

CHAPTER 152: UNIFIED DEVELOPMENT

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GENERAL PROVISIONS

§ 152.001 SHORT TITLE.

This chapter shall be known and may be cited as the Franklin Unified Development Chapter.
(Ord. passed 10-1-07)

§ 152.002 AUTHORITY.

This chapter is adopted pursuant to the authority contained in the town charter as well as the provisions of G.S. Ch.160A, Art.21, Ch.143, Part 6, and Ch.113A, Art. 4.
(Ord. passed 10-1-07)

§ 152.003 JURISDICTION.

This chapter shall be effective throughout the town's planning jurisdiction. The town's planning jurisdiction comprises the area within the corporate boundaries of the town as well as the town's area of extraterritorial jurisdiction as such may exist at any time.
(Ord. passed 10-1-07)

§ 152.004 RELATIONSHIP TO EXISTING ZONING AND SUBDIVISION 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 town’s zoning ordinance or subdivision ordinance, 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.

(Ord. passed 10-1-07)

§ 152.005 RELATIONSHIP TO PRINCIPLES OF GROWTH.

It is the intention of the Board that this chapter implement the planning policies adopted by the Board for the town and its extraterritorial planning area, as reflected in the principles of growth and other planning documents.

(Ord. passed 10-1-07)

§ 152.006 NO USE OF LAND OR BUILDINGS EXCEPT IN CONFORMITY WITH CHAPTER PROVISIONS.

Subject to §§ 152.150 through 152.154, below, concerning nonconformities, 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 or her control except in accordance with all of the applicable provisions of this chapter. 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.

(Ord. passed 10-1-07)

§ 152.007 NO BOUNDARY LINE ADJUSTMENTS EXCEPT IN CONFORMITY WITH CHAPTER PROVISIONS.

No boundary of any lot may be adjusted, whether by subdivision, combination or recombination of previously platted lots, boundary line agreement, or any other legal method, except in conformance with the provisions of this chapter. To assure that a proposed boundary line adjustment conforms to the provisions of this chapter, including, but not limited to, lot sizes, lot frontages, and building setbacks, the proposed adjustment shall be submitted to the Land Use Administrator for

review and approval prior to execution. The plan, plat, or survey depicting the proposed boundary line adjustment shall contain the following certificate:

Zoning Certificate of Approval

The proposed boundary line adjustment depicted herein is in conformance with the requirements of the Land Use Ordinance of the Town of Franklin and is hereby approved.

Date _____ Land Use Administrator

(Ord. passed 10-1-07)

§ 152.008 FEES.

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 town’s budget or as established by resolution of the Board filed in the office of the Town Clerk. Fees established in accordance with this section shall be paid upon submission of a signed application or notice of appeal.

(Ord. passed 10-1-07)

§ 152.009 ZONING MAP AND DISTRICTS.

The boundaries of the zoning districts are shown upon the map adopted by the Town Aldermen designated as the Zoning Map. The Zoning Map and all notations, references and other information shown thereon are hereby declared to be a part of this chapter and shall have the same force and effect as if the Zoning Map and all notations, references and other information shown thereon were fully set forth and described herein. This map has been rendered digitally, and this digitally-rendered map shall constitute the Official Zoning Map of the Town of Franklin. It shall be the duty of the Land Use Administrator to maintain the digitally-rendered map and to faithfully modify it in accordance with map amendments which may be adopted by the Board of Aldermen from time to time. In maintaining the digitally-rendered zoning map, the Land Use Administrator is authorized to make minor adjustments to the map where to do so would cause zoning boundaries to match property lines, streets, streams, or other zoning boundaries, or where circumstances otherwise make it clear that such adjustment fulfills the intent of previous zoning map amendments.

(A) *Map interpretation.* The following rules shall apply in the interpretation of district boundaries on the zoning map:

(1) Boundaries shown appearing to follow the centerlines of streets, highways, streams, or alleys shall follow such centerlines.

(2) Boundaries shown appearing to follow lot lines, rights-of-way, or easements shall follow the actual surveyed lot lines, rights-of-way or easements.

(3) Boundaries shown appearing to follow the corporate limits shall follow such corporate limits.

(4) Boundaries shown appearing to follow the extraterritorial jurisdiction boundaries of the town shall follow such boundaries.

(5) Boundaries shown appearing to follow railroad lines shall be midway between the main tracks or the centerline of a single track.

(6) Boundaries shown parallel to or as extensions of features indicated in this section shall be construed as such. Distances not specifically indicated on the zoning map shall be determined by the scale of the map.

(7) Boundaries shown at the intersection of streets shall be at the intersection of the street centerlines.

(8) Where the actual locations of existing physical or natural features vary from those shown on the zoning map, or in the event of other circumstances not covered by this section, the Land Use Administrator shall have the authority to interpret district boundaries.

(B) Zoning of streets, private streets, and alleys. All streets, private streets, public ways and alleys, if not otherwise specifically designated, shall be zoned the same as the adjacent land is zoned to the centerline. In addition, they may be used for customary and incidental transportation purposes.

(Ord. passed 10-1-07)

§ 152.010 DEFINITIONS.

(A) *Intent.* For the purpose of interpreting this chapter, certain words, concepts, and ideas are defined herein.

Except as defined herein, all other words used in this chapter shall have their everyday meaning as determined by their dictionary definition.

(B) *Interpretation of commonly used terms and words.*

(1) Words in the present tense include the future tense.

(2) Words used in the singular number include the plural, and words used in the plural include the singular unless the natural construction of the wording indicates otherwise.

(3) The word "person" includes a firm, association, organization, corporation, trust and company as well as an individual.

(4) The phrase "used for" includes the meaning "designed for".

(5) The word "structure" includes the word "building".

(6) The word "lot" includes the words "plot", "parcel", or "tract".

(7) The word "shall" is always mandatory and not merely directory.

(8) The words "map" or "zoning map" refer to the "Official Zoning Map, Town of Franklin".

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(9) The phrase "Planning Director" or "Administrator" refers to the Land Use Administrator of the town or designee thereof, who is the individual charged with the administration of this chapter.

(10) The phrase "Board of Aldermen" refers to the Board of Aldermen of the town.

(11) The phrase "Planning Board" refers to the Planning Board of the town.

(12) The phrase "Board of Adjustment" refers to the Board of Adjustment of the town.

(13) The phrase "Planning Department" refers to the Planning Department of the town.

(14) The words "Ordinance", "Code", "UDO" and "Unified Development Ordinance" are synonymous and refer to the "Town of Franklin Unified Development Ordinance."

(C) *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 the meaning indicated when used in this chapter.

ABUT. To reach; to touch. To touch at one end or side of something; to be contiguous; join at a border or boundary; terminate on; end at; border on; reach or touch with an end.

whose primary purpose is the boarding of household

ACCESSORY USE OR STRUCTURE. A structure or a portion of a principal structure or use, which is subordinate to a principal structure or use, on the same lot, and is used for purposes customarily incidental to 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.

ADDITON (to an existing building). An extension or increase in the floor area or height of a building or structure.

ADULT DAY CARE. Adult day care offers support, services, and supervision to older, frail, or disabled adults who have difficulty taking care of themselves at home, but wish to maintain their independence. Services may include an individual plan of care, skilled nursing care and health education, rehabilitation services, personal care and supervision, social services, recreational therapy, meals, and transportation.

ADULT DAY CARE CENTER. A facility where adult day care is provided for more than six adults in an institutional setting.

ADULT DAY CARE HOME. An individual's home wherein such individual provides adult day care for no more than six adults.

AGRICULTURE. The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal husbandry, and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities. The term shall not include agricultural industries such as commercial poultry or swine production, cattle or swine feed lots, fur bearing animal farms, commercial greenhouses, commercial fish or poultry hatcheries, and other similar activities.

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

ANIMAL BOARDING FACILITY. A facility

pets. This term includes animal kennels, which are commercial establishments where the grooming, boarding, training, and selling of animals may be conducted, and animal shelters, which are typically governmental or nonprofit organizations devoted to the welfare, protection and humane treatment of animals. The term shall not be construed to include facilities where the boarding of animals is an incidental use, such as animal hospitals or clinics and pet stores.

ANIMAL HOSPITALS AND CLINICS.

Establishments that include services by licensed practitioners of veterinary medicine, dentistry, or surgery for animals, boarding services for pets, and grooming. This term does not include outdoor "kennels".

ASSISTED LIVING FACILITY. An establishment offering housing services for those, such as the elderly, who cannot care for themselves. This term includes uses such as congregate living services assisted living services, continuing care retirement centers, hospice, and skilled nursing services.

ASSISTED LIVING UNIT. A unit occupied by an individual or individuals who are unable to live independently. The unit is part of a facility that provides

indoor, conveniently located, shared food preparation service and major dining areas, and common recreation, social, and service facilities for the exclusive use of all residents.

BED AND BREAKFAST FACILITIES.

Establishments primarily engaged in providing short-term lodging in facilities known as bed-and-breakfast inns. These establishments provide short-term lodging in private homes or small buildings converted for this purpose. ***BED AND BREAKFAST*** establishments are characterized by a highly personalized service and meet the following requirements:

- (1) They do not serve food or drink to the general public for pay;
- (2) They serve only the breakfast meal, and that meal is served only to overnight guests of the business;
- (3) They include the price of breakfast in the room rate; and
- (4) They serve as the permanent residence of the owner or the manager of the business.

BOARDING HOUSE. A residential use consisting of at least one dwelling unit together with one or more 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. Notwithstanding the foregoing, the renting out of one or two rooms within a single-family residence may be regarded as an accessory use.

BREW PUB. An establishment where beer and malt beverages are made on the premises in conjunction with a restaurant or bar and where 40% or more of the beer produced on site is sold on site. Where allowed by law, brewpubs may sell beer "to go" and/or distribute to offsite accounts. A brewpub shall not exceed 1,000 barrels (as barrel is approximately 31 gallons) of beer production per year.

BUILDING. A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or chattels, and including tents, lunch wagons, dining cars, trailers, mobile homes, manufactured homes, fences, and similar structures whether stationary or movable. The term **BUILDING** shall be construed as if followed by the words "or parts thereof." Each portion of a building separated by division walls from the ground up without openings shall be considered a separate building.

BUILDING, PRINCIPAL. The primary building on a lot or a building that houses a principal use.

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

BUSINESS SERVICES. Establishments primarily engaged in rendering services to businesses. Examples of services provided include, without limitation, the following: document preparation, telephone answering, telemarketing, mailing (except direct mail advertising), court reporting, and stenography. These establishments may operate copy centers, which provide photocopying, duplicating, blueprinting, or other copying services besides printing. They may also provide a range of support activities, including mailing services, document copying, facsimiles, word processing, onsite PC rental, and office product sales.

CEMETERY. A parcel of land used for interment of the dead in the ground or in mausoleums.

CHILD CARE CENTER. An individual, agency, or organization providing supervision or care on a regular basis for children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults. **CHILD DAY CARE CENTERS** are designed and approved to accommodate seven or more children at a time and are not an accessory to residential use.

CHILD CARE HOME. Supervision or care provided on a regular basis, as an accessory use within a principal residential dwelling unit, by a resident of the dwelling for not more than six children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

COMMON SPACE. Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact, or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities, and lighting fixtures which provide for safety and visual effects.

COMMUNITY ASSOCIATION. A homeowners association, condominium association, or similar organization, organized to own, maintain and operate common facilities and to enhance and protect their common interests.

CONSTRUCTION TRADES FACILITY. An establishment primarily engaged in construction, including new work, additions, alterations, reconstruction, and repairs. Offices for construction trades which are separate from and do not include construction plants or storage should be classified as offices for purposes of this chapter.

CONVENIENCE STORE. A one story, retail store containing less than 2,000 square feet of gross floor area that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract and depends upon a large volume of "stop and go" traffic.

CIVIC CENTERS AND CULTURAL ARTS FACILITIES. Facilities designed to promote cultural advancement and serve the community. Examples include the following: live theater; dance, or music

establishments; art galleries, studios and museums; non-profit civic or fraternal organizations; museums; exhibition or similar facilities; libraries; and community centers, such as the YMCA and YWCA.

DEDICATION. The reservation for public use of an area of land, usually a strip of land, a street right-of-way or utilities easement, within which there is to be or may be located streets, sidewalks, utility systems and drainage structures, or a lot intended to be used for a public purpose such as a park, playground, or other public facility.

DENSITY. The number of dwelling units per acre of land developed or used for residential purposes.

DEVELOPER. A person who is responsible for undertaking development as defined herein.

DEVELOPMENT. Any man-made use of, or 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.

DWELLING. A building or portion of building arranged to provide living quarters for one or more families.

DWELLING, ACCESSORY. A dwelling unit designed for occupancy by one or two persons, not exceeding 33% of the size of the main dwelling up to 800 square feet of gross floor space and located on an owner occupied lot with an existing single-family dwelling. No more than one such dwelling shall be situated on any lot. The unit shall be located in accordance with § 152.095.

DWELLING, APARTMENT. A structure of at least two stories where dwelling units are located above other units.

DWELLING, MULTI-FAMILY. A building arranged to be occupied by three or more families living independently of each other.

DWELLING, SINGLE-FAMILY ATTACHED. A one-family dwelling attached to two or more one-family dwellings by common vertical walls. No dwelling unit may be located above another unit.

DWELLING, SINGLE-FAMILY DETACHED. A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

DWELLING, TWO-FAMILY. A building arranged to be occupied by two families living independently of each other, the structure having two dwelling units.

EVERGREEN. A plant which has green foliage throughout the year.

FAMILY. One or more persons occupying a single dwelling unit, provided that, unless all members are related by blood or marriage, no such family shall contain over six persons, but further provided that domestic servants employed on the premises may be housed in the principal building, not to exceed two domestic servants.

FINANCIAL SERVICES INSTITUTIONS. Establishments that engage in financial transactions that create, liquidate, or change ownership of financial services. Banks, credit unions, and savings institutions may perform central banking functions, accept deposits, and lend funds from these deposits. In addition to banks and credit unions, financial services institutions may include: credit agencies, trust companies, holding companies, lending and thrift institutions, securities/commodity contract brokers and dealers, security and commodity exchanges, vehicle finance (equity) leasing agencies, and investment companies.

FOOD PROCESSING ESTABLISHMENT. A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

FUNERAL HOMES AND SERVICES. Establishments for preparing the dead for burial or interment and for conducting funerals (i.e. providing facilities for wakes, arranging transportation for the dead, and selling caskets and related merchandise).

GROUP CARE FACILITIES. A facility that provides resident services to more than six individuals, at least one of whom is unrelated to the others. These individuals are handicapped, aged, or disabled, or are undergoing rehabilitation, and are being provided services in the group care facility to meet their needs. This category includes uses licensed or supervised by any federal, state, or county health/welfare agency, such as group dwellings (all ages), halfway houses, nursing homes, resident schools, resident facilities, and foster or boarding homes.

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.

HOME OCCUPATION. An occupation or profession conducted within a dwelling unit by a residing family member that is incidental to the primary use of the dwelling as a residence. Home occupations are small and quiet businesses which generally cannot be discerned from the frontage, are seldom visited by clients, require little parking, little or no signage, have only one or two employees and provide services such as professional services, music instruction, and hair styling.

HOSPITAL. A health care facility the purpose of which is to provide for care, treatment and testing for physical, emotional, and/or mental injury, illness, or disability, and overnight boarding of patients, either on a for-profit or not-for-profit basis. This term does not include group homes.

HOTELS AND MOTELS. Establishments providing lodging and short-term accommodations for travelers. They may offer a wide range of services including overnight sleeping space, food services, convention hosting services, and/or laundry services. Entertainment and recreation activities may also be included. Extended-stay hotels are included in this category.

LAND USE ADMINISTRATOR. The official responsible for the overall administration and enforcement of this chapter. The Land Use Administrator may delegate duties under these regulations; however the Land Use Administrator shall remain responsible for their overall administration and enforcement.

LAUNDRY, DRY CLEANING PLANT. A service establishment engaged primarily in high volume laundry and garment services, including, without limitation, carpet and upholstery cleaners, diaper services, dry-cleaning and garment pressing, commercial laundries and linen supply. These facilities may include customer pick-up but do not include coin-operated laundries or dry cleaning pick-up stores without dry cleaning equipment.

LIVE-WORK UNIT. An attached residential building type with small commercial enterprises on the ground floor and a residential unit above or behind with a common tenant in both spaces. Dual occupancy is not permitted.

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.

LOT OF RECORD. A lot which is part of a subdivision, a plat of which has been recorded in the Office of the Register of Deeds of Macon County, or a lot described by metes and bounds, the description of which has been so recorded.

LOT, CORNER. A parcel abutting two or more streets at their intersection. These parcels will have a front yard abutting each street in addition to one side yard and one rear yard.

LOT, INTERIOR. A parcel that is not a corner lot, reverse corner lot, or through lot.

LOT, REVERSE CORNER. A corner lot whose side street line is substantially a continuation of the front line

of the lot upon which it rears. These parcels will have a front yard abutting each street, with side yards running along the remaining lot lines.

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LOT, THROUGH. A parcel having frontage on two parallel or approximately parallel streets. These parcels will have two side yards and may have a front yard facing either

(2) Dwelling units built to, or utilizing any of, the following as primary construction standards are not considered manufactured homes suitable for use as permanent dwelling units on any lot other than a licensed RV Park: National Electrical Code Article 551; National Fire Protection Association No. 1192; and American National Standards Institute No. 119.5. Such construction standards are applicable to recreational vehicles.

MANUFACTURED HOME PARK. The location of two or more manufactured homes or manufactured

street.

MANUFACTURED HOME.

(1) A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly on the building site which also meets the following requirements:

(a) It is at least eight feet in width and 32 feet in length;

(b) It bears a seal certifying that it was built to the standards adopted pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. Sec. 5401, et seq.;

(c) It is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the North Carolina Commissioner of Insurance;

(d) It is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site; and

(e) It does not have any wheels or axles permanently attached to its body or frame.

home spaces on a single parcel of land, or a grouping of two or more manufactured homes on at least two contiguous parcels when such parcels are under common ownership and/or management as a park for the rental of manufactured homes or manufactured home spaces.

MANUFACTURING, HEAVY. A nonresidential use that requires an NPDES permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity. Typically the largest facilities in a community which have complex operations, some of which may be continuous (24 hours a day/seven days per week).

MANUFACTURING, LIGHT. A non-residential use that requires an NPDES permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity. Facilities are typically designed to look and generate impacts like a typical office building, but rely on special power, water, or waste disposal systems for operation. Noise, odor, dust, and glare of each operation are completely confined within an enclosed building, insofar as practical.

MICROBREWERY. An establishment where beer and malt beverages are made on the premises and then sold or distributed, and which produces less than 15,000 barrels (a barrel is approximately 31 gallons) of beer per year. Microbreweries sell to the public by one or more of the following methods: the traditional three-tier system (brewer to wholesaler to retailer to consumer); the two-tier system (brewer acting as wholesaler to retailer to consumer); and directly to the consumer.

MINI-WAREHOUSES. A building containing separate enclosed storage spaces the sizes of which may vary, which are leased or rented on an individual basis.

MINOR BOUNDARY LINE ADJUSTMENTS. The placement, deletion or movement of any boundary line in one of the following ways.

(1) The combination or recombination of portions of previously subdivided and recorded lots where the resulting total number of lots is not increased or not greater than four and the resultant lots are equal to or exceed the standards of the municipality as shown in its subdivision regulations.

(2) The public acquisition by purchase of strips of land for the widening or opening of streets for public transportation system corridors.

(3) The division of a residentially zoned tract in single ownership into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the municipality, as shown in its subdivision regulations.

MODULAR HOMES. A factory-built dwelling unit, other than a manufactured home, that is labeled as a North Carolina Modular Home and built and set up in accordance with the North Carolina Residential Code, current edition. Such structures include varieties commonly delivered onsite in modules, as well as "on-frame" structures delivered completely pre-assembled.

MOTOR FREIGHT TERMINAL. A building or area in which trucks, including tractor or trailer units, are parked, stored, or serviced, including the transfer, loading or unloading of goods. A terminal may include facilities for the temporary storage of loads prior to transshipment.

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

NONCONFORMITIES. A lot, structure, use of land, or condition, which existed lawfully and was created in good faith prior to the adoption, revision, or amendment to this chapter, and which conformed to applicable regulations in effect prior to the adoption, revision, or amendment to this chapter in terms of size, area, dimension, location, intensity of use, or other condition, but which now fails to conform to the requirements of this chapter by reason of such adoption, revision, or amendment. ***NONCONFORMITIES*** include, but are not limited to, the following:

(1) Non-conforming lots: lots of improper size, shape, or structural density; or lots lacking frontage upon a public street.

(2) Non-conforming structures: structures located within a right-of-way, or that exceed height or setback limitations, or that are located within setback areas, floodways, or stream-side protection areas.

(3) Non-conforming uses of land: industrial activity within residentially zoned areas, hazardous chemical storage in flood-prone areas, open storage in a improperly zoned area.

(4) Non-conforming conditions: insufficient parking, landscaping, or buffering for an otherwise conforming use or structure; cleared vegetation in a stream-side protection area; inadequate storm water control measures.

OPEN SPACE. Area to provide for a predominately pervious land surface providing spaces for landscaping and other visual enhancements, pedestrian circulation and wildlife habitat. The following are not designated open space; vehicular use areas such as drives, parking lots and service areas; and buildings. Pedestrian amenities, both pervious and impervious are permitted in open spaces.

OUTDOOR DISPLAY, RETAIL. The placement of merchandise outside the walls of any enclosed building, which merchandise is advertised for sale, and/or displayed with the intent to entice potential customers onto the premises. The term shall apply only to merchandise which is placed outside temporarily for the purpose of sale or enticement and placed within an enclosed structure while the business is closed. The term shall not apply to types of merchandise which by their nature cannot feasibly be placed within an enclosed structure outside of operational hours, such as automobiles, recreational vehicles, boats, farm equipment, or prefabricated outbuildings or other outdoor structures.

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PARKING SPACE. A portion of the vehicular use area set aside for the parking of one vehicle.

PERSONAL SERVICES. Establishments primarily engaged in providing services generally to individuals, such as dry-cleaning and laundry pick-up facilities, portrait photographic studios, beauty and barber shops, seamstress shops, shoe repair shops, and clothing rental shops.

PLACES OF WORSHIP. Any facility such as a church, temple, monastery, synagogues, or mosque used by a non-profit organization for worship and, if applicable customary related uses such as education (pre-schools, religious education, etc.), recreation (gymnasiums, activity rooms, ball fields, etc.), housing (rectory, parsonage, elderly or disabled housing, etc.) and accessory uses such as cemeteries, mausoleums, soup kitchens, and bookstores.

PLANNED DEVELOPMENT. A residential or commercial development which promotes the efficient and well-planned use of land through unified development while providing the town with open space, compatible uses, optimum service of community facilities and adequate vehicular access and circulation.

PRIVATE CLUB. Any person, firm, corporation or association, key club, bottle club, locker club, pool club or any other kind of club or association having, possessing or requiring membership and excluding the general public from its premises or place of meeting, or congregating, or operating, or exercising control over any other place where persons are permitted to drink alcoholic beverages, consume food, observe entertainment, live or otherwise, play at video, mechanical or electronic games and/or dance, other than in a private home.

PROFESSIONAL SERVICES. Services provided that make available the knowledge and skills of their employees to sell expertise and perform professional, scientific, and technical services to others. Such services include, without limitation, the following: legal services; accounting, tax, bookkeeping, and payroll services; architectural, engineering, and related services; graphic, industrial, and interior design services; consulting services; research and development services; advertising, media, and photography services; real estate services; investment banking, securities, brokerages and insurance-related services; and medical services such as physician's and dentist's offices.

PUBLIC UTILITY FACILITY. Any structure or facility transmitting a service provided by a government or public utility, including, without limitation, fire stations, emergency medical service centers, telephone and repeater stations, pumping substations, and water towers, but not including telecommunication towers, antennas, and other telecommunication devices.

