using the hierarchy in Section 151-373) the need for the proposed WCF.

c. A statement that the proposed facility meets the siting alternatives hierarchy, or alternatively, that concealment technology is unsuitable for the proposed facility. Costs of concealment technology that exceed facility development costs shall not be presumed to render the technology unsuitable.

d. The applicant shall provide simulated photographic evidence of the proposed WCFs appearance from four (4) vantage points chosen by the City in cooperation with the applicant, including the facility types the applicant has considered and the impact on adjacent properties including:

i. Overall height

ii. Configuration

iii. Physical location

iv. Mass and scale

v. Materials and color

vi. Illumination

vii. Architectural design

If applicable, the applicant shall provide a statement as to the potential visual and aesthetic impacts of the proposed WCF on all adjacent residential zoning districts.

e. Certification furnished by a Registered Professional Engineer licensed in the State of North Carolina, that the WCF has sufficient structural integrity to accommodate the required and a proposed number of colocations.

f. A written statement by a Registered Professional Engineer licensed by the State of North Carolina specifying the design structural failure modes of the proposed facility, if applicable. *{NOTE: TO BE USED ONLY IN COMBINATION WITH THE ALTERNATIVE SETBACK LANGUAGE IN SECTION 151-371(3)(c)(iii).}*

g. Identification of the intended service providers of the WCF.

4. Antenna Element Replacements.

a. Any repair or replacement of an existing antenna or antenna array with another of like model, type, and number, and which will not alter the structural integrity of the support structure, shall be exempted from further review provided that a notarized certification shall be submitted by a qualified technician stating that the replacement will not alter the structural integrity of the support structure, and that any changes will not affect electrical specifications.

b. For any repair or replacement of an existing antenna or antenna array on a WCF that changes the mechanical or electrical specifications of the WCF, but does not increase the number and/or size of feed lines to the existing WCF, the applicant must, prior to making such modifications, submit the following:

i. A written statement setting forth the reasons for the modification.

ii. A description of the proposed modifications to the WCF, including modifications to antenna element design, type and number, as well as any additional feed lines from the base of the WCF to such antenna elements.

iii. A signed statement from a qualified person, together with their qualifications, shall be included representing the antenna support structure's owner or owner's agent that the radio frequency emissions comply with FCC standards for such emissions. A signed statement from a qualified person, together with their qualifications, shall be included that warrants radio frequency emissions from the antenna array(s) comply with FCC standards. The statement shall also certify that both individually and cumulatively, and with any other facilities located on or immediately adjacent to the proposed facility, the replacement antenna complies with FCC standards.

iv. A stamped or sealed structural analysis of the existing WCF prepared by a Registered Professional Engineer licensed by the State of North Carolina indicating that the existing antenna support structure as well as all existing and proposed appurtenances meets North Carolina Building Code requirements (including wind loading) for the antenna support structure.

c. Any repair or replacement of an existing antenna or antenna array on a WCF that changes the mechanical specifications in a manner that increases the number and/or size of feed lines to the existing WCF will be treated as a new collocation.

Section 151-375 Approval Process.

All approvals are subject to the review processes outlined in the Land Use Ordinance. Additionally, in accordance with the table in Section 151-372 (Permitted Uses by Zoning

District), the following approval process shall apply:

1. New WCFs and Antenna Element Replacements.

   a. Any application submitted pursuant to this section shall be reviewed by City staff for completeness. If any required item fails to be submitted, the application shall be deemed incomplete. Staff shall advise an applicant in writing within twenty (20) business days after submittal of an application regarding the completeness of the application. If the application is incomplete, such notice shall set forth the missing items or deficiencies in the application, which the applicant must correct and/or submit in order for the application to be deemed complete.

   b. Approval for a proposed Communication Towner within a radius of five thousand (5,000) feet from an Existing Communication Tower or other similar structure shall not be issued unless the applicant certifies that the Existing Communication Tower does not meet applicant's structural specifications or technical design requirements, or that a colocation agreement could not be obtained at a reasonable market rate and in a timely manner. *(Amended 7/9/2013)*

   c. The City of Roanoke Rapids shall review and act on applications for co-location facilities within forty-five (45) days following receipt of the application and for new towers within one hundred fifty (150) days following receipt of the application.

   d. Denials of applications must be supported by substantial evidence to be sufficient to justify the denial.

   e. Denials may not discriminate against any providers of functionally equivalent wireless communication facilities or set a preference for one type of wireless technology.

   f. All denials must be in writing. *(Amended 7/9/2013)*

2. Supplemental Review.

   The City reserves the right to require a supplemental review for any type of WCF, as determined necessary, subject to the following:

   a. Where due to the complexity of the methodology or analysis required to review an application for a wireless communication facility, the City may require the applicant to pay for a technical review by a third party expert, the costs of which shall be borne by the applicant and be in addition to other applicable fees.

   b. The applicant shall submit a deposit of twenty-five percent (25%) towards the cost of such supplemental review upon written notification from the City that a supplemental review is required, and shall remit any outstanding balance to the City for such review, not to exceed the total costs set forth in the "City of Roanoke Rapids Fee Schedule" for the current fiscal year for supplemental review, prior to issuance of a building permit. Failure by the applicant to make reimbursement pursuant to this section shall abate the pending application until paid in full.

   c. Based on the results of the expert review, the approving authority may require changes to the applicant's application or submittals.

   d. The supplemental review may address any or all of the following:

i. The accuracy and completeness of the application and accompanying documentation.

ii. The applicability of analysis techniques and methodologies.

iii. The validity of conclusions reached.

iv. Whether the proposed wireless communications facility complies with the applicable approval criteria set forth in these codes.

v. Other items deemed by the City to be relevant to determining whether a proposed wireless communications facility complies with the provisions of these codes.

Section 151-376 Publicly-Owned Property.

1. Pursuant to applicable law, the City may contract with a third party to administer publicly owned sites for purposes of providing wireless telecommunications services, consistent with the terms of this ordinance. Except as specifically provided herein, the terms of this ordinance, and the requirements established thereby, shall be applicable to all WCFs to be developed or colocated on City-owned sites.
2. If an applicant requests a permit to develop a site on City-owned property, the permit granted hereunder shall not become effective until the applicant and the jurisdiction have executed a written agreement or lease setting forth the particular terms and provisions under which the permit to occupy and use the public lands of the jurisdiction will be granted.
3. No permit granted under this section shall convey any exclusive right, privilege, permit, or franchise to occupy or use the publicly owned sites of the jurisdiction for delivery of telecommunications services or any other purpose.
4. No permit granted under this section shall convey any right, title or interest in the public lands, but shall be deemed a permit only to use and occupy the public lands for the limited purposes and term stated in the grant. Further, no permit shall be construed as a conveyance of a title interest in the property.

Section 151-377 through 151-379 Reserved.

APPENDIX A: INFORMATION REQUIRED WITH APPLICATIONS

A-1 In General

(a) As provided in Section 151-49, it is presumed that all of the information listed in this appendix must be submitted with an application for a zoning, sign, special use, or conditional use permit to enable the permit-issuing authority to determine whether the development, if completed as proposed, will comply with all the requirements of Chapter 151. As set forth in Section 151-92, applications for variances are subject to the same provisions. However, the permit issuing authority may require more information or accept as sufficient less information according to the circumstances of the particular case. A developer who believes information presumptively required by this appendix is unnecessary shall contact the planning staff for an interpretation.

(b) As also provided in Section 151-49, the administrator shall develop application processes, including standard forms, to simplify and expedite applications for simple developments that do not require the full range of information called for in this appendix. In particular, developers seeking only permission to construct single-family houses or duplexes or to construct new or modify existing signs should contact the administrator for standard forms.

A-2 Written Application

Every applicant for a variance or a zoning, sign, special use or conditional use permit shall complete a written application containing at least the following information:

(1) The name, address, and phone number of the applicant.