RECREATION FACILITIES, INDOOR. Uses or structures for active recreation including, without limitation, gymnasiums, natatoriums, athletic equipment, indoor running tracks, climbing facilities, court facilities and their customary accessory uses. This definition is inclusive of both non-profit and for-profit operations.

RECREATION FACILITIES, OUTDOOR. Parks and other open space used for active or passive recreation such as ball fields, playgrounds, greenway trails, tennis courts, riding stables, campgrounds, and golf courses, and their customary accessory uses including, but not limited to, maintenance sheds, clubhouses, pools, restrooms, and picnic shelters. This definition is inclusive of both non-profit and for-profit operations.

RESTAURANT. A retail business selling ready-to-eat food and/or beverages for on or

off-premise consumption. Customers may be served from an ordering counter (i.e. cafeteria or limited service restaurant), at their tables (full-service restaurant), and at exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter (snack and/or nonalcoholic bars).

RETAIL SALES. A use category allowing premises to be available for the commercial sale of merchandise and prepared foods. Such use category does not include manufacturing.

SCHOOL, ELEMENTARY AND SECONDARY. A public or private institution for education or learning which does not include lodging. This term includes any school licensed by the state and that meets the state requirements for elementary and secondary education and also includes any accessory athletic, recreational or other facilities.

SCHOOL, VOCATIONAL/TECHNICAL. A public or private institution for education or learning of a vocational or technical nature which does not include lodging. This term includes any accessory athletic, recreational or other facilities. These schools offer vocational and technical training in a variety of technical subjects and trades. Training may lead to job-specific certification.

SERVICE STATION. An establishment that primarily retails automotive fuels. These establishments may also provide services such as automotive repair, automotive oils, and/or replacement parts and accessories. Gas stations include structures that are specialized for selling gasoline with storage tanks, often underground or hidden. Bays for car washes may also be included.

SETBACK. The distance from the property line or street right-of-way, whichever is closer, to the closest edge of a structure. Where the street right-of-way is not defined, that distance shall start at the edge of the maintained area.

SHELTER FACILITY. A temporary residence operated by a nonprofit organization meeting the needs of citizens temporarily in crisis such as: family violence, natural disaster, fire, economic distress, neighborhood violence, homelessness, and unwed pregnant teens.

SHRUB. A woody plant, usually multi-stemmed or well-branched from the base, the branches being retained to the ground. When used for buffer plantings, shrubs must also reach a mature height between four and 15 feet.

STORAGE YARD. The open storage of various materials outside of a structure as a principal use.

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 town's street system that serves as an avenue for the circulation of traffic onto, out, or around the town and carries high volumes of traffic.

STREET, COLLECTOR. A street whose principal function is to carry traffic between minor, local, and sub-collector 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 25 dwelling units and is expected to or does handle between 75 and 200 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 75 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 streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least 26 but not more than 100 dwelling units and is expected to or does handle between 200 and 800 trips per day.

STRUCTURE. Any walled and roofed building or other physical object, whether temporary or

permanent, that is designed for human habitation or to uphold, house, contain, or bear other objects or materials, including but not limited to buildings, manufactured homes, swimming pools, telecommunications towers, and LPG storage tanks.

STUDIO-ART, DANCE, MARTIAL ARTS, MUSIC, ETC. Small facilities which provide individual and/or group instruction and training in the arts, including the martial arts. This term also includes the processing of photographs produced only by users of the studio facilities, yoga and similar instruction, and aerobics and gymnastics studios with no other fitness facilities or equipment.

SUBDIVISION. All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development whether immediate or future. This term includes all divisions of land involving the dedication of a new street or a change in existing streets and the establishment of condominium buildings or lots, or the creation of condominium spaces within existing buildings or parcels. For the purpose of this chapter, this term does not include minor boundary line adjustments as previously defined.

SUBDIVISION, MAJOR. Any subdivision not meeting the definition of a minor subdivision as listed below.

SUBDIVISION, MINOR. The subdivision of five acres or less into five or fewer lots and involving no new public or private streets or roads, right-of-way dedication, easements or utility extensions. Also includes the combination and recombination of existing lots.

SURFACE WATER. Any body of water, perennial or intermittent stream (including any "blue line stream" as indicated on a United States Geological Survey Topographical Map), river, brook, wetland as identified by means of the Cowardin wetland classification system or other appropriate classification system as employed by agencies of the United States or the State of North Carolina), swamp, pond, lake, branch, creek, reservoir, waterway, or other body or accumulation of water, whether surface or temporarily underground by means of a man-made conveyance, public or private, permanent or intermittent, or natural or artificial, that is contained in, flows through, or borders upon any portion of the Town of Franklin and its extra-territorial jurisdiction.

TEMPORARY STRUCTURE. A structure intended to serve a specific event and to be removed

upon the completion of that event. This term includes, but is not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, platforms, and other impermanent devices, which do not involve grading or land form alteration for installation, and which are not permanently affixed to the ground.

TEMPORARY USE. An activity or use of land which, having met certain requirements and conditions, may be permitted for a period of limited duration, and which may utilize “temporary structures” for the duration of the event.

THEATER. A specialized theater for showing movies or motion pictures on a projection screen. This category also includes cineplexes and megaplexes, complex structures with multiple movie theaters, each theater capable of an independent performance.

TOWER. Any tower or structure, including those erected for the purpose of transmitting or receiving signals (i.e., telephonic, radio, television or microwave), and including the construction of new free-standing facilities or facilities that extend more than 20 feet above the normal height of the building or structure on which they are placed. The following shall not be included in this definition:

- (1) Amateur radio facilities with antennas mounted on supporting structures less than 100 feet in height;
- (2) Residential antennas for receiving television or AM/FM radio broadcasts;
- (3) Residential satellite dishes; and
- (4) Commercial or industrial satellite dishes that are less than 20 feet in height.

VARIANCE. A grant of relief from the requirements of this chapter.

WAREHOUSE. Facilities for the storage of furniture, household goods, or other commercial goods of any nature. This term includes cold storage but does not include the following: warehouse, storage, or mini-storage facilities offered for rent or lease to the general public; warehouse facilities primarily used for wholesaling and distribution; or terminal facilities for handling freight.

WHOLESALE SALES. Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Examples of these establishments include, without limitation, the following:

- (1) Agents, merchandise or commodity brokers, and commission merchants;
- (2) Assemblers, buyers and associations engaged in the cooperative marketing of farm products;
- (3) Merchant wholesalers; and
- (4) Stores primarily selling electrical plumbing, heating, and air conditioning supplies and equipment.

YARD. A space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings and structures are expressly permitted.

YARD, FRONT. A yard situated between the front building line and the front lot line extending the full width of the lot.

YARD, REAR. A yard situated between the rear building line and the rear lot line extending the full width of the lot.

YARD, SIDE. A yard situated between a side building line and side lot line and extending from the required front yard to the required rear yard. In determining the situation of accessory structures, the side yard shall be assumed to extend through the rear yard to the rear lot line.

ZONING DISTRICT. The term applied to various geographical areas of the Town of Franklin for the purpose of interpreting the provisions of this chapter. The districts are designated with the use of symbols on the official zoning map. Regulations controlling land use in the various districts within the Town of Franklin are set forth in §§ 152.020 - 152.041. The terms “district” and “zoning district” are synonymous and are used interchangeably throughout this chapter.

(Ord. passed 10-1-07; Am. Ord. passed 10-20-08; Am. Ord. passed 5-5-14; Am. Ord. passed 6-2-14)

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*ZONING DISTRICT DIMENSIONAL AND USE
REQUIREMENTS*

§ 152.020 R-1 RESIDENTIAL.

The R-1 Residential Zoning District Classification is established to provide areas for medium-density, single-family residential uses, where adequate water and sewer facilities are available to serve the development. Low-density single-family residential uses are allowed where water and/or sewer facilities are not available; consequently, the minimum lot sizes shall be increased and the density shall be reduced to accommodate the larger lot sizes that may be required by the Macon County Department of Public Health.

(A) *Dimensional requirements.*

Minimum lot size, single-family (sq. ft.):

10,000

Minimum lot size, two-family (sq. ft.):

15,000

Minimum setbacks (feet): front: 25

side: 10

rear: 15

Maximum building height (feet): 35

Maximum gross floor area (sq. ft.): no
restrictions

Minimum open space (% of site): 40 (not
applicable to single-family and
two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the R-1 Residential Zoning District Classification provided they meet all requirements of this section and all other requirements established in this ordinance. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

- (1) Accessory uses and/or structures
- (2) Accessory dwelling units (SR)
- (3) Adult day care homes
- (4) Agriculture
- (5) Bed and breakfast facilities (SR)
- (6) Cemeteries
- (7) Child care homes

(8) Child day care centers (SR)

(Ord. passed 10-1-07)

(9) Home occupations (SR)

(10) Minor planned residential developments, subject to the requirements of §§ 152.050 - 152.062, herein.

(11) Modular homes

(12) Places of worship

(13) Public parks, including greenways

(14) Public utility facilities (SR)

(15) Residences, single-family

(16) Residences, two-family

(17) Schools, elementary and secondary (SR)

(C) *Special uses.* The following use shall be permitted in the R-1 Residential District Classification only upon issuance of a special use permit pursuant to §§ 152.050 - 152.062, below.

Adaptive reuses (SR)

§ 152.021 R-1SU RESIDENTIAL SPECIAL USE.

The purpose and dimensional requirements of this zoning district classification are identical to the R-1 Residential Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.020(B) are permissible uses in the R-1SU Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053.

(Ord. passed 10-1-07)

§ 152.022 R-2 RESIDENTIAL.

The R-2 Residential Zoning District Classification is established to provide areas for medium- to high-medium density, for single- and multi-family residential uses, with a maximum density of eight dwelling units per acre, where adequate water and sewer facilities are available to serve the development. Housing types allowed include single-family, two-family, multi-family and individual

manufactured homes, and manufactured home parks. Where water and/or sewer facilities are not available; consequently, the minimum lot sizes shall be increased and the density shall be reduced to accommodate the larger lot sizes that may be required by the Macon County Department of Public Health.

The purpose and dimensional requirements of this zoning district classification are identical to the R-2 Residential Zoning District Classification except

(A) *Dimensional requirements.*

- (1) Minimum lot size, single-family (sq. ft.):
8,000
- (2) Minimum lot size, two-family (sq. ft.):
12,000
- (3) Minimum setbacks (feet): front: 25
side:
10
rear:
15
- (4) Maximum building height (feet): 35
- (5) Maximum gross floor area (sq. ft.): no restrictions
- (6) Minimum open space (% of site): 40
(Not applicable to single-family and two-family residences.)

(B) *Permitted uses.*

(1) The following uses are permitted by right in the R-2 Residential Zoning District Classification provided they meet all requirements of this section and all other requirements established in this ordinance. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(2) All permitted uses listed in the R-1 Residential Zoning District Classification, subject to special requirements if noted. Manufactured homes, individual, limited to one home per lot.

(C) *Special uses.* The following use shall be permitted in the R-2 Multi-Family Residential District Classification only upon issuance of a special use permit pursuant to §§ 152.050 - 152.062, below.

Adaptive reuses (SR)

(Ord. passed 10-1-07)

§ 152.023 R-2SU RESIDENTIAL SPECIAL USE.

that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.022(B) are permissible uses in the R-1SU Residential Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053.

(Ord. passed 10-1-07)

§ 152.024 C-1 CENTRAL COMMERCIAL.

The C-1 Central Commercial District is established to recognize the existing historic role and heritage of Franklin’s downtown area, and to promote its preservation, redevelopment and expansion. Further, this district provides concentrated retail, service, office, civic uses, places of worship, residences, and other compatible uses of land.

(A) *Dimensional requirements.*

Maximum setback (feet): front 0
side: 0
rear: 0
Minimum lot/parcel size (sq. ft.): no
restrictions

Minimum setbacks (feet): front:0
Maximum building height (feet): 65
Maximum gross floor area (sq. ft.): 30,000

(B) *Permitted uses.* The following uses are permitted by right in the C-1 Central Commercial Zoning District Classification provided they meet all requirements of this section and all other requirements established in this ordinance. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

- (1) All permitted uses listed in the R-1 Residential Zoning District Classification, subject to special requirements if noted.
- (2) Adult day care centers registered with the North Carolina Department of Health and Human Services.
- (3) Bed and breakfast facilities.
- (4) Brewpubs.
- (5) Cemeteries.
- (6) Civic centers and cultural art facilities.

- (7) Civic clubs and fraternal organizations.
- (8) Dance and fitness facilities.
- (9) Dry cleaning and laundry establishments.
- (10) Funeral homes and crematoria.
- (11) Home occupations.
- (12) Hotels and motels.
- (13) Laundries, coin-operated.
- (14) Live/work or mixed use buildings in which any of the business uses described in this subsection occur on the first floor and residential uses occur behind or on upper floors.
- (15) Music and art studios and galleries.
- (16) Newspaper offices and printing establishments.
- (17) Offices, professional, governmental and financial, including banks.
- (18) Parking lots and garages.
- (19) Parking lots and structures.
- (20) Places of worship.
- (21) Private clubs (SR).
- (22) Public and semi-public uses such as libraries, museums and galleries.
- (23) Public utility facilities.
- (24) Recreational facilities, indoor.
- (25) Repair services.
- (26) Restaurants.
- (27) Retail sales.
- (28) Schools, business, technical and vocational.
- (29) Service stations.
- (30) Services, personal, business and repair.

- (31) Theaters.
- (32) Transit facilities.
- (33) Wholesale sales.

(C) *Prohibited uses.* No non-residential development or redevelopment exceeding 30,000 square feet in gross floor area shall be permitted in the C-1 Central Commercial Zoning District Classification.

(D) *Streetscape design.* The relationship between a building and areas for pedestrian or vehicular circulation shall be carefully planned in order to avoid negative impacts of one upon the other. All buildings and uses developed in this zoning district classification shall meet the following minimum standards; provided, however, buildings undergoing renovation and rehabilitation, in which the footprint of existing structures is not being increased or altered, may be exempted from regulations regarding street walls and urban open spaces if site conditions make compliance therewith impractical.

- (1) *Street walls.*

(a) The first floors of all buildings, including structured parking, shall be designed to encourage and complement pedestrian-scale interest and activity. To the extent practicable, in consideration of the nature of the uses proposed, this is to be accomplished in part by the use of transparent windows and doors arranged so that the uses are visible from and/or accessible to the street on the first floor street frontage. In addition a combination of design elements shall be used on the building facade and/or in relationship to the building at street level to animate and enliven the streetscape. These design elements may include, but are not limited to, the following: ornamentation, molding, changes in material or color, architectural lighting, works of art, fountains and pools, street furniture, landscaping and garden areas, and display areas.

(b) Any design elements which extend into the public right-of-way on city or state maintained streets require an encroachment agreement with the Town of Franklin or the North Carolina Department of Transportation (NCDOT), as appropriate. Where expanses of blank wall are necessary, they may not exceed 20 feet in length. A blank wall is a facade which does not add to the character of the streetscape and does not contain transparent windows or doors or sufficient ornamentation, decoration or articulation as listed in the above paragraph. The first floor and street level

shall be designed with attention to adjacent public or private open spaces and existing streetscape improvements. The provision of multiple entrances from the public sidewalk or open spaces is encouraged.

(2) *Structured parking facilities.* In addition to the above requirements, in the event that any openings for ventilation, service, or emergency access are located at the first floor level in the building facade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances shall be designed to minimize visibility of parked cars. The remainder of the street level frontage shall be either commercial space or an architecturally articulated facade designed to minimize the visibility of parked cars. All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement. The design requirements of this section apply to all building facades which are visible from any public right-of-way.

(3) *Screening.* All structures and facilities for trash, loading, outdoor equipment, and storage, including the storage of inventory, shall be screened so as not to be visible from the street and pedestrian circulation areas. Solid walls shall be faced with brick, stone or other decorative finish with the decorative side adjacent to the public right-of-way. Fences shall be opaque and either painted or stained with the decorative side adjacent to the public right-of-way. In no instance will a chain link or barbed wire fence be acceptable. Trees used to fulfill this requirement shall be located on private property in planters, a planting strip, berm or tree lawn, any of which shall be at least eight feet wide and at least two feet deep. The trees shall be of a small maturing evergreen variety and be at least ten feet tall at the time of planting. All shrubs shall be between 24 inches and 36 inches tall at time of planting. All plant material shall conform with the American Standard for Nursery Stock published by the American Association of Nurserymen. Trees employed to meet the screening requirement may not be counted toward the street tree planting or urban open space tree requirements. Any lot which becomes vacant through the removal of a structure for any reason shall be screened from all abutting public street rights-of-way in accordance with the provisions of this section or cleared of rubbish and debris and seeded with grass. However, if the lot is to be used for parking either as a transitional or permanent use, it shall meet all the minimum requirements for that use as established by this

chapter. Maintenance of screening required under these provisions shall conform to the requirements of §§ 152.170 - 152.179, including the requirement to promptly replace dead vegetation with healthy, living plantings.

(4) *Street trees.* In addition to all other requirements of this section, at least one tree with three to three and one-half inches caliper, minimum, measured 6 inches above ground, shall be planted for each 25 feet for small maturing trees and for each 35 feet for large maturing trees of the entire building lot which abuts any public street right-of-way with a minimum of one tree required for any distance up to 35 feet. Trees shall not be planted closer than two feet, nor more than ten feet, from the back of the curb. For the purposes of this section, all specifications for measurement and quality of trees shall be in accordance with the American Standard for Nursery Stock published by the American Association of Nurserymen. All trees planted to meet this requirement shall be well-matched specimen grade and shall be limbed up six feet. Trees used to fulfill this requirement may be located on public or private property. Maintenance of street trees required under these provisions shall conform to the requirements of §§ 152.170 - 152.179, including the requirement to promptly replace dead vegetation with healthy, living plantings.

(5) *Reflective surfaces.* No development subject to these provisions may have exterior walls with a reflectivity value in excess of 36%, as measured under the applicable provisions of ASTM-C-1036. No reflective surfaces may be used on street level exterior facades.

(6) *Urban open spaces.* On parcels of ten acres or more, open spaces for public congregation and recreational opportunities are required for non-residential developments and shall be equipped or designed to allow pedestrian seating and to be easily observed from the street or pedestrian circulation areas. All urban open spaces shall comply with the minimum required design standards of this subchapter.

(a) *Urban open space size.* Buildings shall be provided with public open space behind the required setback and on private property on the basis of five square feet of urban open space per 100 square feet of gross floor area. A maximum of 30% of this required urban open space may be provided on an enclosed ground floor level provided the enclosed space meets all other requirements of these provisions.

(b) *Accessibility to the street.* Urban open space shall be designed so that it is accessible to and visible from the street.

(c) *Trees.* Within the open space area(s), one tree shall be planted for each 500 square feet. Trees shall have a minimum caliper of three to three and one-half inches measured six inches above ground at the time of planting.

(d) *Amenities.* The following amenities are permitted within an urban open space area: ornamental fountains, stairways, seating, waterfalls, sculptures, arbors, trellises, plant beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, and similar structures.

(e) *Maintenance.* The building owner, lessee, management entity or authorized agent are jointly and severally responsible for the maintenance of the urban open space area including litter control and care and the replacement of trees and shrubs, as required herein.

(f) *Utilities.* All utilities service lines and connections shall be underground.

(g) *Exceptions for single-family and two-family residences.* Single-family and two-family residential dwellings shall not be required to comply with the streetscape design regulations contained herein. (Ord. passed 10-1-07; Am. Ord. passed 10-20-08; Am. Ord. passed 6-2-14)

§ 152.025 C-1SU CENTRAL COMMERCIAL SPECIAL USE.

The purpose and requirements of this zoning district classification are identical to the C-1 Central Commercial Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.024(B) are permissible uses in the C-1SU Central Commercial Special Use Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053. Residences, multi-family dwellings and apartments is also a permissible use in the C-1SU Central Commercial Special Use Zoning District Classification, and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053. (Ord. passed 10-1-07; Am. Ord. passed 3-3-14)

§ 152.026 C-2 SECONDARY COMMERCIAL.

The C-2 Secondary Commercial Zoning District Classification is established to provide for general commercial activities, for those uses requiring easy vehicular access, circulation and parking, and larger lot areas than found in the C-1 Commercial District described above. This district promotes a broad range of commercial operations and services necessary for the operation of the town and surrounding areas.

Light manufacturing is allowed, but heavy manufacturing is not.

(A) *Dimensional requirements.*

Minimum lot/parcel size (sq. ft.): 8,000

Minimum lot size, two-family (sq. ft.): 12,000

Minimum setbacks (feet): front: 10
side: 10
rear: 10

Maximum building height (feet): 65

Maximum gross floor area (sq. ft.): 30,000

Minimum open space (% of site): 10 (Not applicable to single-family and two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the C-2 Secondary Commercial Zoning District Classification provided they meet all requirements of this section and all other requirements established in this subchapter. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

- (1) All permitted uses listed in the C-1 Central Commercial Zoning District Classification, subject to special requirements if noted.
- (2) Animal boarding facilities (SR).
- (3) Animal hospitals and clinics.
- (4) Assisted living facilities(SR).
- (5) Automobile car washes.
- (6) Automobile sales and service.
- (7) Bus stations.
- (8) Communication services.
- (9) Construction trade facilities.

(10) Farm and construction equipment sales and
service.
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- (11) Golf courses. special use permit issued pursuant to § 152.053. Residences,
- (12) Golf driving ranges (SR).
- (13) Greenhouse and plant nurseries.
- (14) Laundries, coin-operated.
- (15) Lawn and garden centers.
- (16) Manufacturing facilities, light.
- (17) Medical clinics less than 10,000 square fee.
- (18) Microbreweries.
- (19) Mini-warehouses (SR).
- (20) Recreational facilities, outdoor.
- (21) Residences, multi-family dwelling and apartments fewer than ten units.
- (22) Shelter facilities (SR).
- (23) U.S. Post Office and parcel delivery services.
- (24) Vehicle repair.
- (25) Wholesale sales, distribution and warehousing.

(C) *Prohibited uses.* No non-residential development or redevelopment exceeding 30,000 square feet in gross floor area shall be permitted in the C-2 Secondary Commercial Zoning District Classification.
 (Ord. passed 10-1-07; Am. Ord. passed 10-20-08; Am. Ord. passed 3-3-14; Am. Ord. passed 6-2-14)

§ 152.027 C-2SU SECONDARY COMMERCIAL SPECIAL USE.

The purpose and requirements of this zoning district classification are identical to the C-2 Secondary Commercial Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.026(B) are permissible uses in the C-2SU Central Commercial Special Use Zoning District Classification and shall only be permitted by the terms of a

multi-family dwellings and apartments of ten or more units is also a permissible use in the C-2SU Central Commercial Special Use Zoning District Classification, and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053. A major RPD Planned Residential Development as defined in § 152.039 is also a permissible use in the C-2SU Central Commercial Special Use Zoning District Classification, and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053, subject to compliance with all specifications for a PRD Planned Residential Development described in § 152.057. (Ord. passed 10-1-07; Am. Ord. passed 3-3-14)

§ 152.028 C-3 HIGHWAY COMMERCIAL.

The C-3 Highway Commercial Zoning District Classification is established to provide areas accommodating all uses stated in the C-2 Secondary Commercial District above plus the following: uses requiring ready access to a thoroughfare, uses requiring larger parcels for larger buildings, sales lots, storage, and parking. Residential and service uses are explicitly allowed.

(A) *Dimensional requirements.*

Minimum lot/parcel size (sq. ft.): 15,000

Minimum lot size, two-family (sq. ft.):

22,500

Minimum setbacks (feet): front: 10

side: 10

rear: 10

Maximum building height (feet): 65

Maximum gross floor area (sq. ft.): 30,000

Minimum open space (% of site): 10 (not applicable to single-family and two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the C-3 Highway Commercial Zoning District Classification provided they meet all requirements of this section and all other requirements established in this chapter. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(1) All permitted uses listed in the C-2 Secondary Commercial Zoning District Classification, subject to special requirements if noted.

(2) Electronic machines and devices for sweepstakes.

§ 152.032 NMU NEIGHBORHOOD MIXED USE.

The Neighborhood Mixed Use Zoning District Classification is primarily intended to provide suitable locations for limited, neighborhood-oriented, commercial, business and service activities in close proximity to major residential neighborhoods. The district is designed to allow for a mix of residential, commercial, business and service uses in limited areas along major traffic arteries and at key intersections leading to residential neighborhoods in order to provide services to the residents of that particular neighborhood. The types of uses allowed and the standards established for development in this district should be compatible with the residential character of the area, and the uses should not cause traffic congestion, cause obnoxious noise, dust, odors, fire hazards or lighting objectionable to surrounding residences, nor visually detract from the overall appearance of the neighborhood.

- (4) Newspaper offices and printing establishments.
- (5) Offices, financial, governmental, medical, and professional.
- (6) Restaurants, limited (SR).

(A) *Dimensional requirements.*

- Minimum lot/parcel size (sq. ft.): 8,000
- Minimum lot size, two-family (sq. ft.): 12,000
- Minimum setbacks (feet): front: 10
side: 10
rear: 10
- Maximum building height (feet): 25
- Maximum footprint (sq. ft.): 5,000
- Minimum open space (% of site): 20 (not applicable to single-family and two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the NMU Neighborhood Mixed Use Zoning District Classification provided they meet all requirements of this section and all other requirements established in this chapter. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

- (1) All permitted uses listed in the R-1 Residential Zoning District Classification, subject to special requirements if noted.
- (2) Grocery and convenience stores without petroleum dispensing, subject to the requirement that such stores shall not operate prior to 7:00 a.m. nor later than 9:00 p.m.
- (3) Music and art studios and galleries.

(7) Retail sales, limited.

related to the business within principal buildings.

(8) Services, personal.

(C) *Prohibited uses.* No non-residential development or redevelopment exceeding 30,000 square feet in gross floor area shall be permitted in the NMU Neighborhood Mixed Use Zoning District Classification.

(D) *Design and appearance standards.* All development regulated by this chapter within the Neighborhood Mixed Use District shall conform to the following design and appearance standards.

(1) *Outdoor lighting.* Outdoor lighting fixtures shall be designed and located so as to prevent light from shining directly on vehicular traffic or adjoining property.

(2) *Landscaping.* A minimum of 20% of the lot area, excluding paved or unpaved parking areas, shall be reserved and developed only for landscaping. The landscaping may include existing vegetation. The property owner shall be responsible for the maintenance of the landscaping and the replacement of all dead plant material. Street trees shall be incorporated in the landscaping for property abutting public rights-of-way. The trees shall be deciduous and be maintained, and all dead materials shall be replaced by the next growing season.

(3) *Design.* All new construction and renovation within an NMU Neighborhood Mixed Use District is encouraged to conform to the following standards:

(a) Where possible, the project should use indigenous materials of the region, including stone and wood;

(b) Buildings, structures and grounds shall be designed using materials, finishes and proportions in a manner which will produce a coordinated appearance with adjacent properties.

(4) *Off-street parking.* Adequate off-street parking in accordance with § 152.095, herein, shall be provided.

(5) *Signage.* Signs shall be in compliance with the Residential District sign regulations contained in the Town of Franklin Sign Regulations.

(6) *Storage.* Any establishment operating in this district shall maintain and/or store all equipment or goods

(7) Drive-through service. No development shall provide drive-in or drive-through service. (Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.033 NMUSU NEIGHBORHOOD MIXED USE SPECIAL USE.

The purpose and requirements of this zoning district classification are identical to the NMU Neighborhood Mixed Use Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.032(B) are permissible uses in the NMU Neighborhood Mixed Use Special Use Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to § 152.053.

(Ord. passed 10-1-07)

§ 152.034 MICR MEDICAL INSTITUTIONAL CULTURAL RESIDENTIAL.

The MICR Medical Institutional Cultural Residential District is to establish and provide for a mix of medical,

institutional, cultural and residential uses, while maintaining compatibility with surrounding uses of land.

(A) *Dimensional requirements.*

Minimum lot/parcel size (sq. ft.): 8,000

Minimum lot size, two-family (sq. ft.):
12,000

Minimum setbacks (feet): front: 10

side: 10

rear: 10

Maximum building height (feet): 65

Maximum gross floor area (sq. ft.): 30,000

Minimum open space (% of site): 10 (not applicable to single-family and two-family residences.)

(B) *Permitted uses.* The following uses are permitted by right in the MICR Medical Institutional Cultural Residential Zoning District Classification provided they meet all requirements of this section and all other requirements established in this chapter. A use followed by the notation (SR) is permitted subject to special requirements contained in §§ 152.120 - 152.123, below.

(1) All permitted uses listed in the R-1 Residential Zoning District Classification, subject to special requirements if noted.

- (2) Assisted living facilities (SR).
- (3) Civic centers and cultural art facilities.
- (4) Community colleges.
- (5) Funeral homes and crematoria Hospitals and clinics.
- (6) Music and art studios and galleries.
- (7) Offices, professional, governmental and financial.
- (8) Parking lots and garages.
- (9) Restaurants (SR).
- (10) Retail sales, medically-oriented.
- (11) Schools business, technical and vocational.
- (12) Services, personal.

(C) *Prohibited uses.* No non-residential development or redevelopment exceeding 30,000 square feet in gross floor area shall be permitted in the MICR Medical Institutional Cultural Residential Zoning District Classification. (Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.035 MICRSU MEDICAL INSTITUTIONAL CULTURAL RESIDENTIAL SPECIAL USE.

The purpose and requirements of this zoning district classification are identical to the Medical Institutional Cultural Residential Zoning District Classification except that a special use permit, as provided for in §§ 152.050 - 152.062, herein, is required as a prerequisite to any use or development. The permitted uses contained in § 152.034(B) are permissible uses in the MICRSU Medical Institutional Cultural Residential Special Use Zoning District Classification and shall only be permitted by the terms of a special use permit issued pursuant to §§ 152.050 - 152.062. (Ord. passed 10-1-07)

§ 152.036 EC ENTRY CORRIDOR OVERLAY.

This zoning district classification is established to provide development standards for particular roadway corridor areas which are in addition to those provided by the other zoning districts established by this chapter. The purpose for establishing this entry corridor overlay district is first, to recognize the importance that different roadway corridors play in defining the town's character as entryways and, second, to protect and preserve both the aesthetics of these important roadways and their traffic-handling capabilities, thereby contributing to the general welfare of the Town of Franklin.

(A) *Dimensional requirements.* Same as for the underlying district(s).

(B) *Permitted uses.* Same as for the underlying district(s).

(C) *Special uses.* Same as for the underlying district(s).

(D) *Prohibited uses.* Same as for the underlying district(s).

(E) *Development standards.* Dimensional requirements and all other development standards shall be the same as for underlying zoning district(s) except as modified herein.

(1) *Setbacks.* Setbacks shall be the same as for the underlying zoning district; provided, however, one or more principal structures may be authorized within the setback under the following circumstances:

(a) Such principal structure(s) is not situated within 10 feet of the projected right-of-way line of an entry corridor roadway;

(b) Parking for the site is placed to the side or rear of such structure(s) so that it is screened from view from the entry corridor by means of such structure(s) and landscaping, as necessary.

(c) When siting principal structures within the setback, the developer is encouraged to design the site, including any proposed structures, in such a way as to protect and preserve the aesthetics of the entry corridor, thereby furthering the purpose of this section.

(2) *Thoroughfare protection.* No improvements other than driveways, sidewalks, parking and landscaping shall be permitted within the limits of projected rights-of-way as specified in the Official Thoroughfare Plan.

(3) *Driveways.* Driveways serving a development parcel shall be permitted in accordance with the standards of the NCDOT; provided, however, a development parcel shall be limited to no more than two driveways on any road and no more than three driveways total. Additional driveways may be permitted when they are necessary to improve traffic movement, increase sight distances or for other safety reasons. Developers are encouraged to share parking areas and driveways with adjoining developments. No landscaping or structures of any kind shall be required or allowed to be placed near the intersections of driveways and streets that would impede safe vision of traffic.

(4) *Outdoor storage.* Outdoor storage shall be screened from view so that it is not visible from a roadway or adjacent properties. Provided, however, this section shall not apply to the outdoor display of goods for sale.

(5) *Lighting.* Lighting for the site shall be designed and installed so that it is directed away from the roadway and any adjacent properties and does not interfere with the safe use of public rights-of-way.

(6) *Signs.* Signs shall be governed by the regulations contained in the sign regulations of the town except as modified below:

(a) *Outdoor advertising signs.* Outdoor advertising signs, commonly known as billboards, are prohibited.

(b) *Freestanding signs.* Each development parcel may include no more than one freestanding sign, which shall not exceed 70 square feet in size and 18 feet in height, measured from street grade, for each thoroughfare on which the site has driveway access. For purposes of this subsection, a development parcel shall include all out parcels associated with shopping centers and other multiple-business development sites.

(c) *Business identification signs.* Each business on a development parcel shall be entitled to install one or more business identification signs on the premises where the business is located so long as the total amount of such signage does not exceed one square foot for each linear foot of the

front facade for that business, or 250 square feet, whichever is less. Such signs may be placed on the front wall of the business or on awnings, canopies or marquees attached to or closely associated with such facade. Any additional facade which has a door designed and used for public access may contain a business identification sign so long as the total amount of such signage does not exceed one square foot for each three linear feet of such facade frontage for that business, or 250 square feet, whichever is less. Also, in shopping centers, one suspended sign may be incorporated per business, which sign shall not exceed three square feet per face per sign.

(7) *Parking.* In consideration of the goals of this section and the increased landscaping requirements contained herein, the off-street parking requirements contained in § 152.093(E) may be reduced, at the discretion of the developer, by up to 20%.

(8) *Street trees.*

(a) Street trees shall be required at the rate of one large-maturing tree (35 feet in height) for every 50 linear feet of property abutting a street, or one small-maturing tree (25 feet in height) for every 40 linear feet of property abutting a street if overhead utility lines are present. Trees do not need to be spaced evenly. They may be clustered with a minimum spacing of 15 feet and a maximum spacing of 75 feet. Street trees shall be placed in a planting strip on private property and not within the street right-of-way.

(b) No street tree can be planted farther than 35 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary, but the minimum width cannot be less than seven feet and the average width shall be at least ten feet. The planting area must be covered with living material, including ground cover and/or shrubs, except for mulched areas directly around trees and shrubs, so that no soil is exposed. When a sidewalk is proposed to be constructed on a development site and right-of-way configuration requires that it be constructed on the developer's property, the width of the planting strip may be reduced to an average of seven feet. During the development review process, the approving authority for the town may permit minor deviations in the placement of trees in order to avoid conflict with utility structures and utility lines.

(c) Existing vegetation on a development parcel may count toward meeting the requirements of this section when such is in good condition and helps to further the purpose of the district.

(9) *Exceptions.*

(a) Single-family and two-family residential dwellings shall be required to comply with the provisions of (E)(1) through (E)(4), above, but they shall not be required to comply with the remaining regulations of the EC Entry Corridor Overlay Zoning Classification.

(b) Small lots, defined as lots with less than 100 feet of frontage on an entry corridor roadway or with less than 100 feet of depth, may have site constraints which make strict compliance with the regulations contained in this section a hardship. In such cases, the approving authority for the town may approve deviations from such regulations so long as the plans of development are consistent with the goals and objectives stated herein.

(Ord. passed 10-1-07)

§ 152.037 UV URBAN VILLAGE.

The UV Urban Village Zoning District Classification is intended to create mixed use development that is economically vital, pedestrian-oriented and contributes to the place-making character of the built environment. This classification offers the unique opportunity to provide quality and long-lasting retail, office and residential uses in an organized layout that encourages the full range of access by patrons and users, and offers innovative high-quality design of structures, public amenities and pedestrian facilities. The development and design standards set forth in this section are intended to accomplish the following purposes:

(A) Provide safe and convenient access to shopping and other essential services to pedestrians, bicyclists, transit riders, motorists, and persons with disabilities.

(B) Provide effective traffic flow through access management and improved internal and external connectivity.

(C) Create a built environment that serves to enhance gateway corridors, preserve historic heritage, promote economic development and an improved tax base for the city, and celebrate Franklin's distinction from other towns and cities.

(D) Promote sustainable use of limited land and investment resources through the following means:

(1) Encouraging higher building densities;

(2) Allowing efficient shared parking areas, making cost effective use of existing infrastructure;

(3) Showcasing innovative high-quality development;

(4) Providing adaptive reuse of under-performing retail properties;

(5) Ensuring multi-modal transportation access;

(6) Ensuring internal and external connectedness;

(7) Developing a durable framework of infrastructure and built structures that can accommodate future renovations; and

(8) Re-establishing the public realm, civic pride, and sense of community ownership in new developments.

(E) *Procedure.* The reclassification of property to UV Urban Village shall constitute an amendment of the zoning map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s).

(1) *Pre-application conference.* Every person proposing to apply for creation of a UV Urban Village District is required to meet with the Planning Director prior to the submittal of such application. This conference is intended to provide the applicant with an opportunity to discuss requirements, standards and procedures and to identify and solve potential problems for the proposed application. The applicant shall bring a sketch plan for the project showing, at a minimum, the location, the existing and proposed transportation network, phasing, general development plans and a written synopsis of the development proposal. The pre-application conference shall take place at least one week prior to submitting of an application to create an Urban Village District.

(2) *Application.* Creation of an urban village district shall be initiated by means of an application for rezoning to a UV Urban Village District and, at the same time, for a special use permit specifying the nature of the proposed development. The two applications shall be processed simultaneously in accordance with the provisions of § 152.053, herein. No land development permit shall be issued for any development within a UV Urban Village District except in accordance with an approved special use permit.

(3) *Master plan.*

(a) Applicants for creation of an urban village district project are required to submit a master plan for the entire development that indicates the following:

1. The general street network;
2. The proposed land use configuration within that network;
3. Phasing boundaries if phasing is proposed;
4. The ultimate proposed

residential units and gross square footage of all nonresidential uses) for the entire development and for each phase;

5. A conceptual landscape plan;
6. Proposed setback, height, signage, architectural and other design standards for the overall project and for proposed uses;
7. Building elevations or perspective drawings to demonstrate proposed building character; and
8. A conceptual stormwater plan for the development.

(b) For initiation of this zoning classification, properties may fall under more than one ownership so long as there exist covenants or other legally binding agreements that address cross-access, cross-parking and other similar issues affecting joint operation of the projects.

(c) *Traffic impact analysis.* A traffic impact analysis is required for all urban village projects and shall be submitted with the application to create the urban village.

(d) *Subsequent review.* After the establishment of the urban village district, individual development projects within the district shall be subject to development plan review in accordance with §§ 152.050 - 152.062. In addition to the development plan requirements contained in §§ 152.050 - 152.062, applicants shall comply with the design submittal requirements contained herein.

(e) *Modifications.* Revisions to approved urban village district master plans may be approved by Board of Aldermen or by the Town Administrator, or his or her designee, depending on the type of revisions being requested. The Board of Aldermen shall review any revisions to a master plan that increase the overall development intensity, change the proposed mix of uses by increasing or reducing any use category by 10% or more, or increases maximum building heights from that shown on the approved master plan. Additionally, the Board of Aldermen shall review any revision to a master plan that results in a decrease in the amount of perimeter open space or perimeter parking lot buffering, or in a 25% or greater reduction in the number of proposed blocks from that shown on the approved master plan. For the purpose of determining overall development intensity, one residential unit shall be regarded as the equivalent of 500 square feet of office floor area; one residential

unit shall be regarded as the equivalent of 200 square feet of commercial floor area; and 1,000 square feet of office space shall be regarded as the equivalent of 350 square feet of commercial. For other uses, the Planning Director shall determine the equivalency factor.

(F) *Permitted uses.* Unlike other planned development districts, the application for a special use permit for an urban village district is not required to specify intended uses other than the amount of retail or office space and the number of residential dwelling units. The applicant may, however, choose to limit such uses, to impose restrictions on those which are allowed, and to have such limitations and restrictions incorporated into the special use permit issued for the development. Unless limited as noted above, the following uses are permitted by right in the UV Urban Village Zoning District Classification, provided they meet all requirements of this section and all other relevant requirements of this chapter.

- (1) Accessory dwelling units (SR).
- (2) Accessory uses and structures.
- (3) Adult day care centers registered with the NC Department of Human Resources.
- (4) Adult day care homes.
- (5) Animal hospitals and clinics as long as they contain no outdoor kennels.
- (6) Banks and other financial institutions.
- (7) Bed and breakfast facilities.
- (8) Brewpubs.
- (9) Business services.
- (10) Child care centers (SR).
- (11) Child care homes.
- (12) Civic clubs and fraternal organizations (SR).
- (13) Cultural arts buildings.
- (14) Dance, health and fitness facilities.
- (15) Dry cleaning and laundry establishments containing less than 6,000 sq. ft. of floor area.

(16) Funeral homes.

(17) Governmental buildings.

(18) Home occupations (SR).

(19) Hotels and motels.

(20) Laundries, coin-operated.

(21) Lawn and garden centers.

(22) Live/work or mixed use buildings in which any of the business uses described in this subsection occur on the first floor and residential uses occur on upper floors.

(23) Minor planned residential developments, subject to the requirements of §§ 152.050 - 152.062.

(24) Music and art studios.

(25) Neighborhood community centers.

(26) Newspaper offices and printing establishments.

(27) Offices, business, professional and public.

(28) Parking lots and parking garages.

(29) Parks.

(30) Personal services.

(31) Places of worship.

(32) Public utility facilities (SR).

(33) Recreational facilities, indoors.

(34) Repair services, miscellaneous.

(35) Residential dwellings, single family.

(36) Residential dwellings, multi-family.

(37) Residential dwellings, two-family.

(38) Restaurants.

(39) Retail stores (not including automobile, manufactured home, farm equipment, gasoline, and boat and heavy equipment sales).

(40) Schools, business, technical and vocational.

(41) Schools, elementary and secondary.

(42) Signs.

(43) Theaters, indoors or outdoors but not including drive-in theaters.

(G) *Development standards.* Some development standards for the UV Urban Village District are specified in this chapter. Where no standard is specified, it is incumbent upon the applicant to propose development standards which, if the Board of Aldermen concurs, will be incorporated into the special use permit for the project. The following standards shall apply to development within the UV Urban Village Zoning District Classification.

(1) *Density.* Residential density for an urban village district shall be established by the Board of Aldermen in consideration of surrounding land uses and the existence of adequate public facilities. The maximum density which may be approved shall not be otherwise limited except by other standards such as building height, parking, landscaping and buffering, open space, and traffic impact.

(2) *Structure size.* The maximum size of any structure shall be established by the Board of Aldermen in the special use permit for the project.

(3) *Area.* The minimum area required to establish an urban village district is ten acres.

(4) *Lot size.* There is no minimum lot size required for an urban village district; although, the applicant may specify minimum standards in its development document.

(5) *Lot width.* There is no minimum lot width required.

(6) *Setbacks.* There are no minimum setback requirements within the Urban Village Zoning District Classification; provided, however, setbacks shall be established around the perimeter of the district sufficient to protect adjoining properties from the impacts of proposed development within the district.

(7) *Height.* There are no maximum height restrictions. The applicant shall propose minimum and maximum height restrictions for all building types and locations.

(8) *Design considerations.* Design is critical to the creation of an Urban Village District and to achieving the goals of this classification. The design considerations set forth in this section are

intended in some instances to guide project design and in others to provide specific design requirements, and the text is intended to make this distinction clear. In general, the use of the term "shall" indicates a specific design requirement, whereas the term "should" indicates design guidance. In order to obtain a special use permit to develop an Urban Village, an applicant must demonstrate, among other things, that the design of the proposed development (1) meets the specific standards contained herein, (2) is generally in harmony with the design guidelines contained herein, and (3) will result in a development which is consistent with the purposes set forth herein.

(a) *General site arrangement.* Structures shall be placed and arranged so as not to adversely affect adjacent property. Adverse effects shall include, but are not limited to, the removal of lateral support on adjacent property, the creation of hazard, nuisance, danger, or inconvenience, or unreasonable loss of privacy. Development shall be arranged so as to be visually harmonious within the district. Insofar as is practicable, developments should be arranged so as to preserve or enhance vistas. Urban villages shall be oriented around one or more significant public spaces, such as parks or plazas.

(b) *Physical integration of uses.* All urban villages shall be designed and developed to provide an appropriate interrelationship between the various uses and structures within the development. Residential and commercial uses may be located within the same or adjoining structures.

(c) *Preservation of natural features and open space.* Permitted flexibility in lot sizes, setbacks, street alignments and widths, and landscaping shall be utilized to preserve natural features and drainage patterns and to provide open space.

(d) *Architectural character.* The rich architectural vocabulary of the Town of Franklin presents a wide variety of development opportunities using traditional forms while avoiding any perception of monotony. Each building proposed for an urban village district shall have a well-proportioned form consistent with the building use, and its construction materials. Materials shall be durable, attractive and compatible with the architectural vernacular of the region. Massing of the building(s) shall create a building envelope that reflects simple, clearly articulated building volumes.

(e) *Building orientation.* It is preferred that primary facades face the adjacent

street or significant public space. Apartment buildings and buildings containing commercial or institutional uses shall have a main entrance facing a connecting walkway with a direct, safe, pedestrian connection to the street. Where the main entrance

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does not face the adjacent street, buildings shall nonetheless be designed to provide an attractive streetside facade.

(f) *Building placement.* Buildings shall be situated with regard to pedestrian and vehicular connectivity. Apartment buildings and buildings containing commercial or institutional uses should be located close to the pedestrian street with off-street parking behind and/or beside the building. Important mountain vistas and/or views of significant historic sites should be protected and accentuated.

(g) *Privacy considerations.* Elements of the development plan should be arranged to maximize the opportunity for privacy by the residents of the project and minimize infringement on the privacy of adjoining land uses.

(h) *Architectural details.* Architectural elements like openings, details, bulkheads, posts, and other architectural features shall be used to establish human scale at the street level. On corner lots, the applicant is encouraged to provide a building entry, additional building mass, and distinctive architectural elements at the corner of buildings. Windows, doors, columns, eaves, parapets, and other building components shall be proportional to the overall scale of the building. Windows shall be vertically aligned wherever practical. The appearance of all exposed facades (not just the streetside facade) is important and shall be addressed in development design.

(i) *Building walls.* Buildings shall avoid long, monotonous, uninterrupted walls or roof planes on their visible facades. It is preferred that this design goal be achieved by means of building wall offsets, including projections, recesses, and changes in floor level, and roofline offsets. Such offsets add architectural interest and variety and can assist in creating human size proportions. Parapets shall be designed as integral to the mass of the building. When multiple wall materials are combined on one facade, the designer is encouraged to place the heavier material(s) below.

(j) *Building entrances.* All buildings should include well-defined entrances facing the street at regular intervals. An operable entrance on each primary facade should be provided to encourage access by pedestrians. For buildings on corner lots, an entrance may be placed at the corner, thereby eliminating the need for side entrances.

(k) *Internal access and connectivity.* The site shall be traversed by a network of internal streets built according to city standards. Internal streets should seek to avoid cul-de-sacs and dead

end roads and other features that hamper connectivity. However, roads may terminate at a monumental structure or green space. In such cases a sidewalk or other connection must be provided to ensure the goals of connectivity. In addition, internal streets are also required to have sidewalks and street trees. If a bus line serves, or is expected to serve, the district, a bus shelter is required. Larger projects may require more shelters as determined by traffic impact analysis.