(2) If the applicant is not the owner of the property in question, (1) the name, address, and phone number of the owner, and (2) the legal relationship of the applicant to the owner that entitles the applicant to make application.

(3) The date of the application.

(4) Identification of the particular permit sought.

(5) A succinct statement of the nature of the development proposed under the permit or the nature of the variance.

(6) Identification of the property in question by street address and tax map reference.

(7) The zoning district within which the property lies.

(8) The number of square feet in the lot where the development it to take place.

(9) The gross floor area of all existing or proposed buildings located on the lot where the development is to take place.

(10) If the proposed development is a multi-family residential development, the number of one, two, three, or four bedroom dwelling units proposed for construction.

A-3 Development Site Plans

Subject to Section A-1 of this appendix, every application for a variance or a zoning, sign, special use or conditional use permit shall contain plans that locate the development site and graphically demonstrate existing and proposed natural, man-made, and legal features on and near the site in question, all in conformity with Sections A-4 through A-6 of this appendix.

A-4 Graphic Materials Required for Plans.

(a) The plans shall include a location map that shows the location of the project in the broad context of the city or planning jurisdiction. This location map may be drawn on the development site plans or it may be furnished separately using reduced copies of maps of the planning jurisdiction available at the planning and development department.

(b) Development site plans shall be drawn to scale, using such a scale that all features required to be shown on the plans are readily discernible. Very large developments may require that plans show the development in sections to accomplish this objective without resorting to plans that are so large as to be cumbersome, or the objective may be accomplished by using different plans or plans drawn to different scales to illustrate different features. In all cases, the permit-issuing authority shall make the final determination whether the plans submitted are drawn to the appropriate scale, but the applicant for a conditional or special use permit relies in the first instance on the recommendations of the administration.

(c) Development site plans should show on the first page the following information:

(1) Name of Applicant
(2) Name of Development (if any)
(3) North Arrow
(4) Legend
(5) Scale

(d) All of the features required to be shown on plans by Sections A-5 and A-6 may be included on one set of plans, so long as the features are distinctly discernable.

A-5 Existing Natural, Man-Made and Legal Features

(a) Development site plans shall show all existing natural, man-made, and legal features on the lot where the development is to take place, including but not limited to those listed below. In addition, the plans shall also show those features indicated below by italics that are located within fifty feet in any direction of the lot where the development is to take place, and shall specify (by reference to the Table of Permissible Use or otherwise) the use made of adjoining properties.

(b) Existing natural features:

(1) Tree line of wooded areas.

(2) Orchards or other agricultural groves by common or scientific name.

(3) *Streams, ponds, drainage ditches, swamps, boundaries of floodways and floodplains*.

(4) Base flood elevation data (See Article XVI, Part I).

(5) Contour lines (shown as dotted lines) with no larger than two foot contour intervals. (As indicated in Subsection A-6 (b) (17), proposed contour lines shall be shown as solid lines.)

(c) Existing man-made features:

(1) *Vehicle accommodation areas (including parking areas, loading areas and circulation areas, see Section 151-290), all designated by surface material and showing the layout of existing parking spaces and direction of travel lanes, aisles, or driveways.*

(2) Streets, private roads, sidewalks, and other walkways, all designated by surface material.

(3) Curbs and gutters, curb inlets and curb cuts, and drainage grates.

(4) Other storm water or drainage facilities, including manholes, pipes, and drainage ditches.

(5) Underground utility lines, including water, sewer, electric power,

telephone, gas, cable television.

(6) Aboveground utility lines and other utility facilities.

(7) Fire hydrants.

(8) Buildings, structures and signs (including dimensions of each).

(9) Location of exterior light fixtures.

(10) *Location of dumpsters*.

(11) *Location of adjacent and opposing driveways*.

(12) *Use of adjacent and opposing properties*.

(d) Existing legal features:

(1) The zoning of the property, including zoning district lines where applicable.

(2) Property lines (with dimensions identified).

(3) Street right-of-way lines.