Connectivity is a goal of the internal street system and external connections to areas outside and adjacent to the urban village should be created where possible. Only one driveway per block face is allowed. Detached single-family housing and duplex housing are exempt from the driveway restriction. Parking access from alleyways, however, is encouraged.

(l) *Block length.* Block length may vary but shall not exceed 500 feet in length. For blocks on local streets that are 350 feet or longer, a mid-block pedestrian street crossing is required which may also include a parking lot driveway and/or pedestrian passageway between two or more buildings, and shall have curb extensions (bulb-outs) for ease and safety of pedestrian street crossing. Collector streets may also require mid-block pedestrian crossings as noted above.

(m) *Pedestrian zone and sidewalks.* The pedestrian zone is the area between the street curb and the building edge or, for access roads, the street curb and the right-of-way area. The pedestrian zone includes sidewalks, street trees and other pedestrian amenities. The pedestrian zone will generally be 15 feet wide but may be wider depending on the setback pattern. Sidewalks in urban village districts shall be required along one side of access streets and both sides of internal streets throughout the development. If appropriate to the design of the village, greenway paths may be substituted for sidewalks in residential areas to provide connections. The sidewalk shall be a minimum of seven feet wide in the Urban Village Zoning District Classification. In solely residential areas containing less than eight units per acres, sidewalks are only required to be five feet wide. With institutional and public uses that have an increased setback, a sidewalk shall connect the building facade entrance with the street. The sidewalk may be as wide as the entire pedestrian area. Arcades, awnings, outdoor dining, shelters, seating areas, fountains, street trees, additional landscaped areas and other pedestrian amenities may be a part of this pedestrian area so long as seven feet of clear walking space is maintained. The pedestrian area may also be used to create an area for waiting, pick-up and drop-off. At locations such as

intersections and other crosswalks, curb extensions (bulb-outs) are required to create safer pedestrian crossings.

(n) *Parking/loading standards.* Parking and loading facilities shall be reviewed at the master plan level. The applicant shall demonstrate that the amount of parking proposed is adequate to serve the needs of the district and is located and designed in such a fashion that it does not detract from the overall appearance of the district or unreasonably interfere with pedestrian activity.

1. *Amount of parking.* Owing to the possibilities for shared use of parking, the number of parking spaces in the urban village district should not exceed the minimum parking requirements for the district computed by means of the formulas contained in (D)(8)(n)3.

2. *On-street parking.* On-street parking is required for all local streets and for collector streets and shall count toward meeting parking needs for the district. On-street parking may take the form of parallel or angle parking and shall be built according to city standards.

3. *Off-street parking.* Applicants for rezoning to the UV Urban Village Zoning District Classification shall propose a master parking plan which shall provide sufficient parking for the entire project consistent with requirements of this section. Off-street parking lots are encouraged to be provided at the side or rear of buildings or the interior of a block of buildings and not closer to the street than the edge profile of the structures. No more than 20% of parking that is provided in an urban village district may be in the form of stand-alone surface lots not located to the side or rear of buildings. Off-street parking shall not be adjacent to street intersections. No parking is permitted in any setback area. Individual uses in the urban village district are not required to provide off-street parking or loading.

4. *Loading standards.* Urban village districts may share off-street loading facilities and are therefore allowed to provide these facilities at half the rate listed for the applicable uses. On-street loading spaces may be counted towards the project loading requirements.

(o) *Street trees.* Street trees are required in the pedestrian zone and along access roads at an average of one tree every 30 feet for mid-story and under-story trees, and one tree for every 40 feet for canopy trees. In selecting street trees, priority should be given to long-lived species proven to function well in urban settings with a form

and branching pattern compatible with the space and type of adjacent traffic. Trees may be planted in minimum six-foot by six-foot pits. Tree frames and grates are not required but are recommended especially near store entrances, other sidewalk constraints, points of ingress, egress or public gathering areas. If tree grates are not used, an organic surfacing material shall be used to level the surface of the tree pit with the sidewalk. This material shall receive regular maintenance. To offer flexibility in the tree planting requirement, trees may be planted in planting strips adjacent to the curb edge of the sidewalk. Planting strips shall be no narrower than six feet wide. Planting strips may include grass, flowers and other plant material where appropriate. Planting strips may not be appropriate in pedestrian gathering areas.

(p) *Landscape/buffering standards.* Landscaping and buffering shall be in accordance with §§ 152.170 - 152.179 except as noted herein. Parking lots shall include interior and perimeter tree plantings made up of deciduous trees at a rate of one tree for every 1,500 square feet of vehicular use area. No parking space may be farther than 45 feet from a tree. No shrubs are required for interior plantings for parking lots that are behind, to the side or located at the interior of the block of buildings. Parking areas adjacent to roadways require buffering from the street as specified in §§ 152.170 - 152.179 with the exception that the planting area will be eight feet wide. Stand-alone parking lots shall comply with all applicable landscape and buffering standards except that trees shall be provided at a rate of one tree for every 1,500 square feet of parking and parking spaces shall be no further than 45 feet from a tree. Shrubs are also required as per the regular schedule. Landscaped islands within parking lots should be a minimum of 162 square feet in area with a minimum width of eight feet if they are to include tree plantings. Residential structures within an urban village may have up to a 100% reduction in buffering requirements from the rest of the urban village. Buffering for urban village district projects is measured and reviewed from the parcel lot lines used to establish the district and not on an internal lot by lot basis.

(q) *Open space standards.* Functional open space enhances circulation within a site and contributes to the site's aesthetic qualities. All open space should be designed to be accessible and usable for occupants and invitees of the development. An urban village district shall have an open space ratio of not less than 0.30. Open space includes any portion of the site not covered by a building or vehicular use area and any common space meeting the standards listed in the subsection below.

(r) *Common space standards.* Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects. Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces. Unless interior common space is approved by the reviewing authority, common space shall be out-of-doors. Common space design shall comply with the following:

1. *Size.* At least 10% of the acreage of a site shall be devoted to common space. Common space shall count toward meeting open space requirements for a project.

2. *Trees.* One tree shall be planted for each 500 square feet of common space. Trees shall have a minimum caliper of three to three and one-half inches measured six inches above ground at the time of planting.

3. *Utilities.* All utilities service lines and connections shall be underground.

4. *Seating.* Seating shall be provided to accommodate workers, residents, and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.

5. *Amenities.* Common space for a development shall include two or more of the following amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, public telephones, awnings, canopies, informational kiosks, and similar structures.

(s) *Stormwater treatment.* Applicants shall propose, install and maintain a stormwater treatment system for the district which, at a minimum, meets the requirements contained in §§ 152.190 - 152.199. Applicants are encouraged to utilize best management practices, such as green roofs, stormwater gardens, and the like, to develop a system which treats stormwater efficiently and effectively, and which does not detract from the appearance of the district. (Ord. passed 10-1-07; Am. Ord. passed 10-20-08; Am. Ord. passed 6-2-14)

§ 152.038 TN TRADITIONAL NEIGHBORHOOD OVERLAY.

(A) (1) The Traditional Neighborhood Overlay Zoning District Classification is primarily intended to allow the development of residentially zoned areas as traditional neighborhood developments (“TNDs”) exhibiting the characteristics of TNDs appropriate to their urban context. Thus, the application of this overlay should result in a development utilizing elements appropriate for its relationship to the surrounding and nearby uses and oriented to pedestrians. Pedestrian orientation should be achieved using, among other techniques, the following:

(a) By providing safe walking conditions which can be achieved through: the reduction of street widths and turning ratios from those conventionally utilized, encouraging parking along streets in order to slow traffic and protect pedestrians, providing mostly alley access to uses to reduce vehicular/pedestrian conflicts and bringing dwellings closer to the street;

(b) By providing walking destinations within the typical range of pedestrians in the form of civic buildings and spaces such as parks and limited commercial areas meeting residents’ daily needs; and

(c) By providing enjoyable walking environments, by reducing the amount of parking in the fronts of sites and providing for a streetscape appropriate in scale and design for pedestrian use.

(2) The types of uses allowed and the standards established for development in this zoning classification should be compatible with the residential character of the area, and the uses should not cause traffic congestion, obnoxious noise, dust, odors, fire hazards or lighting objectionable to surrounding residences, nor visually detract from the overall appearance of the neighborhood.

(B) *Application of overlay zone.*

(1) *Area.* In order to achieve the desired intent of the overlay, it shall not be applied to any area less than 20 acres in size unless the applicant can show that the area surrounding the proposed area of application, when taken into account with the proposed area of application, meets the intent of these overlay regulations.

(2) *Density bonus.* When an area qualifies for designation as a Traditional Neighborhood Overlay Zone, then it shall be entitled to residential density equal to the density of the underlying zone

plus 75% if it is within one-half mile walking distance of a business district or 25% if it is not. Commercial uses, including their required on-site parking, shall not exceed 20% of the project area.

(3) *Densities.* The specific residential and commercial densities of the TN zoning district shall be set forth in the regulating plan and neighborhood code submitted as part of the application for the approval of application of the Overlay Zone. The regulating plan shall be a conceptual plan providing for the general location of civic, commercial and residential uses, as well as throughways, alleys and any other significant features of the proposed project. The neighborhood code shall set forth the design and architectural regulations of the project, including without limitation:

(a) The amount of residential and commercial use allowed in the project;

(b) The types of residential, commercial, mixed-use and civic buildings and uses permitted;

(c) The types and dimensions of streets and thoroughfares, together with their turning ratios, sight triangles, parking, street tree and lighting configurations;

(d) The dimensions of permitted buildings, their lot sizes, setbacks, building lines and heights;

(e) Any intrusions permitted in required yards;

(f) The location of required parking areas according to building types as well as landscape and signage elements of the project; and

(g) The architectural standards to be applied within the project.

(4) *Controls.* Subject to any specific standards and limitations set forth in these Traditional Neighborhood Overlay regulations, the approved provisions of the regulating plan and the neighborhood code (to the extent they address the criteria described in this section shall control the project in lieu of the regulations set forth in this chapter).

(5) *Approval.* The provisions of this Overlay Zone shall apply only when specifically approved for a specific property by the Board of Aldermen.

(C) *Use regulations.*

(1) In areas subject to the Traditional Neighborhood Overlay Regulations, no building or land shall be used and no building shall be hereafter erected or structurally altered unless otherwise provided in this chapter except for the following uses and only when complying with all sections of this chapter, including definitions:

(a) Any use permitted in the R-1 Zoning District Classification shall be permitted in the TN Traditional Neighborhood Overlay Zoning District Classifications.

(b) Offices, financial, including banks, governmental, and professional.

(c) Art studios and galleries, craft, antique and book shops.

(d) Services, personal, business, and repair.

(e) Retail sales, including convenience stores without petroleum dispensing.

(f) Live/work or mixed use buildings in which any of the business uses described above occur on the first floor and residential uses occur on upper floors.

(g) Accessory uses and/or structures.

(2) Commercial establishments within this Overlay Zone shall not open to the public before 7:00 a.m. nor remain open to the public after 10:00 p.m. daily. Any establishment operating in this Overlay Zone shall maintain and/or store all equipment or goods related to the business within the principal building except for displays in the front yard or sidewalk that do not interfere with the flow of sidewalk traffic nor endanger the public.

(D) *Dimensional requirements.*

(1) Minimum front yard requirement - 0 feet. The minimum front yard setback from any street shall be measured from the nearest edge of the right-of-way.

(2) Minimum rear yard requirement - 0 feet.

(3) Minimum side yard requirements - two side yards totaling at least ten feet with one side not less than five feet and no buildings closer than ten feet. On all corner lots, the side yard adjacent to the street shall be adequately sized to allow for appropriate traffic sight triangles.

(4) Maximum building height - the greater of three stories (not to exceed 14 feet each, with space within one story able to intrude through other stories) together with a roof of reasonable proportions and an elevation of not more than four feet before the first floor or 35 feet.

(5) Minimum lot size - none.

(6) Setbacks for commercial use properties adjoining residential uses not subject to this Overlay Zone shall provide for a minimum of a ten-foot setback along any side abutting a Residential District in which is located a buffer strip as defined in § 152.175.

(E) *Design and appearance standards.* All development subject to the Overlay Zone shall conform to the following design and appearance standards.

(1) *Outdoor lighting.* Outdoor lighting fixtures other than street lights shall be designed and located so as to prevent material quantities of light from shining directly on vehicular traffic or adjoining property. Lighting shall generally be downward directed or shielded to help protect the night sky.

(2) *Landscaping.* A minimum of 20% of the lot area, excluding paved or unpaved parking areas, shall be reserved and developed only for yard, landscaping, plaza, courtyard patio or similar uses. The landscaping may include existing vegetation. The property owner shall be responsible for the maintenance of the landscaping and the replacement of all dead plant material. Street trees shall be incorporated in the landscaping for property abutting public rights-of-way. The trees shall be deciduous and be maintained, and all dead materials shall be replaced by the next growing season.

(3) *Design.* All new construction and renovation within this Overlay Zone is encouraged to conform to the following standards: where possible, the project should use indigenous materials of the region, including stone and wood. Buildings, structures and grounds shall be designed using materials, finishes and proportions in a manner that will produce a coordinated appearance with adjacent properties.

(4) *Off-street parking.* Adequate off-street parking shall be provided. Residential uses shall meet the same requirements as provided in § 152.093. Business uses shall provide at least one space for each employee, plus one parking space per 200 square feet of business or office floor space. In determining whether a use meets the parking requirements set forth herein, any parking space

located along the street and contiguous to the lot of such use may be counted toward the satisfaction of such use's parking requirements up to one half of such requirements. Spaces that straddle property lines shall count toward the lot fronting the majority of the space unless this would render the other lot without street parking.

(5) *Signage.* Signs shall be in compliance with the Town of Franklin Sign Regulations (Chapter 155) except that commercial uses with their parking behind their building shall be allowed twice the area of signage normally allowed provided not more than one-half of the signage is located at the rear of the building and designed and positioned only to be seen from such parking area. Commercial uses shall be allowed to use the signage permitted for non-residential uses in residential developments, provided that the dimensions of the free-standing sign permitted herein shall be added to those permitted in attached signs and may be utilized in attached signs (perpendicular or parallel to the building) or awning signs. Free-standing, detached signs are not allowed in the Overlay Zone. Temporary sandwich board signs advertising restaurant menus are permitted in the Overlay Zone immediately in front of the restaurant served thereby, provided that they do not interfere with use of the sidewalk nor endanger the public.

(F) *Additional standards.*

(1) *Access.* Alleys can provide the principal means of access to lots fronting streets as well as lots fronting mews or courtyards, provided the mews or courtyard has not less than 20 feet of street frontage.

(2) *Buffers.* No buffers shall be required between commercial and residential properties within the Overlay Zone.

(3) *Roadways.* Street and thoroughfare layout, width and design shall be as approved in the Regulating Plan and Neighborhood Code, provided that where compliance with NCDOT regulations is required for acceptance of a public road by NCDOT and such road is intended to be so dedicated, then such road will be constructed to standards of NCDOT applicable to traditional neighborhood development and to the extent permitted by law will recognize the equal or primary role of the pedestrian.

(4) *Easements.* Easements for utilities for projects within the Overlay Zone shall be located in alleys and within the street right-of-way where practicable and shall be the minimum width practicable for safe and appropriate installation, service, and replacement thereof.

(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)
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§ 152.039 PRD PLANNED RESIDENTIAL DEVELOPMENT.

This classification is designed to accommodate planned residential developments for which a special use permit has been issued in accordance with § 152.053 herein.

Such special use permit is required as a prerequisite to any use or development in the PRD Zoning District Classification, and no use shall be permitted except pursuant to such permit. Such permit shall insure that the proposed use or development is consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting the special use permit for a planned residential district, the Board of Aldermen may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

(A) *Application.* The reclassification of property to PRD Planned Residential Development District, or to the C2-SU Secondary Commercial Special Use Zoning District or C3-SU Highway Commercial Special Use Zoning District for purposes of developing a major planned residential development shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a written contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s). Such amendment shall be initiated by means of an application for rezoning to a PRD planned residential development district or C2-SU Secondary Commercial Special Use Zoning District or C3-SU Highway Commercial Special Use Zoning District and, at the same time, for a special use permit specifying the nature of the proposed development. The two applications shall be in accordance with § 152.053. No permit shall be issued for any development within a PRD planned residential development district or in a C2-SU Secondary Commercial Special Use Zoning District or C3-SU Highway Commercial Special Use Zoning District when the property has been rezoned for purposes of developing a major planned residential development except in accordance with an approved special use permit.

(B) *Permissible uses, subject to issuance of a special use permit.*

- (1) Accessory uses and/or structures.

- (2) Accessory dwelling units (SR).

(3) Adult day care centers registered with the NC Department of Health and Human Services Adult day care homes.

- (4) Agriculture.

- (5) Cemeteries.

- (6) Child care homes.

- (7) Child day care centers (SR).

- (8) Golf courses.

- (9) Golf driving ranges.

- (10) Home occupations (SR).

- (11) Manufactured homes.

- (12) Parks.

- (13) Places of worship.

- (14) Planned residential developments (major).

- (15) Public utility facilities (SR).

- (16) Residential dwellings, multi-family.

- (17) Residential dwellings, single-family.

- (18) Residential dwellings, two-family.

- (19) Schools, elementary and secondary.

(C) *Site requirements.* Planned residential development districts shall have the following site requirements: (1) the total land area of the district shall be at least three acres; and (2) access to the planned residential development shall be by means of a thoroughfare (major or minor) designated as such on the current Franklin Thoroughfare Plan. Alternatively, access may be provided by means of streets other than major or minor thoroughfares when it is clearly demonstrated that the planned residential development will not result in a significant increase in traffic on any such street.

(D) *Density.* The density for a planned residential development shall be established by the Board of Aldermen in consideration of surrounding land uses and the existence of

adequate private and public facilities, including without limitation, water, wastewater, solid waste, stormwater, roads
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and parks, to serve the development. Unless a planned

residential development qualifies for a density bonus as provided in division (E) below, the density authorized for the district shall not exceed ten units per acre.

(E) *Density bonus.* One or more density bonuses, over and above the maximum density specified in division (D) above, may be approved by the Board of Aldermen only upon determining that the proposed planned residential development complies with the general considerations listed therein, as well as the following additional considerations:

(1) *Affordable housing bonus.* A density bonus of four dwelling units per acre may be awarded provided that such additional dwelling units shall be affordable housing as defined by the North Carolina Housing Authority.

(2) *Walkability bonus.* A density bonus of four dwelling units per acre may be awarded for developments which are situated within reasonable walking distance of places of employment and/or shopping facilities and which provide pedestrian amenities in order to foster pedestrian access to such facilities.

(F) *Development standards.* Except as modified herein, all uses and structures in the PRD Zoning District Classification shall meet the development standards for planned residential developments contained in § 152.057, below.

(Ord. passed 10-1-07; Am. Ord. passed 10-20-08; Am. Ord. passed 3-3-14)

§ 152.040 PCD PLANNED COMMERCIAL DEVELOPMENT.

This classification is designed to accommodate the development of shopping centers and retail establishments larger than 30,000 square feet of floor area or which contain commercial uses which are proposed to be developed in conjunction with residential uses. A special use permit, issued in accordance with § 152.053, below, is required as a prerequisite to any use or development in a PCD District, and no use shall be permitted except pursuant to such permit. Such permit shall insure that the proposed use or development is consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting the special use permit for a planned commercial development district, the Board

of Aldermen may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

(A) *Application.* The reclassification of property to PCD Planned Commercial Development shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a written contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s). Such amendment shall be initiated by means of an application for rezoning to a PCD Planned Commercial Development District and, at the same time, for a special use permit specifying the nature of the proposed development. The two applications shall be processed simultaneously in accordance with the provisions of § 152.053. No land development permit shall be issued for any development within a PCD Planned Commercial Development District except in accordance with an approved special use permit.

(B) *Permissible uses, subject to issuance of a special use permit.* A building or land shall be used only for those purposes specified in the special use permit for the project which may include one or more of the following:

- (1) Accessory uses and structures.
- (2) Adult day care centers registered with the NC Department of Health and Human Services.
- (3) Animal boarding facilities.
- (4) Assisted living facilities.
- (5) Automobile car washes.
- (6) Automobile sales and service establishments.
- (7) Banks and other financial institutions.
- (8) Bed and breakfast facilities.
- (9) Brewpubs.
- (10) Business services.
- (11) Child care center (SR).

- (12) Civic clubs and fraternal organizations. commercial.
- (13) Construction trades facilities.
- (14) Dance, health and fitness facilities.
- (15) Dry cleaning and laundry establishments.
- (16) Farm and construction equipment sales and service.
- (17) Food processing establishments.
- (18) Funeral homes and crematoria.
- (19) Golf courses.
- (20) Golf driving ranges.
- (21) Home occupations (SR).
- (22) Hotels and motels.
- (23) Laundries, coin-operated.
- (24) Manufactured homes and recreational vehicle sales.
- (25) Mini-warehouses.
- (26) Music, art studios and galleries.
- (27) Newspaper offices and printing establishments.
- (28) Offices, business, financial, including banks, governmental, and professional.
- (29) Parking lots and parking garages.
- (30) Parks, public, including greenways.
- (31) Personal services.
- (32) Places of worship.
- (33) Planned residential developments.
- (34) Public utility facilities (SR).
- (35) Recreational facilities, indoors.
- (36) Recreational facilities, outdoors,

(37) Repair services, miscellaneous.

(38) Residential dwellings, single-family, two-family and multi-family.

(39) Restaurants.

(40) Restaurants, drive-in.

(41) Retail sales.

(42) Service stations.

(43) Signs

(44) Wholesale sales, distribution and warehousing.

(C) District requirements. Primary vehicular access for a PCD Planned Commercial Development district shall be by means of a major or minor thoroughfare designated as such on the current City Thoroughfare Plan. Alternatively, access may be provided by means of streets other than major or minor thoroughfares when it is clearly demonstrated that the development will not result in a significant increase in traffic on any such street.

(D) Development standards. All uses and structures in the PCD Zoning District Classification shall meet the following development standards:

(1) *Setbacks.* All buildings and structures shall be set back not less than 40 feet from the nearest right-of-way line for any street adjoining the site; provided, however, such setback may be reduced to ten feet when parking is situated to the side or rear of the lot and screened from view from public rights-of-way. Furthermore, such buildings and structures shall be set back not less than 25 feet from any exterior property line, which is not contiguous with a street or other right-of-way.

(2) *Parking, driveways, and loading areas.* Off-street parking, driveways, and loading areas shall be provided as required in §§ 152.090 - 152.105, below, and shall be paved according to the specifications of the NCDOT.

(3) *Buffering and landscaping.* The applicant shall propose, plant, construct, and make satisfactory arrangements for the preservation of a buffer and/or setbacks adequate to protect adjoining properties from the impacts of the proposed development. Such buffers, at a minimum, shall meet the requirements of §§ 152.170 - 152.179. Any part of

the project area not used for buildings or other structures, loading and access ways shall be left in a natural state or landscaped with grass, trees, and shrubs.

(4) *Building height.* The maximum height of any building in the district shall be 48 feet.

(5) *Circulation and access.* Streets, drives and parking areas in a planned commercial development shall provide safe and convenient access to appropriate project facilities. Sidewalks shall be included to provide a logical, safe, and convenient system for pedestrian access to appropriate project facilities. Greenways or pedestrian/bicycle pathways may be substituted for sidewalks, if appropriate. Sidewalks meeting the town's sidewalk standards shall be provided along all public streets and roads in accordance with §§ 152.090 - 152.105.

(6) *Density.* The density for a residential development planned as part of a PCD Planned Commercial Development district shall be established by the Board of Aldermen in consideration of surrounding land uses and the existence of adequate private and public facilities, including, without limitation, water, wastewater, solid waste, stormwater, roads and parks, to serve the development. A planned commercial development may qualify for a density bonus in the manner specified in § 152.039(E). Otherwise, the density authorized for the district shall not exceed ten units per acre. (Ord. passed 10-1-07; Am. Ord. passed 10-20-08; Am. Ord. passed 6-2-14)

§ 152.041 PMH PLANNED MANUFACTURED HOUSING DEVELOPMENT.