(4) Utility or other easement lines.

A-6 Proposed Changes in Existing Features or New Features

(a) Development site plans shall show proposed changes in (1) existing natural features (see A-5 (b)), (2) existing man-made features (see A-5(c)), and (3) existing legal features (see A-5(d)).

(b) Development site plans shall also show proposed new legal features (especially new property lines, street right-of-way lines, and utility and other easements), as well as proposed man-made features, including, but not limited to the following:

(1) The number of square feet in every lot created by a new subdivision.

(2) Lot dimensions, including lot widths measured in accordance with Section 151-183.

(3) The location and dimensions of all buildings and freestanding signs

on the lot, as well as the distances all buildings and freestanding signs are set back from property lines, streets or street right-of-way lines (see Section 151-184).

(4) Principal side(s) building elevations for typical units of new buildings or exterior remodeling of existing buildings, showing building heights (see Section 151-185) and proposed wall sign or window sign area.

(5) The location and dimensions of all recreational areas provided in accordance with Article XIII, with each area designated as to type of use.

(6) Areas intended to remain as usable open space. The plans shall clearly indicate whether such open space areas are intended to be offered for dedication to public use or to remain privately owned.

(7) Streets, labeled by classification (see Section 151-210) and street name showing whether curb and gutter or shoulders and swales are to be provided and indicating street paving widths. Private roads in subdivisions shall also be shown and clearly labeled as such.

(8) Curb and gutters, curb inlets and curb cuts, drainage grates.

(9) Other storm water or drainage facilities, including manholes, pipes, drainage ditches, retention ponds, etc.

(10) Sidewalks and walkways, showing widths and surface materials.

(11) Bridges.

(12) Outdoor illumination with lighting fixtures sufficiently identified to demonstrate compliance with Section 151-242.

(13) Underground utility lines, including water, sewer, electric power, telephone, gas, cable television. Water and sewer pipeline signs shall be labeled.

(14) Aboveground utility lines and other facilities.

(15) Fire Hydrants.

(16) Dumpsters.

(17) New contour lines resulting from earth movement (shown as solid

lines) with no larger than two foot contour intervals (existing lines should be shown as dotted lines).

(18) Scale drawings of all signs requiring permits pursuant to Article XVII, together with an indication of the location and dimensions of all such signs.

(19) Vehicle accommodation areas (including parking areas, loading areas, and circulation areas, see Section 151-290), all designated by surface material and showing the dimensions and layout of proposed parking spaces and the dimensions and direction of travel of lanes, aisles, and driveways.

(20) Proposed plantings or construction of other devices to comply with the screening requirements of Article XIX.

(21) The location and dimensions of all driveways designated by surface material.

A-7 Documents and Written Information in Addition to Plans

In addition to the written application and the plans, whenever the nature of the proposed development makes information or documents such as the following relevant, such information shall be provided. The following is a representative list of types of information or documents that may be requested:

(1) Documentation confirming that the applicant has a legally sufficient interest in the property proposed for development to use it in the manner requested, or is the duly appointed agent of such a person.

(2) Certifications from the appropriate agencies that proposed utility systems are or will be adequate to handle the proposed development, as set forth in Article XV, and that all necessary easements have been provided.

(3) Detailed descriptions of play apparatus to be provided in miniparks.

(4) Legal documentation establishing homeowners associations or other legal entities responsible for control over required common areas and facilities.

(5) Bonds, letters of credit, or other surety devices.

(6) Complete documentation justifying any requested deviation from specific requirements established by this chapter as presumptively

satisfying design standards.

(7) Written evidence of permission to use satellite parking spaces under the control of a person other than the developer when such spaces are allowed pursuant to Section 151-298.

(8) Written evidence of good faith efforts to acquire satellite parking under the circumstances set forth in Section 151-299.

(9) Time schedules for the completion of phases in staged development, as required by Section 151-61.

(10) The environmental impact of a development, including its effect on historically significant or ecologically fragile or important areas and its impact on pedestrian or traffic safety or congestion.

A-8 Numbers of Copies of Plans and Documents

With respect to all plans and other documents required by this appendix, the developer shall submit the number of copies (not to exceed fifteen) that the administrator deems necessary to expedite the review process and to provide necessary permanent records.

APPENDIX B: LANDSCAPING REQUIREMENTS

B-1 Protecting Existing Trees

Section 15-316 provides for the retention and protection of large trees when land is developed. In order to ensure better the survival of existing trees, the developer shall heed the following:

(a) Protect trees with fencing and armoring during the entire construction period. The fence should enclose an area encompassed within the entire drip zone of the tree.

(b) Avoid excavations beneath the crown of the tree as required Section 15-316(b).

(c) Avoid compaction of the soil around existing trees due to heavy equipment. Do not pile dirt or other materials within the drip zone of the tree.

(d) Keep fires or other sources of extreme heat well clear of existing trees.

(e) Repair damaged roots and branches immediately. Exposed root should be covered with topsoil. Severed limbs and roots should be painted. Whenever roots are destroyed, a proportional amount of branches must be pruned so the tree does not transpire more water that it takes in. Injured trees must be thoroughly watered during the ensuing growing year.

(f) All existing trees that will be surrounded by paving shall be pruned to prevent dehydration.

(g) As stipulated in Section 15-316(b), no paving or other impermeable ground cover shall be placed within the drip zone of trees to be retained.

(h) No tree shall be removed, mutilated or significantly pruned within a public right-of-way without the approval of the City Manager pursuant to the City's Tree Policy.

B-2 Planting Trees

The trees recommended in Section B-5 have minimal maintenance requirements. However, all trees must receive a certain degree of care, especially during and immediately after planting. In order to protect an investment in new trees, the developer and his or her agent must follow these guidelines when planting:

(a) Trees selected for planting shall be approved by the Land Use Administrator prior to planting and shall have a minimum caliper of 2" and a minimum height of 8' at the time of planting.

(b) The best times for planting are early spring and early fall. Trees planted in the summer run the risk of dehydration.

(c) Plant all trees at least three-and-a-half feet from the end of head-in parking spaces in order to prevent damage from car overhangs.

(d) Dig the tree pit at least one foot wider than the root ball and at least six inches deeper than the ball' vertical dimension.

(e) Especially in areas where construction activity has compacted the soil, the bottom of the pit should scarified or loosened with a pick ax or shovel.

(f) After the pit is dug, observe sub-surface drainage conditions. Most soils in the Roanoke Rapids area are poorly drained. Where poor drainage exists, the tree pit should be dug at least an additional twelve inches and the bottom should be filled with coarse gravel.

(g) Backfill should include a proper mix of soil, peat moss and nutrients. All roots must be completely covered. Backfill should be thoroughly watered as it is placed around the roots.

(h) Immediately after it is planted, the tree should be supported with stakes and guy wires to hold firmly it in place as its root system begins to develop. Staked trees will become stronger more quickly. Remove stakes and ties after one year.

(i) Spread at least two inches of mulch over the entire excavation in order to retain moisture and keep down weeds. An additional two-inch saucer of mulch should be provided to form a basin around the trunk of the tree. This saucer helps catch and retain moisture.

(j) The lower trunks of new trees should be wrapped with burlap or paper to prevent evaporation and sunscald. The wrapping should remain on the tree for at least a year.

(k) Conscientious post-planting care, especially watering, pruning and fertilizing, is necessary for street and parking lot trees. Branches of new trees may be reduced as much as a third to prevent excessive evaporation.

B-3 Standards for Street and Parking Lot Trees

Trees planted in compliance with the requirements of Sections 151-315 and 151-317 should have most or all of the following qualities. The trees recommended in Section B-5 represent the best combinations of these characteristics.

(a) Hardiness

(1) Resistance to extreme temperatures.
(2) Drought resistance.
(3) Resistance to storm damage.
(4) Resistance to air pollution.
(5) Ability to survive physical damage from human activity.