This classification is designed to accommodate planned manufactured housing developments for which a special use permit has been issued in accordance with § 152.053, herein. Such special use permit is required as a prerequisite to any use or development in the PMH District, and no use shall be permitted except pursuant to such permit. Such permit shall insure that the proposed use or development is consistent with the requirements of this section and may further specify the timing of development, the location and extent of rights-of-way and other areas to be dedicated for public use, and other such matters as the applicant may propose as conditions upon the request. In granting the special use permit for a planned manufactured housing district, the Board of Aldermen may impose such

additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this chapter are served, public welfare secured and substantial justice done.

(A) *Application.* The reclassification of property to PMH Planned Manufactured Housing District shall constitute an amendment of the Official Zoning Map which may be initiated only by the owner(s) of a legal interest in the affected property, any person(s) having an interest in the property by reason of a written contract with the owner(s), or an agent authorized in writing to act on behalf of the owner(s). Such amendment shall be initiated by means of an application for rezoning to a PMH Planned Manufactured Housing district and, at the same time, for a special use permit specifying the nature of the proposed development. The two applications shall be processed simultaneously in accordance with the provisions of § 152.053. No permit shall be issued for any development within a PMH Planned Manufactured Housing district except in accordance with an approved special use permit. In addition to the requirements for a planned development application contained in §§ 152.120 - 152.123, the application for a special use permit for a planned manufactured housing district shall contain a site plan depicting the location and dimensions of all proposed manufactured home sites.

(B) Permissible uses, subject to issuance of a special use permit. A building or land shall be used only for those purposes specified in the special use permit for the project which may include the following:

- (1) Accessory uses and structures.
- (2) Adult day care centers registered with the NC Department of Human Resources.
- (3) Adult day care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling.
- (4) Child care centers (SR).
- (5) Child care homes so long as the use is clearly incidental to the residential use of the dwelling and does not change the essential residential character of the dwelling.
- (6) Home occupations (SR).
- (7) Manufactured homes.

- (8) Mobile homes. courts, etc.
- (9) Parks, public, including greenways.
- (10) Places of worship.
- (11) Public utility structures (SR).

(C) *District requirements.* A planned manufactured housing district shall be at least three acres in area and shall not exceed 15 acres in area. Any district containing 26 or more sites shall have primary vehicular access to the development by means of a subcollector classification or larger street designated in § 152.098. Primary vehicular access for a planned manufactured housing development of 25 units or less shall be by means of a local classification or larger street as designated in § 152.098. Alternatively, access may be provided by means of streets other than local or subcollector classification when it is clearly demonstrated that the development will not result in a significant increase in traffic on any such street.

(D) *Development standards.* All uses and structures in a PMH district shall meet the following development standards:

(1) *Lot size.* Each manufactured home shall occupy a designated space having at least 4,000 square feet, with a width of at least 40 feet, exclusive of common driveways. No more than one home may be erected or installed on one space.

(2) *Streets.* Each manufactured home space shall abut a street within the park. Said streets shall be graded and surfaced with not less than four inches of crushed stone or other suitable material on a well compacted sub-base to a continuous width of 25 feet, exclusive of required parking spaces. Internal streets and circulation patterns shall be adequate to handle the traffic to be generated by the development.

(3) *Parking.* One off-street parking space with not less than four inches of crushed stone or other suitable material, on a well compacted sub-base, shall be provided for each manufactured home space. The required parking space may be included within the 4,000 square foot minimum lot size for a manufactured home.

(4) *Recreation space.* At least 8% of the total area of a planned manufactured housing district shall be devoted and developed to recreational use by the residents of the district. Such use may include space for community buildings, gardens, outdoor play areas, swimming pools, ball

(5) *Interior setbacks.* Any structure shall be located at least 20 feet from any internal street and at least ten feet from any adjacent space within the district; provided, however, that these interior setbacks shall not apply to storage or other auxiliary structures for the exclusive of a manufactured home.

(6) *Exterior setbacks.* No manufactured home shall be located closer than 30 feet to the exterior boundary of the district or abutting street right-of-way. Buildings used for laundry or recreation purposes shall be located no closer than 40 feet to the exterior boundary or the right-of-way of an abutting street.

(7) *Density.* The overall density of homes within the district shall not exceed eight units per acre.

(8) *Utilities.* Each lot or space shall be equipped with electricity, drinking water, and wastewater disposal facilities.

(9) *Foundations, patios and walkways.* Each home shall be placed on a permanent stand in accordance with standards set by the North Carolina Department of Insurance. Each home shall have an area on site for provision of a

permanent patio or deck adjacent or attached to the permanent stand of at least 180 square feet. A walkway shall be constructed for each lot or space to connect parking spaces to the manufactured home entrance. An attached structure such as an awning, cabana, storage building, carport, windbreak, or porch, which has a floor area larger than 25 square feet and is roofed shall be considered part of the stand for purposes of all setback requirements. The area beneath a home must be fully enclosed with durable skirting within 60 days of placement in the district. As a minimum, such skirting must be a product designed and sold for use as skirting or as approved by the Zoning Administrator.

(10) *Buffers.* The applicant shall propose, plant, construct and make satisfactory arrangements for the preservation of a buffer and/or setbacks adequate to protect adjoining properties from the impacts of the proposed development. Such buffers shall, at a minimum, meet the requirements of §§ 152.170 - 152.179, below.

(11) *Structure height.* No structure in a PMH Planned Manufactured Housing district shall exceed 35 feet in height.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

*DEVELOPMENT REVIEW***§ 152.050 PURPOSE AND STRUCTURE.**

It is the intent of this subchapter to provide the process by which proposed development is reviewed and the standards by which it is to be evaluated. All development shall require prior authorization from the appropriate person or entity. This subchapter establishes two levels of review: (1) development plan review, which applies to most development, subdivisions, and land use activities, is set forth in § 152.052; and (2) special use review, which is designed for development expected to have the greatest impacts, is set forth in § 152.053. The remaining sections of this subchapter contain requirements which apply to one or more of the levels of review.

(Ord. passed 10-1-07)

**§ 152.051 LAND DEVELOPMENT PERMIT
REQUIRED.**

A land development permit, in conformance with the provisions of this subchapter, is required prior to the commencement of any development, subdivision, or land use activity. A land development

permit shall not be issued until development plans and necessary additional information demonstrate full compliance with this subchapter. When a building permit or sign permit is required, such permit shall not be issued prior to issuance of the land development permit required for the development, and such building or sign permit shall comply with the approved land development permit, including all conditions of approval attached thereto. No building or structure for which a land development permit has been issued shall be used or occupied until, after final inspection, a certificate of occupancy has been issued indicating compliance with the provisions of this subchapter and all other state and local laws, including conditions of the land development permit. Review and issuance of land development permits is a function of the Land Use Administrator or his or her designee. (Ord. passed 10-1-07)

§ 152.052 DEVELOPMENT PLAN REVIEW.

(A) Development plan review and approval in accordance with this section is required prior to issuance of a land development permit for any development, subdivision or land use activity except for projects required by this subchapter to undergo special use review pursuant to § 152.053, below. The Land Use Administrator is authorized to relax the submittal requirements for certain development activities described below so long as the purposes and goals of this subchapter are not compromised and so long as such requirements are contained in an administrative order and made readily available to the public. The land use activities for which relaxed submittal requirements are permissible are as follows:

- (1) Development of a single- or two-family dwelling on a zoning lot, or any uses accessory thereto;
- (2) Any commercial, industrial, or institutional development consisting of less than 5,000 square feet of floor area;
- (3) Addition of not more than 15% of previously existing parking spaces, or ten parking spaces, whichever is greater;
- (4) Any sign;
- (5) Any subdivision of a tract of land of five acres or less into five or fewer lots and involving no new public or private streets or roads, right-of-way dedication, easements, or utility extensions.

(B) *Applications.* There are two types of development plan review, preliminary and final, as described below. All applications for development plan approval shall be made to the Land Use Administrator on such forms as he or she may prescribe. Applications shall include, without limitation, the name and address of the applicant, the name and address of the owner of all the property involved, the relationship of the applicant and property owner(s) in connection with the application, and a development plan conforming to the specifications of division (D). If the applicant is other than the record owner of the property, the consent of the record owner to the application shall be noted on the application or in some other fashion acceptable to the Land Use Administrator. The application shall also designate an agent for the project to whom notice may be given by the town. The Land Use Administrator shall prescribe any other material that may reasonably be required to determine compliance with this subchapter and shall require sufficient copies for necessary referrals and records.

(C) *Fees.* A fee shall be paid to the Town of Franklin for each application for development plan approval to cover the costs of advertising and other administrative expenses. Such fee shall be set by a resolution of the Board of Aldermen.

(D) *Review of preliminary development plans.* Preliminary development plan approval is not required under this subchapter. It is recommended for large or complicated projects where the costs of developing detailed final plans can be substantial. It is designed to provide the applicant an opportunity to obtain at a reasonable cost binding authorization to develop property in a certain fashion. Review of preliminary plans is a function of the Land Use Administrator.

- (1) *Processing of applications for preliminary development plan approval.* The Land Use Administrator shall conduct a preliminary review of an application to determine if it is complete, which is to say, all information requested on the application has been provided and the development plan contains all items required by division (D)(2)(a). If the Land Use Administrator determines that an application is incomplete, he or she shall notify the applicant in writing of all deficiencies. Once the Land Use Administrator determines the application to be complete, he or she may request an analysis to be made by qualified representatives of the town and such other agencies or officials as appear appropriate in the circumstances of the case, to determine compliance with applicable provisions of this chapter.

(2) *Contents of preliminary development plan.*

(a) Applicants for developments opting to undergo preliminary development plan review shall, as a part of the application for such development, submit a preliminary development plan which shall show the following:

1. The date of the development plan or submittal, including any revisions thereto.

2. The proposed title of the project and the name of the engineer, architect, landscape architect, planner and/or licensed surveyor; developer; and owner of record.

3. The north arrow point, scale at not greater than one inch equals 40 feet and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property.

4. Location of site by an insert vicinity map at a scale no less than one inch equals 2,000 feet.

5. Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way.

6. Town limits line, and/or extraterritorial jurisdiction boundary, or a note indicating that the project site and any adjoining parcels are totally within or without the town limits.

7. Names of adjacent property owners.

8. Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments.

9. Location of 100-year floodplain and floodway, if applicable. Other significant natural features affecting the site including but not limited to wetlands, major rock outcrops and lakes or streams.

10. The proposed transportation network for the project including, but not limited to, the following:

a. All proposed streets, clearly identified as public or private, with proposed names, pavement widths and rights-of-way;

b. Sight distances for all entrances and exits and their relationship to street

and driveway intersections within a 200-foot radius of the intersection of such entrance and exit with any public right-of-way;

c. All alleys, driveways, and curb cuts;

d. All handicap ramps;

e. Off-street loading and unloading areas;

f. Provisions for off-street parking spaces including calculations indicating the number of parking spaces required and the number provided;

g. Typical cross-sections of public or private streets; and

h. Pedestrian and bicycle facilities.

11. Preliminary utility layout, including location and size of existing and proposed water, sanitary and storm sewer lines.

12. Location and size of all existing and proposed entrances and exits to the site.

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13. Proposed reservations or dedications for parks, playgrounds, school sites and open spaces and a note indicating ownership and maintenance provisions.

14. A survey showing tree line before site preparation with typical species and average diameter of trees indicated.

15. Preliminary landscape plan indicating screening, buffering, street trees, and typical ornamental plantings.*

16. Any garbage disposal facilities.*

17. General location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above lowest ground point of each building.*

18. Notations to include the total project area, proposed lot areas (or individual areas to be owned by a homeowners association), the amount and percentage of the site to be covered by buildings, open space, streets and parking and other facilities.

19. General location, size, height, orientation and appearance of proposed signs.

20. General location of proposed project phasing lines and notation including special conditions pertinent to establishing sales or model units, if applicable.

21. A traffic impact analysis, if one is required by the terms of this chapter, demonstrating the project will comply with the requirements of § 152.060, below.

(b) Items marked with an asterisk are not required for development plan review of subdivisions which are not associated with applications for planned developments or special use permits.

(c) The Land Use Administrator has the authority to waive any application requirement where the type of use or scale of the proposal makes providing that information unnecessary or impractical. The Land Use Administrator may require additional information from the applicant where such is necessary to enable a fully informed decision on the matter.

(3) *Standards for review.* An application for preliminary development plan approval shall not be approved unless the Land Use Administrator determines that the application and preliminary development plan demonstrate compliance with this chapter, including the provisions of § 152.060, below, and other applicable regulations. The Land Use Administrator may impose such reasonable conditions on an approval as will ensure such compliance with this subchapter.

(4) *Review by Board of Aldermen.* Within 15 days of the date of the rendition of a decision of the Land Use Administrator, the applicant may file a notice with the Town Clerk requesting the Board of Aldermen to review such decision. Upon receipt of a written notice of review, the Town Clerk shall schedule a public hearing for the next available meeting of Board of Aldermen which shall render a decision based upon the standards for review contained in division (D)(3). Final development plan approval pursuant to division (E), below, shall not be granted until such time as the time to seek review as provided herein has passed or, if review is requested, until such time as the Board of Aldermen has taken final action on such application.

(5) *Effect of preliminary development plan approval.* Approval of a preliminary development plan entitles the applicant to the issuance of a land

development permit upon payment of the applicable fee and submittal of an application and final development plans meeting the requirements of division (E), below. The applicant shall have two years from the date of such approval to obtain final development plan approval. An applicant who has been granted preliminary development plan approval shall be divested of the right to develop in accordance with such preliminary development plan approval if the applicant fails to obtain final development plan approval in accordance with this section.

(E) *Review of final development plans.* All development for which development plan approval is required shall undergo final development plan review, including development which has received preliminary development plan approval pursuant to division (D)(3), above, and development which has received a special use permit pursuant to § 152.053, below. Final development plan review is a final step prior to issuance of a land development permit. The process is intended to provide a means for town staff to review detailed plans to ensure the project meets development standards in this chapter as well as any other applicable regulations and any conditions which may have been imposed as a part of any preliminary or conceptual approval.

(1) *Processing of applications for final development plan approval.*

(a) The Land Use Administrator shall conduct a preliminary review of an application to determine if it is complete, which is to say, all information requested on the application has been provided and the development plan contains all items required by division (E)(3). If the Land Use Administrator determines that an application is incomplete, he or she shall notify the applicant in writing of all deficiencies.

(b) Once the Land Use Administrator determines the application to be complete, he or she may cause an analysis to be made by qualified representatives of the town and such other agencies or officials as appear appropriate in the circumstances of the case, to determine compliance with applicable provisions of this chapter.

(2) *Standards for review.* The Land Use Administrator shall render a decision in writing either approving or denying the application. An application for final development plan approval shall not be approved unless the Land Use Administrator determines that the application and final development plan (1) conform with preliminary development plan approval, if applicable, (2) conform with a special use permit, if applicable, and

(3) demonstrate compliance with this chapter and other applicable regulations. If the decision is to deny the application, the Land Use Administrator shall recite with specificity the reasons for such denial.

(3) *Contents of final development plan.*

(a) An application for final development plan approval, other than final plat approval, shall be accompanied by a development plan showing the following:

1. The date of the development plan or submittal, including any revisions thereto.

2. The proposed title of the project and the name of the engineer, architect, landscape architect, planner and/or licensed surveyor; developer; and owner of record.

3. The north arrow point, scale at not greater than one inch equals 40 feet and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property.

4. Location of site by an insert vicinity map at a scale no less than one inch equals 2,000 feet.

5. Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way.

6. Town limits line or a note indicating that the project site and any adjoining parcels are totally within or without the town limits.

7. Names of adjacent property owners.

8. Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments.

9. Existing topography and proposed finished contours at not more than two-foot intervals, with project bench mark clearly identified. Location of 100-year floodplain and floodway, if applicable. Other significant natural features affecting the site including but not limited to wetlands, major rock outcrops and lakes or streams. The Land Use Administrator may require topography at intervals smaller than two feet if such is necessary to permit an informed analysis of the development plan.

10. All proposed streets and/or driveways with proposed names, pavement widths and rights-of-way, and showing sight distances and their relationship to all street and driveway intersections within a 200-foot radius of the intersection of such entrances and exits with any public road. All alleys, driveways, curb cuts for public streets and handicap ramps, loading areas and provisions for off-street parking spaces and sidewalks; calculations indicating the number of parking spaces required and the number provided. All streets shall be clearly identified as public or private; a typical cross-section of public or private streets and/or driveways shall be included.

11. Utility layout, including location and size of existing and proposed water, sanitary and storm sewer lines, electrical transmission lines, gas pipelines, street lights, fire hydrants, and garbage disposal facilities.

12. Proposed reservations or dedications for parks, playgrounds, school sites and open spaces and a note indicating ownership and maintenance provisions. Include a copy of condominium declaration and/or maintenance agreements, if applicable.

13. A survey showing tree line before site preparation with typical species and average
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diameter of trees indicated.

14. Final landscape plan indicating screening, buffering, street trees, ornamental plantings, grass areas and erosion control plantings, and species list, including botanical and common names, sizes and quantities.

15. Proposed location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above average grade for each building.

16. Notations to include the total project area, proposed lot areas (or individual areas owned by a homeowners association), the amount and percentage of the site to be covered by buildings, open space, streets and parking and other facilities.

17. General location, size, height, orientation and appearance of proposed signs.

18. General location of proposed project phasing lines and notation including special conditions pertinent to establishing sales or model units, if applicable.

19. Site lighting plan.

20. Street profiles, if required by the Land Use Administrator.

21. A letter from the Macon County Erosion and Sedimentation Control Officer indicating that plans have been filed and approved. In those instances when a letter from the County Erosion and Sedimentation Control Officer is not required, the applicant shall demonstrate on the development plan and/or in such accompanying documents as may be necessary that the proposed development will comply with the mandatory standards contained in G.S. § 113A-57.

22. Any other permits required by the project.

23. Final stormwater management plan meeting the requirements of §§ 152.190 - 152.199.

(b) The Land Use Administrator may establish additional requirements for development plans, which may be triggered by conditions such as density, topography, location and anticipated traffic volumes on or near the site. In addition, if the Land Use Administrator determines that one or more of the above submittal requirements is not applicable to the proposed project, it may be waived.

(4) *Final plat requirements.* The final plat shall be prepared by a registered land surveyor, licensed to practice in the State of North Carolina, must be drawn to a scale no less than one inch equals 100 feet, and shall meet the requirements of the Macon County Register of Deeds Office. All approved subdivisions, special uses, and boundary line change plats, plans, or surveys must be recorded within 30 days. No final plat shall be approved unless and until the subdivider has installed in the platted area all improvements required by this chapter or has posted improvement guarantees in accordance with this subchapter. The final plat shall contain the following:

(a) The exact boundary of the tract of land being subdivided showing clearly the disposition of all portions of the tract.

(b) Scale denoted both graphically and numerically with north arrow and declination. A vicinity map showing the location of the subdivision with respect to adjacent streets and properties.

(c) As built drawings and plans of all water, sewer, and storm drainage system facilities, illustrating their layouts and connections to existing systems. Such plans shall show all easements and rights-of-way, to demonstrate that the facilities are properly placed and the locations of all fire hydrants, blow-off valves, manholes, pumps, force mains, and gate valves are indicated. This information shall not be placed on the final plat but must be submitted at the time of request for final plat approval or release of any surety for required improvements, whichever comes later.

(d) Sufficient data to determine readily and reproduce accurately on the ground the location, bearing, and length of every street, alley line, lot line, building line, easement line, and setback line. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second.

(e) The lines and names of all streets, alley lines, lot lines, lot and block numbers, lot addresses, building setback lines, easements, reservations, protected areas or required open space, the special flood hazard area, on-site demolition landfills and areas dedicated to public purpose with notes stating their purposes. The final plat shall contain the following statement:

“Areas delineated upon this plat or plan as a protection area or special flood hazard areas is subject to limitations upon development as set forth in the Town of Franklin Unified Development Ordinance, and any development, disturbance, or encroachment is prohibited except in accordance therewith.”

(f) The accurate locations and descriptions of all monuments, markers, and control points.

(g) Underground and aerial utility easements shall be shown.

(h) The name of the town in which the subdivision is located, the name of the subdivision, the name of the owner, the name, registration number, and seal of the registered surveyor under whose supervision the plat was prepared, and the date of the plat.

(i) All the following certifications shall appear on the final plat:

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Franklin - Land Usage

1. Certificate of Survey and Accuracy. I, _____, certify that this map was (drawn by me)(drawn under my supervision) from (an actual survey made by me) (an actual survey under my supervision) (deed description recorded in Book _____, Page____, Book____, Page____, etc)(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____; that this map was prepared in accordance with G.S. § 47-30 as amended. Witness my hand and seal this__ _ day of _____, A.D., (year).

License or Registration Number

2. Certificate of Ownership and Dedication. I hereby certify that I am (we are) the owner of the property shown and described, which is located in the subdivision jurisdiction of the Town of Franklin and that I hereby adopt this plan of subdivision with my free consent and establish minimum building setback lines, as required. Furthermore, I hereby dedicate all streets, alleys, walks, parks, and other sites and easements, to public or private uses as noted. Furthermore, I hereby dedicate all sanitary sewer, storm sewer, and water lines that are located in public utility easements or rights-of-way

to the Town of Franklin. Furthermore, I hereby set aside in perpetuity for permanent preservation, all open space and protected natural areas as shown, described, or otherwise noted hereupon.

Date

Owner(s)

3. Certificate of Approval of the Design and Installation of Streets, Utilities, and Other Required Improve-ments. I hereby certify that all streets, utilities, and other required improve-ments have been installed in an acceptable manner and according to Town of Franklin specifications and standards or that guaran-tees of the installation of the required improvements in an amount and manner satisfactory to the Town of Franklin has been received.

Date

Land Use Ad

Town of Franklin

4. Certificate of Approval for Recording. I hereby certify that the subdivision plat shown hereon has been found to comply with the Unified Development Ordinance for Franklin, North Carolina, and that this plat has been approved by the Town of Franklin for recording in the Office of the Register of Deeds of Macon County. I further certify that the Board of Aldermen only accepts the dedication of the public open space as shown, if such parks are located within the corporate limits of Franklin,

Official Seal

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but assumes no re-sponsibility to open or maintain the dedicated open space until, in the opinion of the Board of Aldermen, it is in the public interest to do so.

which shall render a decision based upon the standards for review contained in division (E)(5).
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.053 SPECIAL USE REVIEW.

Date Land Use Administrator

5. Review Officer Certification. State of North Carolina, County of Macon. I, _____, Review Officer of Macon County, certify that the map or plat to which this certification is affixed meets all the statutory requirements for recording.

(A) Special use review provides an alternative to traditional zoning by coupling an application for rezoning with an application for a special use permit specifying the intended use(s) along with a conceptual development plan and any proposed conditions to be placed upon the property. Development or uses required to undergo special use review pursuant to this subchapter shall occur only after issuance and recordation of a special use permit. The following developments or uses are required to undergo special use:

(1) Any uses in special use districts as described in §§ 152.020 - 152.041;

Date Review Officer

(j) *Placement of monuments.* Unless otherwise specified by this chapter, the Manual of Practice for Land Surveying, as adopted by the N.C. State Board of Registration for Professional Engineers and Land Surveyors under provisions of Chapter 89 of the General Statutes of North Carolina, shall apply when conducting surveys of subdivision; in order to determine the accuracy for surveys and placement of monuments, control corners, markers, and property corner ties; to determine the location, design, and material of monuments, markers, control corners, and property corner ties; and to determine other standards and procedures governing the practice of land surveying for subdivisions. In addition, for the purpose of identification and protection of survey corners and monuments, each corner or monument within the subdivision shall have a disk attached to a ferrous rod or placed in concrete that shall be stamped to identify that point as a property corner and or control point. All monuments shall be set flush with or just below ground level and shall be made of durable materials. In addition ferrous materials will be present in sufficient mass either in the monument or in close proximity to the monument to allow for detection by electronic metal detection devices.

(2) Any uses in any of the planned development districts established in §§ 152.020 - 152.041;

(3) Any uses designated as special uses in §§ 152.020 - 152.041; and

(4) Any application to create an urban village.

(B) Uses which may be permitted in special use districts or planned development districts, including the UV Urban Village Zoning Classification, are all permitted by right in other zoning district classifications; however, within these districts they are not permitted "by right." Rather, they are permissible only in conjunction with a rezoning to such a district. This allows the Board of Aldermen to exercise its legislative decision-making power, thus assuming greater discretion, when reviewing such developments. On the other hand, it allows applicants to tailor a development in such a way that it addresses potential concerns about compatibility with neighboring properties.

(C) Although lists of permissible uses are included in each of the planned development districts and incorporated by reference in the special use districts, this does not give rise to a presumption of compatibility for such uses. Rather, the listing of such uses is an indication that they have the potential to be compatible. In each instance of special use zoning, the applicant carries the burden of demonstrating that the proposed use(s) will be located, designed, and proposed to be operated so as to be compatible with adjacent properties and neighborhoods. Indeed, the planned development district

(5) *Review by the Board of Aldermen.* Within 15 days of the rendition of a decision denying an application for final development plan approval, the applicant may file a written notice with the Town Clerk requesting the Board of Aldermen to review such decision. Upon receipt of a notice of review, the Town Clerk shall schedule a public hearing for the next available meeting of the Board of Aldermen,

classifications are founded on the presumption that large-scale development has unique potential to adversely impact neighboring properties and neighborhoods and, thus, is only permissible within an appropriate planned development district. In this light, all projects undergoing special use review are required to participate in a neighborhood compatibility meeting where there is an opportunity for a face-to-face dialogue with neighboring property owners in order to describe the project and address their concerns, if any, about compatibility.

(D) *Fee.* A fee shall be paid to the Town of Franklin for each application for a special use permit to cover the costs of advertising and other administrative expenses. The fee shall be set by a resolution of the Board of Aldermen.

(E) *Pre-application conference.* It is recommended that any person desiring to use or develop land pursuant to a special use permit schedule a pre-application conference with the Land Use Administrator to become familiar with the special use permit process and to identify and correct, if possible, potential problem areas with a development concept.

Submittals for a pre-application meeting include a location map and a sketch plan of the project, including property boundaries, building footprints, parking, driveways, entrance locations, and such other information which may be requested by the Land Use Administrator.

(F) *Application.* Applications for a special use permit shall be made to the Land Use Administrator on forms prescribed by the Land Use Administrator.

(1) *Contents.* Applications shall include the name and address of the applicant, the name and address of the owner of each zoning lot involved, and the relationship of the applicant and property owner(s) in connection with the application. If the applicant is other than the record owner of the property, the consent of the record owner to the application shall be noted on the application or in some other fashion acceptable to the Land Use Administrator. The application shall also designate an agent for the project to whom notice may be given by the town. The Land Use Administrator shall prescribe any other material that may reasonably be required to determine compliance with this subchapter, with sufficient copies for necessary referrals and records.

(2) *Conceptual plan.* To facilitate the discussion during the neighborhood compatibility meeting required by division (G), the applicant shall submit to the Land Use Administrator, as a part of the application for a special use permit, a conceptual plan showing how development is proposed for the

site. The conceptual plan shall show the location and boundaries of the property and how individual buildings are to be situated on the site, including distances from these buildings to property lines, as well as proposed drives and parking. The locations of signs and outdoor lighting shall also be shown where appropriate. Proposed restrictive covenants, if available, shall also be presented. The conceptual plan need not be exactly to scale; although, all distances and dimensions shall be shown.

(G) *Neighborhood compatibility meeting.* This subchapter provides a process whereby affected property owners, residents and developers have an opportunity to participate in a dialog as to how development is to be integrated into their neighborhoods. This is accomplished by a neighborhood compatibility meeting to be facilitated by the Land Use Administrator or his or her designee within 21 days of receipt of a complete application, including the required fee and conceptual plan.

(1) *Notification of participants.* At least seven calendar days prior to the meeting, notice of the meeting shall be given in the following fashion:

(a) The developer shall be informed of the meeting by mail. Failure of the developer, or his or her authorized agent, to attend this meeting shall lead to an automatic annulment of the application.

(b) Property owners within 400 feet of any property line of the proposed sites shall be informed of the meeting by mail.

(c) All other persons shall be informed of the meeting by a conspicuously placed standardized on-site sign.

(2) *The developer's presentation.* During the neighborhood compatibility meeting the developer shall explain to the affected property owners the proposed use for the site. The presentation shall include the developer's position on the compatibility of the project. It is always the developer's responsibility to propose a compatible project.

(3) *Relevant topics to be discussed.* Following the developer's presentation, affected property owners and residents shall be permitted time to question the developer about points which remain unclear. Questioning shall center on the proposal's compatibility as presented, not the question of whether the site should be developed or its use changed.

(4) *Result of neighborhood compatibility meeting.* Following the exchange of views between the developer and affected property owners/residents, the Land Use Administrator shall review orally the points voiced during the informal compatibility meeting. Included in the review shall be proposals or counter-proposals to which both parties have agreed in an effort to make the project compatible, as well as those points where disagreement still exists. Upon conclusion of the review, the Land Use Administrator shall ask those assembled if the positions presented represent an accurate consensus of the opinions expressed by the developer and affected property owners/residents. When they do, the meeting shall be concluded and the Land Use Administrator shall record the opinions in the Land Use Administrator's report. The Land Use Administrator's report shall become a part of the application file.

(H) *Preliminary development plan and completeness review.*

(1) Upon completion of the neighborhood compatibility meeting, it shall be the responsibility of the applicant to submit a preliminary development plan meeting the requirements of division (H)(3), below. The Land Use Administrator shall cause the application to be reviewed for completeness and shall notify the developer in writing if the application is incomplete, specifying what additional information is needed in order for the application to be deemed complete.

(2) It shall then be incumbent upon the applicant either to provide the additional information requested by the Land Use Administrator or, if he believes providing the requested information is unreasonably burdensome, to notify the Land Use Administrator in writing that he declines to provide the information requested. Upon receipt of all requested information or, in the alternative, written notice from the applicant that no further information will be provided, the Land Use Administrator shall refer copies of the proposal to such other representatives of the town and to such other agencies or officials as may be appropriate to determine if it conforms to the provisions of this zoning ordinance and to such other regulations applicable in the case. Alternatively, the Land Use Administrator may determine that the incompleteness of the application renders it out of compliance with the requirements of this chapter and that therefore it will not receive further consideration by the town. The Land Use Administrator shall notify the applicant of

this decision in writing. The Land Use Administrator's determination that an application is incomplete may be appealed to the Board of Adjustment pursuant to § 152.075.

(3) *Contents of preliminary development plan.*

(a) The preliminary development plan for projects undergoing special use review shall show the following:

1. The date of the development plan or submittal, including any revisions thereto.
2. The proposed title of the project and the name of the engineer, architect, landscape architect, planner and/or licensed surveyor; developer; and owner of record.
3. The north arrow point, scale at not greater than one inch equals 40 feet and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property.
4. Location of site by an insert vicinity map at a scale no less than one inch equals 2,000 feet.
5. Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way.
6. Town limits line, and/or extraterritorial jurisdiction boundary, or a note indicating that the project site and any adjoining parcels are totally within or without the town limits.
7. Names of adjacent property owners.
8. Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments.
9. Location of 100-year floodplain and floodway, if applicable. Other significant natural features affecting the site including but not limited to wetlands, major rock outcrops and lakes or streams.
10. The proposed transportation network for the project including, but not limited to, the following:

a. All proposed streets, clearly identified as public or private, with proposed names, pavement widths and rights-of-way;

b. Sight distances for all entrances and exits and their relationship to street and driveway intersections within a 200-foot radius of the intersection of such entrance and exit with any public right-of-way;

c. All alleys, driveways, and curb cuts for public streets;

d. All handicap ramps;

e. Off-street loading and unloading areas;

f. Provisions for off-street parking spaces including calculations indicating the number of parking spaces required and the number provided;

g. Typical cross-sections of public or private streets; and

h. Pedestrian and bicycle facilities.

11. Preliminary utility layout, including location and size of existing and proposed water, sanitary and storm sewer lines.

12. Location and size of all existing and proposed entrances and exits to the site.

13. Proposed reservations or dedications for parks, playgrounds, school sites and open spaces and a note indicating ownership and maintenance provisions.

14. A survey showing tree line before site preparation with typical species and average diameter of trees indicated.

15. Preliminary landscape plan indicating screening, buffering, street trees, and typical ornamental plantings.

16. Any garbage disposal facilities.

17. General location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above lowest ground point of each building. If several models of units are being offered for sale and the type of unit at each building location is not known, then a general outline of the unit to be constructed may be shown at the building location.

18. Notations to include the total project area, proposed lot areas (or individual areas to be owned by a homeowners association), the amount and percentage of the site to be covered by buildings, open space, streets and parking and other facilities.

19. General location, size, height, orientation and appearance of proposed signs.

20. General location of proposed project phasing lines and notation including special conditions pertinent to establishing sales or model units, if applicable.

21. A traffic impact analysis, if one is required by the terms of this chapter demonstrating the project will comply with the requirements of § 152.060, below.

22. Elevations of all facades, including existing structures to remain, drawn to a reasonable scale which shall be not less than 1/8-inch equals one foot. Plans shall designate proposed materials and colors of architectural features.

(b) The Land Use Administrator has the authority to waive any application requirement where the type of use or the scale of the project makes providing that information unnecessary or impractical. The Land Use Administrator, Planning Board, or Board of Aldermen may request additional information from the applicant where such is necessary to enable a fully-informed decision on the matter.

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(4) *Completeness review.* Upon receipt of a preliminary development plan, the Land Use Administrator shall cause the application to be reviewed for completeness and shall notify the applicant in writing if the application is incomplete, specifying what additional information is needed in order for the application to be deemed complete. It shall then be incumbent upon the applicant either to provide the additional information requested by the Land Use Administrator or, if he or she believes providing the requested information is unreasonably burdensome, to notify the Land Use Administrator in writing that he or she declines to provide the information requested. Upon receipt of all requested information or, in the alternative, written notice from the applicant that no further information will be provided, the Land Use Administrator shall refer copies of the proposal to such other representatives as may be appropriate to determine if it conforms to the provisions of this chapter and to such other regulations applicable in the matter. Alternatively, the Land Use Administrator may determine that the incompleteness of the application renders it out of compliance with the requirements of this chapter and that therefore it will not receive further consideration by the town. The Land Use Administrator shall notify the applicant of this decision in writing. The Land Use Administrator's determination that an application is incomplete may be appealed to the Board of Adjustment pursuant to § 152.075.

(I) *Processing of application.* The completion date for the application shall be the date of receipt of either (1) all information requested by the Land Use Administrator pursuant to division (H) or (2) written notice from the applicant that no further information shall be provided. The application will then be scheduled for the next Planning Board meeting that is at least 24 days in the future. Substantial modification of the application subsequent to the complete date may result in the application being deferred to a subsequent meeting of the Planning Board. Any material modification of the application within seven days prior to the Planning Board meeting shall result

in deferral of the application to the next available meeting. For purposes of this section, the application shall include the preliminary or conceptual development plan, as the case may be.

(J) *Planning Board review.* The Planning Board shall review the application and shall submit to the Board of Aldermen a written recommendation based on the findings required in division (M).

(K) *Public hearing.* Within 45 days of receiving the recommendation of the Planning Board, the Board of Aldermen shall conduct a quasi-judicial public hearing on the application. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation once a week for two successive weeks with the first notice to be published not less than ten nor more than 25 days prior to the date of the hearing. Similar notice shall also be mailed to the owner of the property which is the subject of the application and the owners of all parcels of land situated within 400 feet of any of the boundaries of the subject parcel. Ownership shall be determined by reference to the Macon County tax listing.

(L) *Final action.* Upon completion of the hearing required in division (K), the Board of Aldermen shall act on the application based on the findings of fact contained herein.

Action on the application shall be one of the following: (1) approval; (2) approval subject to conditions; or (3) denial. The Land Use Administrator shall notify the applicant of the Board's decision in writing. If the application is approved or approved with conditions, the Land Use Administrator shall issue the necessary special use permit in accordance with the action of Board. The special use permit, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors.

(M) *Findings of fact.*

(1) No special use permit shall be approved by the Board of Aldermen unless each of the following findings is made.

(a) The use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare.

(b) There are, or will be at the time they are required, adequate public facilities to serve the use or development as specified in § 152.060, below.

(c) The use or development complies with all required regulations and standards of this chapter or with variances thereto, if any, granted pursuant to division (S), below, and with all other applicable regulations.

(d) The use or development is located, designed, and proposed to be operated so as to be compatible with the particular neighborhood in which it is to be located.

(e) The use or development conforms with the general plans for the physical development of the town as embodied in this chapter, the *Principles of Growth*, the *Thoroughfare Plan*, and any other duly adopted plans of the town.

(2) The burden of establishing these findings of fact shall lie upon the applicant. In addressing the issue of compatibility, as required in division (M)(1)(d), above, the applicant must demonstrate compatibility with the particular neighborhood in which the development or use is to be located. The fact that a use is authorized as a special use within a zoning district classification shall not give rise to a presumption that such special use is compatible with other uses authorized in the zoning district classification.

(N) *Conditions to approval of the special use permit.*

In approving a petition for the reclassification of property to a planned development district or a special use district, the Planning Board may recommend and the Board of Aldermen may request, that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Board of Aldermen may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town, county or state, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by Board of Aldermen.

(O) *Effect of approval.*

(1) If a petition is approved under this section, the district that is established, the approved 2010 S-9

petition, and all conditions which may have been attached to the approval, are binding on the property as an amendment to this chapter and to the Zoning Map. All subsequent development and use of the property shall be in accordance with the standards for the approved planned development or special use district, the approved petition, including the conceptual or preliminary development plan, and all conditions attached to the approval, unless such approval shall lapse or the property is rezoned.

(2) If a petition is approved, the petitioner shall comply with all requirements established for obtaining a land development permit, a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and development plan shall be allowed on the subject property. Any development in the district shall comply with all provisions of and conditions to the approved petition and development plan.

(P) *Final development plans.* Final development plans shall be reviewed by the Land Use Administrator to ensure conformance with the requirements set forth in § 152.052(E). Final development plans shall include any modifications agreed to as conditions of issuance of the special use permit as well as a list of any conditions and a list of any uses as stipulated in the special use permit.

(Q) *Issuance of land development permit.* A special use permit does not authorize development; rather, it approves a development concept for a particular property. In order to develop the property in accordance with the special use permit, a land development permit is required. A land development permit shall be issued upon certification by the Land Use Administrator that he has received a final development plan demonstrating compliance with the preliminary or conceptual development plan, as well as all terms and conditions of the special use permit.

(R) *Expiration and revocation of special use permits.*

A special use permit or modification of a special use permit shall run with the land covered by the permit or modification.

Once construction authorized by a special use permit or modification of special use permit is started, no development other than that authorized by the permit or modification shall be approved on that land unless the permit or modification is first modified in accordance with § 152.055(E) or voided or revoked in accordance with the provisions of this section.

(1) *Commencement.* If the use, construction, or activity authorized by the Board of Aldermen approval of an application for a special use permit (or modification thereof) is not commenced

within two years of the date of approval or within such further time stipulated in the approval, the approval shall expire and any town permit issued pursuant to the approval shall be void. The Board of Aldermen may, upon application prior to the expiration of a special use permit, or any extensions thereof, extend such special use permit for an additional period not to exceed 24 months.

(2) *Completion.* Unless a different period of time is authorized by the Board of Aldermen, the right to construct improvements or otherwise develop land pursuant to a special use permit shall expire three years after issuance of the special use permit. If all of the construction and actions authorized or required by a special use permit are not completed within the time established for completion, or any authorized extensions thereof, the permit holder may request an extension of the completion time limit from the Board of Aldermen, which Board may grant one or more extensions upon making the following determinations:

(a) The permit holder requested the extension prior to the expiration of the special use permit, as it may have been previously extended;

(b) The permit holder has proceeded with due diligence and good faith; and

(c) Conditions have not changed so substantially as to warrant the Board of Aldermen to reconsider the approved special use.

(3) *Abandonment.*

(a) On request by the holder of a special use permit, the Board of Aldermen shall approve the abandonment of such permit upon making one of the following determinations:

1. No construction or activity authorized by the permit has been started and the starting time limit has not yet expired; or

2. The development or use authorized by the permit no longer requires a special use permit, and all conditions of the special use permit have been satisfied.

(b) In addition, The Board must determine that the permit holder has submitted a signed affidavit clearly stating the holder's intent to abandon the permit.

(4) *Revocation.* If any conditions of a special use permit, including completion time limits, or requirements of this chapter applicable to the permit are violated, the Board of Aldermen may

revoke the permit. The Board may reinstate a revoked special use permit when the holder of the revoked permit submits a request for reinstatement to the Land Use Administrator within 90 days of the date of revocation demonstrating (1) that the violations which were the cause of the revocation have been corrected and (2) the development fully complies with all conditions of the permit and all applicable requirements of this chapter.

(5) *Voluntary revocation.* On request by the holder of a special use permit, the Board may revoke such permit if it determines all of the following:

(a) Construction authorized by the permit has been started and the completion time limit has not yet expired;

(b) The request is made in conjunction with an application for approval of a development other than that authorized the permit; and

(c) The proposed development as approved by the Board incorporates adequate consideration for the site's already disturbed land area in its design and any previous commitments made under the special use permit process.

(S) *Variances.* For applications undergoing special use review, the Board of Aldermen may authorize variances in specific cases from the dimensional and improvements standards of this chapter upon finding that a literal enforcement of such standards will result in practical difficulty or unnecessary hardship and so long as the granting of such variance or variances will not result in a use or development which would violate the findings of fact required by division (M), above. Variances may not be granted with regard to uses or to density.

(Ord. passed 10-1-07; Am. Ord. passed 10-20-08; Am. Ord. passed 2-6-12)

§ 152.054 PROJECT PHASING.

If a project is to be developed in phases, the plan for the entire development will be used to determine the nature of review it will receive. Before development may commence, the entity with power to issue development authorization, that is, the Land Use Administrator or the Board of Aldermen, as the case may be, must approve a master plan for the entire development site. Final plans for the development may be submitted in stages and may be approved by the Land Use Administrator provided the following requirements are met:

(A) All stages shall be shown with precise boundaries on the master plan and shall be numbered in the expected order of development.

(B) Each phase must be able to function independently of subsequent phases.

(C) All the data required for the project as a whole shall be given for each stage shown on the plan.

(D) A proportionate share of open space shall be included in each stage of the development.

(E) The phasing shall be consistent with the traffic circulation, drainage, and utilities plan for the entire development.

(Ord. passed 10-1-07)

§ 152.055 MODIFICATION OF DEVELOPMENT AUTHORIZATIONS.

(A) Development may only take place in accordance with approvals granted hereunder. Any deviation from approved development requires review and approval pursuant to this section. In general, the entity which approved the development for which modification is sought will be
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responsible for deciding whether to approve modifications to such development. There are two exceptions to this rule. First, in some circumstances, as defined herein, the Land Use Administrator may authorize modifications which are deemed minor. Second, if the density of the entire development, taking into consideration the proposed modification and any previous modifications, would exceed the threshold for a higher level of review and if such modifications, viewed cumulatively, do not qualify as de minimis, as defined herein, the entire development will be required to undergo the higher level of review.

(B) Proposed modifications shall qualify as de minimis if the cumulative effect of such modifications would not increase the established density of the development by more than 10%. Density shall be measured in terms of dwellings per acre for residential developments and in terms of gross floor area for non-residential developments. The established density shall be the density approved in the initial land development permit for the development. By way of illustration, if the owner of a commercial development with an established density of 25,000 square feet of floor area proposed a 6,000-square-foot addition, the entire development, including that which is existing or previously approved, will be required to undergo special use review in accordance with § 152.123. If the owner of

such development proposed a 2,000-square-foot addition, the modification would qualify as de minimis and would be processed under development plan review.

(C) *Modifications of developments authorized under land development review.* The Zoning Administrator shall approve modifications to developments authorized under land development review so long as the total development, including all modifications, complies with applicable provisions of this chapter and so long as the total development does not exceed the thresholds for development plan review.

(D) *Modifications of developments authorized under development plan review.* The Land Use Administrator may approve a modification of a land development permit for changes to plans approved under development plan review as long as such changes continue to comply with all applicable requirements and so long as the total development, including all modifications, does not exceed the threshold for special use review.

(E) *Modifications of developments authorized under special use review.* The Land Use Administrator is authorized to approve minor modifications to the approved final plans of developments authorized under special use review, but major modifications may only be authorized by the Board of Aldermen in accordance with the procedures set forth herein. A modification shall be deemed minor if it is not a major modification. A modification shall be deemed major if it proposes a substantial departure from the approving action of the Board of Aldermen with regard to the original application or any subsequent modifications. Substantial departure from such approving action shall exist whenever the proposed modification would result in one or more of the following:

- (1) A substantial change in the boundaries of the site approved by the Board;
- (2) A substantial change from the use(s) approved by the Board;
- (3) A substantial increase in the floor area approved by the Board;
- (4) A substantial increase in the number of residential dwelling units;
- (5) A substantial increase in the density of nursing homes, rest homes, congregate care facilities or progressive care facilities;

(6) A substantial change in the location of one or more principal and/or accessory structures approved by the Board;

(7) Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown on the plans approved by the Board;

(8) A substantial change in pedestrian or vehicular access or circulation approved by the Board; and

(9) A substantial change in the amount or location of open space, landscaping or buffer screens approved by the Board.

(F) If the proposed action is determined to be a major modification, the Land Use Administrator shall require the filing of an application for approval of the modification. The Land Use Administrator shall prescribe the form(s) of application as well as any other material reasonably required to determine compliance with this subchapter. An application for major modification of a development authorized under special use review shall be reviewed in accordance with the procedures established for special use review.

(G) No modification shall be allowed to a special use permit issued in a special use zoning district or a planned development district unless the applicant accepts all of the requirements and conditions the Board of Aldermen proposes to impose on the modification. Acceptance of conditions by the applicant may be indicated at the Board hearing on the special use permit modification or by affidavit submitted prior to the Board taking action on the modification application. (Ord. passed 10-1-07)

§ 152.056 EXPIRATION AND REVOCATION OF LAND DEVELOPMENT PERMITS.

This section governs the expiration and revocation of land development permits issued subsequent to land development review or development plan review. The expiration and revocation of land development permits issued subsequent to special use review are governed by the provisions of § 152.053.

(A) *Commencement.* If a building permit for the use, construction, or activity authorized by approval of an application for a land development permit or modification of a land development permit is not obtained within six months of the date of

approval, or within such further time stipulated in the approval, the approval shall expire and any town permit issued pursuant to the approval shall be void. The Land Use Administrator may grant a single extension of the starting time limit for up to 12 months unless he or she determines that paramount considerations of health, the general welfare, or public safety require reconsideration by the entity which granted development authorization. The Land Use Administrator shall determine whether the use, construction, or activity has started.

regardless of use district or

(B) *Completion.* If all construction and actions authorized or required by a land development permit or modification thereof are not completed within 18 months or such other completion date stipulated in the permit or modification, the permit holder may request an extension of the completion time limit from the Land Use Administrator. The Land Use Administrator may grant extensions of the time limit for periods of up to 12 months if he or she determines the following:

(1) The permit holder requested the extension prior to the expiration of the completion time limit;

(2) The permit holder has proceeded with due diligence and good faith; and

(3) Conditions have not changed so substantially as to warrant reconsideration of the approved development. The Land Use Administrator shall determine whether or not all construction and actions authorized or required have been completed.