(b) Life Cycle

(1) Moderate to rapid rate of growth.
(2) Long life.

(c) Foliage and Branching

(1) Tendency to branch high above the ground.
(2) Wide spreading habit.
(3) Relatively dense foliage for maximum shading.

(d) Maintenance

(1) Resistance to pests.
(2) Resistance to plant diseases.
(3) Little or no pruning requirements.
(4) No significant litter problems.

B-4 Planting Shrubs.

Shrubs planted for screening purposes should be given a proper culture and sufficient room in which to grow. For detailed planting information of individual species, refer to: Landscape Plants of the Southeast by R. Gordon Halfacre and Anne R. Shawcroft.

B-5 List of Recommended Trees and Shrubs

The following lists indicate plantings that will meet the screening and shading requirements of Article XIX of the Land Use Ordinance. The Lists are by no means comprehensive and are intended merely to suggest the types of flora that would be

appropriate for screening and shading purposes. Plants were selected for inclusion on these lists according to four principal criteria: general suitability for the coastal plain section of North Carolina, ease of maintenance, tolerance of city conditions, and availability from the area nurseries.

When selecting new plantings for a particular site, a developer should consider the types of plants that are thriving on or near that site. Accordingly, native North Carolina species should often be favored. However, if an introduced species has proven highly effective for screening or shading in this area, it too may be a proper selection. All species and their proposed locations are subject to the approval of the Land Use Administrator. Sites shall be inspected by the City Staff during excavation and planting.

(a) Trees for Evergreen Screening

(1) Deodar Cedar
(2) Southern Magnolia
(3) Loblolly Pine
(4) Longleaf Pine
(5) Red Cedar
(6) Japanese Black Pine

(b) Shrubs for Evergreen Screening

(1) Burford Holly
(2) Laurel or Sweet Bay
(3) Yaupon Holly
(4) Nellie R. Stevens Holly
(5) Cleyera Japonica
(6) Japanese Privet
(7) Lauretinus Viburnum
(8) American Holly
(9) Savannah Holly
(10) Wax Myrtle
(11) Leyland Cypress
(12) Red Photinia

(c) Large-Maturing Trees for Shading and Street Trees

(1) Deciduous

a. Ash, Green
b. Ash, White
c. Bald - Cypress
d. Birch, River
e. Elm, Lacebark
f. Hackberry
g. Maple, Red
h. Maple, Sugar
I. Oak, Laurel
j. Oak, Northern Red
k. Oak, Shumard
l. Oak, Southern Red
m. Oak, White
n. Oak, Willow
o. Pagoda Tree, Japanese
p. Planetree, Linden
q. Tulip - Poplar
r. Zelkova, Japanese

(2) Evergreen

a. Cedar, Deodar 1)
b. Hemlock, Canadian
c. Magnolia, Southern
d. Oak, Live
e. Pine, Austrian 1)
f. Pine, Loblolly 1)
g. Pine, Virginia 1)
h. Spruce, Norway 1)

(d) Small-Maturing Trees for Shading

Deciduous & Evergreen

(1) Flowering

a. Cherry, Kwanzan
b. Cherry, Yohino
c. Crabapple
d. Crepemyrtle
e. Dogwood, Flowering
f. Dogwood, Kousa
g. Hawthorne
h. Hawthorne, Washington
I. Magnolia, Saucer
j. Pear, Aristocrat
k. Pear, Capital
l. Pear, Redspire
m. Plum, Purpleleaf
n. Redbud, Eastern

(2) Non-Flowering

a. Cherry-Laurel, Carolina
b. Holly, Foster #2
c. Holly, Savannah
d. Hornbeam, American
e. Hornbeam, European
f. Maple, Hedge
g. Maple, Japanese
h. Myrtle, Wax
I. Photinia, Frazier's

1) May be retained and credited toward meeting requirements, but will not be credited if planted.

2) May be used for Street Trees if, at the discretion of the Land Use Administrator, small trees are needed to accommodate particular utility, topographic, or micro-climate conditions.