(C) *Revocation.* If any conditions of a land development permit or modification, including completion time limits, or requirements of this ordinance applicable to the permit or modification are violated, the Land Use Administrator may revoke the permit or modification. The Land Use Administrator may reinstate a revoked land development permit or modification of land development permit if he or she determines the following: (1) the holder of the revoked permit or modification submitted a request for reinstatement within 90 days of revocation; (2) the violations that were the cause of the revocation have been corrected; and (3) the development fully complies with all conditions of the permit or modification and all applicable requirements of this chapter.

(Ord. passed 10-1-07)

§ 152.057 PLANNED DEVELOPMENTS.

(A) This section applies to all planned developments

classification and regardless of the development review process required. A planned development consists of land that is under unified control and planned and developed as a whole and which includes principal and accessory structures and uses substantially related to the character and purposes of the planned development. A planned development shall be constructed according to comprehensive and detailed plans which include not only streets, utilities, lots or building sites, and the like, but also development plans and floor plans for all buildings as intended to be located, constructed, used, and related to each other, and detailed plans for other uses and improvements on the land as related to the buildings. A planned development shall include a program for the provision, operation, and maintenance of such areas, facilities, and improvements as will be for common use by some or all of the occupants of the planned development district, but which will not be provided, operated, or maintained at general public expense.

(B) *Statement of purpose.* The purpose of this section is to promote the efficient and well planned use of land through unified development of sites while providing the town with open space, compatible uses, optimum service of community facilities and adequate vehicular access and circulation. A planned development is situated, designed, landscaped and buffered in such a manner that it will be

compatible with environmentally sensitive areas, such as flood plains or steep slopes, and with existing or proposed land uses in adjoining neighborhoods.

(C) *Ownership control.* The land in a planned development shall be under single ownership or management at the time of construction or proper assurances shall be provided that the project can be successfully completed.

(D) *Establishment of planned developments.* Except for minor planned residential developments, which may be developed in certain use districts as specified herein, major planned residential developments may be established in the PRD, C-2SU or C-3SU zoning district classifications. Other planned developments may only be established in the appropriate planned development zoning district classifications, that is PCD or PMH. Planned developments shall be appropriately located with respect to intended functions, to the pattern and timing of development indicated in the principles of growth and to public and private facilities existing or clearly to be available by the time the development reaches the stage where they will be needed.

(E) *Development standards for planned residential developments.*

(1) Unless noted otherwise, the following development standards shall apply to all planned residential developments, whether major or minor.

paving for any street or drive and may be physically connected to the principal structure which they

(a) *Open space requirements.* Planned residential developments shall have, as a minimum, the percentages of the site as open space in accordance with the following table;

<i>Zoning District Classification</i>	<i>% Open Space Required</i>
R-1	40
R-2	40
C-1	10
C-2	40
C-3	40
I-1	40
NMU	20
MICR	20

(b) *Common space requirements.* Planned residential developments shall provide common space which shall be at least 10% of the site or 1% of the site for each dwelling unit per acre, whichever is greater.

(c) *Setbacks.* All dwellings and their accessory structures shall be set back not less than 30 feet from the nearest right-of-way line for any street or railroad adjoining the site; provided, however, such setback may be reduced to ten feet when parking is situated to the side or rear of the lot and screened from view from public rights-of-way. Furthermore, such buildings and structures shall be set back not less than 30 feet from any exterior property line which is not a right-of-way.

(2) The Land Use Administrator or Board of Aldermen, as the case may be, shall require reservations of rights-of-way, as well as increased setbacks, for roads identified on the thoroughfare plan, including existing roads to be widened as well as corridors of new roads.

(3) All dwellings and their accessory structures shall be located at least ten feet from the edge of the paving for any street or drive and at least five feet from the edge of the paving for any area devoted principally to parking. Carports shall be situated at least ten feet from the edge of the

serve. In addition, dwellings and accessory structures abutting a street intended to serve more than 32 dwelling units or intended to be dedicated as a public street must be set back a minimum of 50 feet from the center line of such street. The approved setback lines shall be shown on the plan of development and on any recorded subdivision plat. In addition to the foregoing setback requirements, minimum spacing between buildings shall be provided as per the N.C. State Building Code Volume V-Fire Prevention.

(a) *Subdivision of planned residential developments.* Planned residential development projects may be subdivided provided that arrangements for such subdivision are made at the time of the planned residential development application. Zero lot lines may be permitted on one or more lot lines of each lot in accordance with these standards:

1. Any wall constructed on the lot line shall be a solid, windowless wall. If there is an offset of the wall from the lot line, the offset must be at least six feet.

2. A five-foot maintenance easement and a maximum eave encroachment of 32 inches within the maintenance easement shall be established in the deed restrictions and covenants of the adjoining lot. This will provide ready access to the lot line wall at reasonable

periods of the day for normal maintenance.

(b) *Circulation and access.* Internal streets, drives and parking areas shall provide safe and convenient access to dwelling units and recreation facilities, and for service and emergency vehicles. Streets shall not be designed to encourage outside traffic to traverse the planned residential development on local streets. Sidewalks shall be required along streets adjacent to the planned residential development. Sidewalks shall form a logical, safe, and convenient system for pedestrian access to all dwelling units and appropriate project facilities and shall be required along such streets, drives and parking areas within the planned residential development as is necessary to accomplish this. Pedestrian/bicycle pathways may be substituted for sidewalks, if appropriate.

(c) *Streets.*

1. Streets intended to serve more than 32 dwelling units as well as those intended to be dedicated as public streets shall meet the design and construction standards of the NCDOT. All other streets and drives need not comply with NCDOT's pavement width and road right-of-way

standards, but they shall comply with its pavement structure requirements. All dead-end streets and drives shall terminate in a cul-de-sac or other adequate means of reversing vehicular direction. It shall be the responsibility of the developer to submit to the Director of Public Works core samples taken by a licensed testing firm demonstrating that completed streets or drives meet such pavement structure requirements.

2. Internal streets with minimum setbacks measuring less than 50 feet from center line shall be private streets and are not acceptable for dedication to, or maintenance by, the town. Developments containing such private internal streets with setbacks measuring less than 50 feet from center line shall have the following disclaimer in large type placed in a prominent position on the following applicable documents for the development: the development plan, the plat, the restrictive covenants, the condominium documents, and any contracts used in the sale of properties.

Some or all of the streets and/or drives in this development do not meet minimum right-of-way requirements for the Town of Franklin. You are notified that these are proposed as private streets and that the Town of Franklin will not accept them for maintenance.

(d) *Buffering, screening and landscaping.*

The applicant shall propose and plant, construct and make satisfactory arrangements for the preservation of a buffer and/or setbacks adequate to protect adjoining properties from the impacts of the proposed development. Parking and service areas and dumpsters shall be screened from view by adjacent single-family residences. Existing vegetation shall be preserved whenever possible. In addition, the developer shall provide an appropriate landscaping plan within the project. Use of native species is highly encouraged.

(e) *Off-street parking.*

1. Off-Street parking requirements for planned residential developments shall be as follows:

a. A minimum of one- and-one-half spaces per residential unit containing one or two bedrooms.

b. A minimum of two spaces per residential unit containing three or more bedrooms.

2. Enclosed garages and carports count towards meeting the parking requirement. All parking spaces shall be located within 75 feet of the residential unit they serve.

(f) *Maintenance of common facilities.*

The developer, project owner, or a properly established homeowners association shall provide for the continuing maintenance of common open space, recreational facilities, sidewalks, parking, private streets, and other privately owned common facilities serving the project.

(F) *Minor planned residential developments.* An applicant may elect to have a development processed as a minor planned residential development so long as the proposed development, including all phases, does not exceed 30 dwelling units and so long as no accessory commercial development is requested for the project. A minor planned residential development may be located in one or more of the following zoning district classifications: R1, R-2, C-1, C-2, C-3, NMU, and MICR.

(1) *Density.* The maximum number of dwelling units which may be constructed in a minor planned residential development shall be 30 dwelling units or a number computed on the basis of the following table, whichever is less:

<i>Zoning District Classification</i>	<i>Dwelling Units Per Acre</i>
R-1	6
R-2	8
C-1	18
C-2	10
C-3	10
NMU	10
MICR	10

(2) *Development standards for minor planned residential developments.* Except as otherwise noted herein, minor planned residential developments shall be governed by the development standards for planned residential developments contained in division (E), above. Unlike major planned residential developments, there is no minimum site requirement for a minor planned residential development, nor is there a requirement that access be by means of a designated thoroughfare.

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(3) *Procedures for reviewing.* Unlike other planned developments which undergo special use review, minor planned residential developments undergo development plan review pursuant to § 152.052, above. (Ord. passed 10-1-07; Am. Ord. passed 10-20-08; Am. Ord. passed 3-3-14)

§ 152.058 "AS-BUILT" OR RECORD DRAWINGS.

This section applies only to development which has undergone development plan or special use review. "As built" or record drawings shall be submitted prior to the issuance of the last Certificate of Occupancy for the project. These drawings shall be submitted in two parts. The first, at a scale not greater than one inch equals 40 feet, shall show all features on the development plan. The second, at a scale not greater than one inch equals 200 feet, may show only all underground facilities on the site and the depth of bury. Plans and verifications shall be signed and sealed by an architect, engineer or surveyor licensed to practice in the State of North Carolina. (Ord. passed 10-1-07)

§ 152.059 PROJECT INFRASTRUCTURE.

Project infrastructure refers to the improvements, such as water and wastewater lines, streets and roads, stormwater management facilities, sidewalks and street lighting, which are necessary to sustain the intended use of a project.

(A) *Construction of project infrastructure.* Upon approval of the final development plan by the Board, the applicant shall proceed with the construction of project infrastructure, including but not limited to, streets, water and sewer facilities, drainage, sedimentation and erosion control facilities, and lighting. Except as provided in division (B) below, and prior to issuance of a building permit, the applicant shall complete, install and provide for the dedication of all project infrastructure as specified on the approved final development plan. The applicant shall certify the dedication of said improvements in a form acceptable to the town. All construction undertaken pursuant to the final development plan shall be inspected and approved by the Town of Franklin and/or appropriate local, state, and federal agencies prior to issuance of a certificate of occupancy for the development.

(B) *Guarantee in lieu of construction of Project infrastructure.*

(1) In lieu of requiring the completion, installation and dedication of all project infrastructure

prior to the issuance of a building permit, the town may accept a bond with approved surety or a letter of credit payable to the Town of Franklin in an amount equal to 125% of the estimated cost of the installation of the required improvements, whereby the improvements may be constructed and utilities installed without cost to the town in the event of default of the developer.

(2) The letter of credit or bond shall remain in full force and effect until such time as the construction of project infrastructure is completed and accepted by the town. No bond or letter of credit may be called without 60-days prior written notice to the town. Failure to maintain in effect a town-approved financial guarantee of any incomplete improvement shall suspend the approval of the plan and any permits issued as a result of the plan approval.

(3) All financial guarantees must contain language requiring the completion of all project infrastructure as shown on the approved final development plan and the guarantee of these improvements for an 18-month warranty after they have been accepted by the town. All financial guarantees must either be issued from a financial institution incorporated in the State of North Carolina or be redeemable at a financial institution incorporated in the State of North Carolina. (Ord. passed 10-1-07)

§ 152.060 ADEQUATE FACILITIES REVIEW.

(A) Certain developments, due to their type, size and/or location, tend to have greater impacts on public services and facilities than does development generally. In order to ensure that such development is undertaken only when there are adequate public facilities to serve it, no development undergoing special use review shall be approved unless the Board of Aldermen first determines that adequate facilities and services will be available to such development before it is occupied. Specifically, no development undergoing special use review shall be approved unless the Board of Aldermen finds that all of the following conditions exist or will exist on or before the date that buildings or land in the proposed development will be occupied.

(1) *Water supply.* There will be an adequate potable water supply available for the proposed occupancy. An adequate public water supply shall include adequate potable water for consumption and other inside and outside uses, and adequate water pressure and fire flow to meet established standards of the town for fire protection.

(2) *Wastewater.* There will be adequate connections to public wastewater disposal systems with adequate capacity to handle the type and volume of flow from the proposed occupancy.

(3) *Streets.* The street system in the development will connect to segments of the public street system with adequate capacity to handle the projected traffic flow, both on an average basis and at peak hours. Furthermore, the development shall be so located with respect to major street, bicycle and pedestrian networks, or public transportation facilities, and shall be so designed, as to provide direct access to the development without creating substantial additional traffic in residential neighborhoods outside the development.

(B) Developments failing to meet these criteria may be approved if the applicant (1) provides private facilities, utilities, and services approved by appropriate public agencies as substituting on an equivalent basis, and assures their satisfactory continuing operation, permanently or until similar public utilities, facilities, or services are available and used, or (2) makes provision acceptable to the town for offsetting any added net public cost of early commitment of public funds made necessary by such development. In determining net public costs, the difference in anticipated public installation, operation, and maintenance costs and the difference in anticipated public revenue shall be considered. Expenses involved in making such determinations shall be paid by the applicant. Determinations shall be made by the town or by experts acceptable to the town.
(Ord. passed 10-1-07)

§ 152.061 AGGREGATION.

Two or more developments shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one another. Each of the criteria listed below is indicative of a unified plan of development. Whenever one or more are found to exist, the reviewing authority may, but is not required to, determine that two or more projects are part of a unified plan of development.

(A) The same person has control of the developments;

(B) The same person has ownership or a significant legal or equitable interest in the developments;

(C) There is common management controlling the form of physical development or disposition of parcels of the development;

(D) There is a reasonable closeness in time between the completion of some or all of one development and the submission of an application for authorization of other development which is indicative of a common developmental effort;

(E) A master plan or series of plans or drawings exists covering the developments sought to be aggregated;

(F) There is a voluntary sharing of infrastructure that is indicative of a common development effort or is designated specifically to accommodate the developments sought to be aggregated;

(G) There is a common advertising scheme or promotional plan in effect for the developments sought to be aggregated.
(Ord. passed 10-1-07)

§ 152.062 APPEALS OF DEVELOPMENT DECISIONS.

Development decisions rendered pursuant to this article are subject to review in the manner set forth herein.

(A) *Administrative remedies.* There are two separate bodies charged with responsibility for administrative review of development decisions: the Board of Adjustment and the Board of Aldermen. In no case will decisions of either of those bodies be subject to review by the other. Judicial review from the decisions of those boards may be available in accordance with division (B), below. The following development decisions are subject to administrative review in the manner indicated

(1) *Land development permits.* Decisions regarding applications for issuance of land development permits are subject to review by the Board of Adjustment upon the timely filing of an appeal pursuant to § 152.075, below.

(2) *Preliminary development plans and preliminary plats.* Decisions of the Land Use Administrator regarding applications for preliminary development plan approval or for preliminary plat approval are subject to review by the Board of Aldermen upon the timely filing of a notice of review pursuant to § 152.052, above.

(3) *Final development plans and final plat approval.* Decisions of the Land Use Administrator regarding applications for final development plan approval and final plat approval are subject to review by the Board of Aldermen upon the timely filing of a notice of review pursuant to § 152.052(E)(4), above.

and the other requests issuance of a special use permit. The

(B) *Judicial review.* Judicial review of development decisions rendered pursuant to this article shall be in accordance with this section and with the North Carolina General Statutes. In no event shall a party be entitled to judicial review until such time as all administrative remedies have been exhausted.

(1) *Land development permits.* Decisions of the Board of Adjustment regarding appeals from development decisions concerning applications for land development permits may be appealed to the Superior Court in accordance with § 152.078, below. Such appeals shall be in the nature of certiorari.

(2) *Preliminary development plans and preliminary plats.* Decisions of the Board of Aldermen regarding appeals from development decisions concerning applications for preliminary development plan approval or preliminary plat approval may be appealed to the Superior Court by any aggrieved party. Such appeals shall be in the nature of certiorari and must be filed within 30 days after the filing of the decision in the office of the Town Clerk or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Clerk at the time of the hearing, whichever is later. The copy of the decision of the Board of Aldermen may be delivered to aggrieved parties either by personal service or by registered mail or certified mail return receipt requested.

(3) *Final development plans and final plats.* Decisions of the Board of Aldermen regarding appeals from development decisions concerning applications for final development plan approval or final plat approval may be appealed to the Superior Court by any aggrieved party in the same manner as decisions regarding preliminary development plans set forth in the preceding section.

(4) *Special use review.* Judicial review of decisions regarding applications processed under the provisions of special use review, established in § 152.053, above, require special treatment due to the fact that they involve two separate applications which, though processed simultaneously, require the Board of Aldermen to make two separate decisions exercising two different types of decision-making authority. One application requests enactment of an ordinance amending the Official Zoning Map,

first application involves a legislative decision on the part of the Board, and the second a quasi-judicial decision. The quasi-judicial decision, that is, the one concerning the application for a special use permit, may be appealed to the Superior Court by any aggrieved party in the manner prescribed in division (B)(2), above. Such appeal shall be in the nature of certiorari. The legislative decision, which is the one concerning the request for rezoning, may be contested, in accordance with G.S. § 160A-364.1, by a cause of action commenced within two months of the date of the decision.

(Ord. passed 10-1-07)

BOARD OF ADJUSTMENT

§ 152.070 ESTABLISHMENT OF BOARD OF ADJUSTMENT AND QUALIFICATIONS OF MEMBERS.

A Board of Adjustment is hereby established. Said Board shall consist of seven members; five members of the Board shall be residents of the Town of Franklin and shall be appointed by the Board of Aldermen and two members shall reside in the town's area of extraterritorial jurisdiction and shall be

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appointed by the Board of Commissioners of Macon County.

(A) *Terms.* Terms shall be three years; however, the Board of Aldermen and the Macon County Board of Commissioners may appoint members for a lesser term in order to achieve a balanced system of overlapping terms. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board.

(B) *ETJ members.* The two members appointed to the Board of Adjustment by the Board of County Commissioners as representatives of the Franklin Area of Extraterritorial Jurisdiction shall have equal rights, privileges and duties with other members of the Board in all matters pertaining to the regulation of this chapter in the town and its extraterritorial jurisdiction.

(C) *Alternates.* The Board of Aldermen or the County Board of Commissioners, as appropriate, may appoint alternate members to serve on the Board in the absence of any regular members. Alternate members shall be appointed for the same term and in the same manner as regular members. Each alternate member, while attending any regular or

special meeting of the Board and serving in the absence of any regular member, shall have and may exercise all the powers and duties of a regular member.

(Ord. passed 10-1-07; Am. Ord. passed 2-3-14)

§ 152.071 POWERS OF THE BOARD OF ADJUSTMENT.

The Board of Adjustment shall have the following powers:

(A) To hear and decide appeals from and review any order, requirement, decision or determination made by any administrative official charged with the enforcement of this chapter.

(B) To hear and decide requests for variances from the dimensional requirements of this chapter.

(C) To make interpretations of the Official Zoning Map and to pass upon disputed questions of lot lines or district boundary lines and similar questions as arise in the administration of this chapter.

(D) To enter, at reasonable times, upon private lands and make examinations or surveys as necessary for the performance of its official duties.

(E) To request the Board of Aldermen to hold public hearings on matters within the purview of the Board.

(F) To hear and decide any other matter as required by the provisions of this chapter and the Code of the Town of Franklin.

(G) To adopt rules not inconsistent with this chapter or the North Carolina General Statutes governing the organization of the Board and proceedings before the Board.

(Ord. passed 10-1-07; Am. Ord. passed 2-3-14)

§ 152.072 OFFICERS.

The Board shall elect one member to serve as Chair and preside over its meetings and shall create and fill such offices and committees as it may deem necessary. The term of the Chair and other offices shall be one year with eligibility for re-election. The Chair, or any member temporarily acting as chair, is authorized to administer oaths to any witnesses in any matter coming before the Board.

(Ord. passed 10-1-07; Am. Ord. passed 2-3-14)

§ 152.073 MEETINGS.

(A) The Board shall establish a regular meeting schedule and shall meet frequently enough so that it may take action as expeditiously as reasonably possible. All meetings of the Board shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public in accordance with the North Carolina General Statutes. The Board shall keep a record of its meetings, including attendance of its members, the vote of each member on every question, a complete summary of the evidence submitted to it, documents submitted to it, and all official actions.

(B) Any member of the Board who misses more than three consecutive regular meetings or more than half the regular meetings in a calendar year shall lose his or her status as a member of the Board and shall be replaced or reappointed by the Board of Aldermen or the County Board of Commissioners, as appropriate. Absence due to sickness, death, or other emergencies of like nature shall be recognized as excused absences, and shall not affect the member's status on the Board, except that in the event of a long illness or other such cause for prolonged absence, the member shall be replaced.

(Ord. passed 10-1-07; Am. Ord. passed 10-20-08; Am. Ord. passed 2-3-14)

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§ 152.074 QUORUM AND VOTING.

A quorum of the Board to hear and decide variances shall consist of four fifths of the Board's membership who are eligible to vote on the matter, or who have recused themselves and been replaced by an available alternate. In all other cases, quorum for a hearing by the Board of Adjustment shall, be four, and a majority of the members shall be required to decide any other quasi-judicial matter or determine an appeal made in the nature of certiorari.

(Ord. passed 10-1-07; Am. Ord. passed 2-3-14)

§ 152.075 APPEALS OF ADMINISTRATIVE DECISIONS.

The Board of Adjustment shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of this chapter. An appeal may be taken by any person having standing pursuant to G.S. § 160A-393(d), or by an officer, department or board of the town. Such appeal shall be taken within 30 days of the rendition of such decision by filing with the administrative

official a written notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board, as well as the appellant and property owner (if property owner is not appellant) all the papers constituting the record upon which the action appealed from was taken. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Administrative Officer certifies to the Board of Adjustment, after the notice of appeal has been filed with him or her, that because of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property or that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of this chapter. In such case proceedings shall not be stayed except by a restraining order, which may be granted by the Board or by a court of record on application, as provided for in the North Carolina General Statutes. If enforcement proceedings are not stayed, the appellant may file with the Administrative Official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days.
(Ord. passed 10-1-07; Am. Ord. passed 2-3-14)

§ 152.076 VARIANCES.

(A) A variance is a means whereby the town may grant relief from the effect of this chapter in cases of hardship. A variance constitutes permission to depart from the literal requirements of this chapter. A variance from the dimensional requirements of this chapter may be granted by the Board of Adjustment if it finds the following:

(1) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

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

(3) The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self created hardship.

(4) The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.

(B) The Board of Adjustment shall not have authority to grant a variance when to do so would (1) result in the extension of a nonconformity regulated pursuant to §§ 152.150 - 152.154, herein, or (2) permit a use of land, building or structure which is not permitted within the applicable zoning district classification. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.
(Ord. passed 10-1-07; Am. Ord. passed 2-3-14)

§ 152.077 PROCESSING OF APPLICATIONS BEFORE THE BOARD OF ADJUSTMENT.

(A) An application to the Board of Adjustment pursuant to the terms of this subchapter, whether it be in the nature of a request for a variance or an appeal from an administrative determination, must be received by the Land Use Administrator at least 30 days prior to the date of a Board of Adjustment meeting in order to be scheduled for such meeting.

(B) *Notice of hearing.* Notice of hearings shall be mailed to the person or entity whose appeal, application or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing. The notice must be deposited in the mail at least ten days, but not more than 25 days, prior to the date of the hearing.
(Ord. passed 10-1-07; Am. Ord. passed 2-3-14)

§ 152.078 JUDICIAL REVIEW.

Every decision of the Board of Adjustment may be appealed to the Superior Court by any aggrieved party. Such appeal shall be in the nature of certiorari and must be filed within 30 days after the filing of the decision in the office of the Land Use Administrator or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the chairman of the Board at the time of its hearing of the case, whichever is later. The copy of the decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for copy, prior to the date the decision becomes effective..
(Ord. passed 10-1-07; Am. Ord. passed 2-3-14)

§ 152.079 PLANNING BOARD.

list.

The Board of Aldermen has created a Planning Board pursuant to G.S. § 160A-361. The Board of Adjustment, as the same is created pursuant to § 152.070 of this chapter, is hereby appointed to be the town's Planning Board, to perform the duties of such planning board as the same are established by law and as are assigned by the Board of Alderman from time to time.

(Ord. passed 8-6-12; Am. Ord. passed 2-3-14)

GENERAL DEVELOPMENT PROVISIONS

§ 152.090 APPLICATION OF REGULATIONS.

The regulations set forth in this chapter affect all land, every building, and every use of land and/or building and shall apply as specified herein.

(A) *Use.* No building or land shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, moved or structurally altered except in conformity with the regulations of this chapter for the district in which it is located.

(B) *Height and density.* No building shall hereafter be erected or altered so as to exceed the height limit or to exceed the density regulations of this chapter for the district in which it is located.

(C) *Lot size.* No lot, even though it may consist of one or more adjacent lots of record in single ownership, shall be reduced in size so that the lot width or depth, front, side or rear yard, lot area per dwelling unit, or other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

(D) *Yard use limitations.*

(1) No part of a yard or other open space required about any building or use for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space similarly required for another building or use.

(2) *Allowable encroachments in yards.* Only the following structures and uses are permitted and may be encroachments in required yards as itemized in the following

<i>Item</i>	<i>Allowable Encroachment in Required Area</i>	<i>Yard Allowed</i>		
		F	S	R
1	Awnings attached - not more than 42 inches, or in C-1 district only - not more than 60- inches (includes ROW)	F	S	R
		F		R
2	Arbors or trellises - detached			R
3	Arbors or trellises - attached - not more than 3 feet	F		R
4	Air conditioning equipment enclosures, only as necessary on existing homes		S	R
5	Balconies - not more than 5 feet			R
6	Bay windows - not extending to foundation and not more than 3 feet deep and not more than 50% of width of the room in which it is a part	F		R
7	Canopies, marquees - attached - C-1 District only - not more than 72 inches (includes over ROW)	F		R
		F		R
8	Eaves or gutters - cantilevered not more than 3 feet	F	S	R
9	Fences, finished side of fence to face abutting property	F	S	F
10	Ornamental light standards	F	S	R
11	Parking spaces - except as otherwise provided	F	S	R

12	Playground and laundry drying equipment			R
13	Play houses and pergolas			R
14	Retaining walls - decorative block, brick, or stucco over plain block	F	S	R
15	Signs and nameplates - per sign regulations	F	S	R
16	Sills, belt courses, cornices and ornamental features of the principal building - not more than 24 inches	F	S	R
17	Steps and stairs, open, and handicap ramps - for access to and from a principal building when required on existing buildings	F	S	R
18	Patios, no more than 5 feet on existing structures			R
19	Trees, shrubs, and other plants	F	S	R

(E) *One principal building on a lot.* Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one principal building and its customary accessory buildings on the lot, except in the case of specially designed complexes of

institutional, residential, commercial or industrial buildings in an appropriate zoning district classification.

(F) *Lot frontage.* All lots shall front on a public street.

(G) *Combining parcels or lots.* If combining parcels or lots, all parcels or lots shall be in the same zoning classification.

(H) *Recreational vehicles.* Recreational vehicles shall not be permanently affixed to the ground or utilities as a principal building or accessory structure on any lot. Recreational vehicles shall not be occupied for dwelling purposes at any time, unless parked in an authorized recreational vehicle park.

(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.091 INTERPRETATION OF DISTRICT REGULATIONS.

The regulations for the various zoning district classifications shall be enforced and interpreted according to the rules specified herein.

(A) *Uses.* Uses not designated as permitted, or special, shall be prohibited. Permitted uses subject to special requirements, and special uses shall be permitted only according to the additional regulations imposed. Permits for a special use shall be approved or disapproved by the Board of Aldermen.

(B) *Minimum regulations.* Regulations set forth by this subchapter shall be general requirements applicable to all uses in all district classifications, unless other regulations are more restrictive or establish a higher standard.

(C) *Land covenants.* Unless restrictions established by covenants with the land are prohibited by or are contrary to the provisions of this chapter, nothing herein contained shall be construed to render such covenants inoperative.

(Ord. passed 10-1-07)

§ 152.092 VISIBILITY AT INTERSECTIONS.

On a corner lot nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between a height of two and one-half 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. This regulation does not apply in the C-1 Central Business District. (Ord. passed 10-1-07)

§ 152.093 OFF-STREET PARKING.

All developments, except for those situated within the C-1 Central Commercial Zoning 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. No certificate of occupancy will be issued upon completion of the building unless all off-street parking and loading requirements, shown upon the plans or made part of the building permit, are in place and ready for use and conforming to requirements.

(A) *Presumptions.* The presumptions established by this section are that (1) a development must comply with the parking standards set forth in division (E) to satisfy the standard stated in § 152.094 and (2) any development that does meet these standards is in compliance. However, the parking space requirements contained in division (E) are only intended to establish a presumption and should be flexibly administered in accordance with division (F).

(B) *Separate uses.* The required parking for separate uses may be combined in one lot, but spaces assigned to one use may not be assigned to another use at the same time; provided, however, one-half of the parking spaces required for churches, theaters or assembly halls, whose peak attendance will be at night or on Sundays, may be assigned to a use which will be closed at night or on Sundays.

(C) *Remote parking.* If the required number of parking spaces cannot reasonably be provided on the same lot as the use being served, required parking spaces may be provided on any lot a substantial portion of which is within 200 feet of such uses.

(D) *Parking space design.* Each automobile parking space shall not be less than nine feet by 18 feet in area exclusive of adequate access drives and maneuvering space. Such space shall be provided with vehicular access to a street or alley. Parking spaces shall not thereafter be encroached upon or altered without prior development authorization as per §§ 152.050 - 152.062, above.

(E) *Use classifications and parking space requirements.* The number of parking spaces provided for any use or development shall equal or

exceed the number determined for the use or development by the standards contained herein. It is recognized that the list of parking requirements contained in this section 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.

(1) Automobile car wash: One space for each two employees at maximum employment on a single shift. Reserve spaces equal to five times the capacity of the facility at the location of both ingress and egress.

(2) Automobile sales and repair: One parking space for each two employees at maximum employment on a single shift, plus two spaces for each 300 square feet of repair or maintenance space.

(3) Bowling alleys: Two spaces for each lane, plus one additional space for each two employees.

(4) Camps for tents and camping trailers: One parking space for each site provided for tents and camping trailers, plus ten additional spaces.

(5) Churches: One space for each four seats.

(6) Civic clubs and fraternal organizations: One space per 250 square feet of floor area.

(7) Congregate care facilities: One space for each independent dwelling unit; one space for every ten independent dwelling units to accommodate visitors; one space for every employee on the largest shift for the entire project; and one space for every four beds for assisted living or nursing care beds.

(8) Dance and fitness facilities: One space per 100 square feet of floor area.

(9) Elementary schools and middle schools (public and private): Two spaces for each classroom and administrative office.

(10) Filling stations: Two spaces for each gas pump, plus three spaces for each grease rack or similar facility.

(11) Hospitals: One space for each four patient beds, plus one space for each staff or visiting doctor, plus one space for each four employees.

(12) Hotels: One space per guest room, plus one additional space for each five employees.

(13) Kindergartens or nurseries: One space for each employee and four spaces for off-street drop-off and pick-up.

(14) Libraries: One space for each four seats provided for patron use.

(15) Medical offices and clinics: Six spaces for each doctor practicing at the clinic, plus one space for each employee.

(16) Mobile home parks: One space for each sleeping unit.

(17) Mortuary or funeral homes: One space for each four seats in the assembly room or chapel.

(18) Motel, tourist homes or tourist courts: One space per guest room plus two additional space for each 20 units.

(19) Music and art studios: One space per 150 square feet of floor area.

(20) Nursing homes: One space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for every employee on the largest shift for the entire project.

(21) Offices: professional, business, or public, including banks: One space for each 400 square feet of gross floor area.

(22) Places of public assembly, including cultural arts buildings, private clubs and lodges, auditoriums, dance halls, theaters, stadiums, gymnasiums, amusement parks, community centers and all similar places of public assembly: One space for each four seats provided for patron use, plus one space for each 100 square feet of floor or ground area used for amusement or assembly but not containing fixed seats.

(23) Progressive care facilities: One space for each independent dwelling unit; one space for every ten independent dwelling units to accommodate visitors; one space for every employee on the largest shift for the entire project; and one space for every four beds for assisted living or nursing care beds.

(24) Recreational facilities, indoors: One space per 200 square feet of floor area.

(25) Residential dwellings: One space for each dwelling unit. Dwelling units exceeding 3, one and one-half spaces per unit.

(26) Rest and convalescent homes, homes for the aged and similar institutions: One space for each six patient beds, plus one space for each staff or visiting doctor, plus one space for every employee on the largest shift for the entire project.

(27) Restaurants (drive-in): One space for each three seats or stools plus one space for each two employees on the shift with the largest employment plus driveway(s) sufficient to accommodate queuing for five vehicles.

(28) Restaurants (in-door): One space for each three seats or stools plus one space for each two employees on the shift with the largest employment.

(29) Retail stores and shopping centers: One space for each 200 square feet of gross floor area. Provided, however, the developer of retail stores having unusually high percentages (greater than 40%) of gross floor areas used for inventory storage may apply for a reduction in the number of required spaces based upon the standard of one space for up to each 500 square feet of inventory storage. The reduction in the number of required spaces shall be granted only to a specific tenant. Subsequent tenant's parking needs will be determined by the Land Use Administrator.

(30) Rooming and boarding houses: One space for each three guest rooms, plus one additional space for the owners, if resident on the premises.

(31) Senior high schools and colleges (both public and private): One space for each ten students for whom the school was designed, plus one space for each classroom and administrative office.

(32) Wholesaling and industrial uses: One space for each two employees at maximum employment on a single shift.

(F) *Flexible administration.* It is recognized that, due to the particularities of any given development, the inflexible application of the parking standards set forth in division (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 the permit-issuing authority may permit deviations from the presumptive requirements of division (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 division (A).

(1) Without limiting the generality of the foregoing, the permit-issuing authority may allow deviations from the parking requirements set forth in division (E) when it finds the following:

(a) A residential development is irrevocably oriented toward the elderly.

(b) A business is primarily oriented toward walk-in trade or trade expected to arrive by means

other than an automobile.

(2) Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in division (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.

(Ord. passed 10-1-07)

§ 152.094 OFF-STREET LOADING AND UNLOADING.

Development and redevelopment projects in all districts except the C-1 Central Commercial District shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley. Such space shall have access to an alley or, if there is no alley, to a street. For the purposes of this section an off-street loading space shall have a minimum dimension adequate to accommodate the largest vehicles expected to be served and, in any event, no less than 12 feet by 40 feet and an overhead clearance of 14 feet in height above the alley or street grade.

(A) *Retail operations:* One loading space for each 20,000 square feet of gross floor area or fraction thereof.

(B) Wholesale and industrial operations:

<i>Building Area in Square Feet</i>	<i>Number of Spaces</i>
0 - 40,000	1
40,000 - 100,000	2
100,000 - 160,000	3
160,000 - 240,000	4
240,000 - 320,000	5
320,000 - 400,000	6
Each 90,000, above	1 additional

(Ord. passed 10-1-07)

§ 152.095 ACCESSORY STRUCTURES.

Accessory structures shall not be located in any required front yard or any required front or side yard of a corner lot. In all other cases, the accessory structure shall meet the setback requirements for the zoning district classification in which it is located.

(Ord. passed 10-1-07)

§ 152.096 CALCULATION OF LOT AREAS.

No part of a road right-of-way lying within lot lines may be used in calculating minimum lot sizes requirements.

(Ord. passed 10-1-07)

§ 152.097 STORAGE CONTAINERS.

(A) For purposes of administering this section, the term "storage containers" shall include "storage trailers". Storage containers shall require permits from the Administrator; they shall be removed from the premises upon which they are located upon the expiration of the time period designed in the permit. One storage container per lot shall be permitted for a period not exceeding 90 consecutive days in a 12-month period. Storage containers shall meet all setback requirements for the zoning district in which they are located and shall be placed in the rear yard wherever possible. No storage container shall be permitted on a vacant lot. No storage container shall contain facilities for utility service. No storage container shall display any signs, lettering or

advertising device, with the exception of a required owner identification sign with letters not to exceed three inches in height. This sign shall contain the name, address and phone number of the owner and may also contain a storage container identification number. These regulations shall not apply to the following:

(1) Construction service trailers used for offices or for storage of tools or materials on job sites for the duration of construction;

(2) Storage trailers used as construction service facilities which are a portion of the inventory of the equipment used by the business to transport materials from one job to another, and not used for purposes of storage.

(3) Storage trailers, on the lot of a storage trailer sales or rental business, that constitute part of the inventory of such business and that are not currently used for purposes of storage.

(B) Storage containers shall be permitted only in the C-3 Highway Commercial and I-1 Industrial zoning district classifications.

(Ord. passed 10-1-07)

§ 152.098 STREETS AND SIDEWALKS.

(A) Street classification. In all new subdivisions, streets that are dedicated to public use shall be classified as provided in herein. 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. 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. 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. 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 75 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 not more than 25 dwelling units and is expected to or does handle between 75 and 200 trips per day.

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

(4) *Subcollector*. A street whose sole 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 26 but not more than 100 dwelling units and is expected to or does handle between 200 and 800 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 provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than 100 dwelling units and is designed to be used or is used to carry more than 800 trips per day.

(6) *Arterial*. A major street in the town's street system that serves as an avenue for the circulation of traffic into, out, or around the town 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.

(B) *Access to public streets in general*. 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 herein 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 herein.

(1) *Standard for access*. 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.

(2) *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.

(C) *Entrances to streets.* All driveway entrances and other openings onto streets within the town's planning jurisdiction shall be constructed so that (a) 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 (b) interference with the free and convenient flow of traffic in abutting or surrounding streets is minimized.

(D) *Coordination with surrounding streets.* The street system of a subdivision or planned development shall be coordinated with existing, proposed and anticipated streets outside the development or outside the portion of a single tract that is being divided into lots (hereinafter, "surrounding streets") as provided in this section.

(1) Collector streets shall intersect with surrounding collector or arterial streets at safe and convenient locations.

(2) 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.

(3) 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 turn-arounds 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 section, no temporary dead-end street in excess of 1,000 feet may be created unless no other practicable alternative is available.

(E) *Street width and drainage requirements in subdivisions and planned developments.* 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 town's drainage system. All streets shall be constructed with curb and gutter and shall

conform to the other requirements of this section. Only standard 90E curb may be used, except that roll-type curb shall be permitted along minor and local streets within residential subdivisions. Street pavement width shall be measured from curb face to curb face where 90E curb is used, and from the center of the curb where roll-type curb is used.

<i>Type Street</i>	<i>Minimum Right-of-Way</i>	<i>Minimum Pavement Width</i>
Minor	40'	22'
Local	40'	22'
Subcollector	50'	34'
Collector	50'	34'

(F) *General layout of streets.*

(1) Subcollector, local, and minor residential streets shall be curved whenever practicable to the extent necessary to avoid conformity of lot appearance.

(2) To the extent practicable, driveway access to collector streets shall be minimized to facilitate the free flow of traffic and avoid traffic hazards.

(3) All permanent dead-end streets shall be developed as cul-de-sacs in accordance with the standards set forth in division (F)(4). 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).

(4) The right-of-way of a cul-de-sac shall have a radius of 30 feet. The radius of the paved portion of the turn-around (measured to the outer edge of the pavement) shall be 30 feet. The entire cul-de-sac shall be paved. No parking shall be permitted on the cul-de-sac.

(5) 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.

(6) Streets shall be laid out so that residential blocks do not exceed 1,000 feet, unless no other practicable alternative is available.

(G) *Street intersections.*

(1) Streets shall intersect as nearly as possible at right angles, and no two streets may intersect at less than 60 degrees. No 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.

(2) 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 center line offset (jog) occurs at an intersection, the distance between centerlines of the intersecting streets shall be not less than 150 feet.

(3) No two streets may intersect with any other street on the same side at a distance of less than 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.

(H) *Construction standards and specifications.* Except as modified herein, streets shall be designed to comply with the design and construction standards of the North Carolina Department of Transportation.

(I) *Road and sidewalk requirements in unsubdivided developments.* 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 and drainage. To the extent not otherwise covered in the foregoing subchapters, and to the extent that the requirements set forth in this subchapter for subdivision streets may be relevant to the roads in unsubdivided developments, the requirements of this subchapter may be applied to satisfy the standard set forth in the first sentence of this subsection.

(1) 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 town are constructed in accordance with the specifications for subdivision streets, the town may accept an offer of dedication of such streets.

(2) In all unsubdivided multi-family residential developments, sidewalks shall be provided linking dwelling units with other dwelling units, the public street, and on-site activity centers such as parking areas, laundry facilities, and recreational areas and facilities. Notwithstanding the foregoing, sidewalks shall not be required where pedestrians have access to a road that serves not more than nine dwelling units.

(3) 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 feet to provide such access.

(4) In unsubdivided nonresidential developments that abut a public street, sidewalks shall be constructed adjacent to such street if a sidewalk in that location is necessary to continue a pre-existing sidewalk. Whenever possible, such sidewalk shall be constructed within the public right-of-way.

(5) The sidewalks required by this section shall be at least four feet wide and constructed according to the specifications of the town, except that the permit issuing authority may permit the installation of walkways constructed with other suitable materials when it concludes that (a) such walkways would serve the residents of the development as adequately as concrete sidewalks and (b) such walkways could be more environmentally desirable or more in keeping with the overall design of the development.

(6) *Attention to handicapped in street and sidewalk construction.* 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 North Carolina Department of Transportation, Division of Highways. In unsubdivided developments, sidewalk construction for the handicapped shall conform to the requirements of the North Carolina State Building Code.

(7) *Street names and house numbers.*

(a) Street names shall be assigned by the developer subject to the approval of the permit issuing authority. 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 town's planning jurisdiction, regardless of the use of different suffixes (such as those set forth in herein).

Street names shall include a suffix such as the following:

1. *Circle:* A short street that returns to itself.
2. *Court or place:* A cul-de-sac or dead-end street.
3. *Loop:* A street that begins at the intersection with one street and circles back to end at another intersection with the same street.
4. *Street:* All public streets not designated by another suffix.

(b) Building numbers shall be assigned by the town in coordination with the Macon County street-addressing program.

(J) *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.

(K) *Sidewalk requirements.* All new development or redevelopment shall have sidewalks, with curb and gutter and necessary storm sewer, along each public street abutting the development in accordance with the standards of the town.

(1) All costs associated with the sidewalk, curb and gutter, and storm sewer shall be borne by the developer.

(2) All sidewalk, curb and gutter, and storm sewer shall be dedicated to the town for perpetual maintenance. All such dedicated improvements shall be guaranteed for one year following the date of acceptance by the town. Any defects in material and/or workmanship during the one-year period shall be immediately corrected by the developer.

(3) Payment of fee in lieu of construction of sidewalks. When site characteristics and/or traffic patterns are such that the construction of sidewalks in accordance with this section would be a hardship and would not result in useful

pedestrian walkways, the
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Town Administrator may allow the applicant to pay the cost of constructing such sidewalks into the Town Sidewalk Fund in lieu of requiring construction of the sidewalks.

(Ord. passed 10-1-07)

§ 152.099 NUISANCES.

It shall be a violation of this chapter to operate any use in such a fashion as to constitute a nuisance as specified in this section.

(A) *Noise.* Other than ordinary construction activities, no use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities. No nonresidential use shall be operated so as to generate any noise in an adjacent district, as detected in that district without instruments, that is louder than the noise which could be generally expected from uses permitted in that district.

(B) *Fumes and odors.* No use shall emit fumes, gases, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.

(C) *Vibration.* Other than ordinary construction activities, no use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line which create a nuisance to any person of ordinary sensitivities on another property.

(D) *Lighting.* Lighting facilities, if provided, shall be aimed, directed, shielded or arranged so the light sources for such facilities do not cause undue glare on neighboring properties or interfere with the safe use of public rights-of-way.

(Ord. passed 10-1-07)

§ 152.100 BURDEN OF PROOF.

The burden of proof shall rest with the applicant in all proceedings required or authorized by this chapter.

(Ord. passed 10-1-07)

§ 152.101 RIGHTS-OF-WAY FOR ROADS AND STREETS.

(A) *Reservation of right-of-way.* The orderly development of land is dependent upon the protection of existing and proposed major roadways

in the town. The provisions of this section are intended to provide for the reservation of right-of-way for such roadways under appropriate conditions.

(1) *Reservation under the roadway corridor official map act.* Pursuant to authority granted by G.S. Ch.136, Art. 2E, the town or the NCDOT may from time to time adopt, amend, supplement or change a roadway corridor official map for any streets or roadways identified on the town's thoroughfare plan.

(a) After a roadway corridor official map is filed with the Register of Deeds, no building permit shall be issued for any building or structure or part thereof located within the roadway corridor, nor shall approval of a subdivision be granted with respect to property within the roadway corridor. The provisions of this section shall not apply to valid building permits issued prior to the effective date of this section or to building permits for buildings and structures which existed prior to the filing of the roadway corridor, provided the size of the building or structure is not increased and the type of building code occupancy is not changed.

(b) No application for building permit issuance or subdivision plan approval shall be delayed by the provisions of this section for more than three years from the date of the original building permit or subdivision plan submittal.

(2) *Setbacks for existing roadways.* Applicants for development authorization for parcels adjoining existing roadways identified on the town's thoroughfare plan shall propose locations for structures and other improvements which do not encroach upon the proposed rights-of-way listed in such plan.

(3) *Variances.* A variance from the provisions of this section may be granted by the Board of Adjustment or by Board of Aldermen, as appropriate, upon demonstration (a) that the requirements of this section result in practical difficulties or unnecessary hardships and (b) that no reasonable return may be earned from the land. For purposes of determining whether any reasonable use may be earned, the entire parcel will be considered, not just that portion lying within the bounds of the existing or proposed roadway.

(B) *Dedication of right-of-way with density transfer.* Whenever a tract of land located within the planning jurisdiction of the town is proposed for a use requiring development authorization under §§ 152.050 - 152.062 herein and a portion of it is

embraced within a corridor for a street or highway on a plan established and adopted pursuant to G.S. § 136-66.2, the town may require the applicant to dedicate for street or highway purposes the right-of-way within such corridor. If the town elects to require such dedication it shall allow the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant. No dedication of right-of-way shall be required pursuant to this section unless the entity granting development authorization shall find, prior to the grant, that the dedication does not result in the deprivation of a reasonable use of the original tract and that the dedication is either reasonably related to the traffic generated by the proposed subdivision or use of the remaining land or the impact of the dedication is mitigated by measures provided elsewhere in the Zoning Ordinance.

(Ord. passed 10-1-07)

§ 152.102 OPEN SPACE STANDARDS.

Open space is intended to provide recreational opportunities, to conserve and protect significant natural areas and environmentally sensitive areas, to conserve important historic resources, and/or to conserve productive farming and forestry uses. Functional open space enhances circulation within a site and contributes to the site's aesthetic qualities. Open space may include any out-of-doors common space and any portion of the site not covered by a building or vehicular use area. Where required, open space shall meet or exceed the standards contained in this section.

(A) *Extent of open space.* Open space requirements are expressed as a percentage of the area of a development in the standards for some zoning classifications contained in §§ 152.020 - 152.041. Open space shall meet or exceed this stated percentage. The following standards shall be used in determining which portions of a development site are to be designated as open space.

(1) *Primary conservation areas.* The following areas are considered primary conservation areas and shall be designated as open space on development plans when open space is required.

(a) Designated floodways and floodway fringes identified as part of a flood insurance study prepared by the Federal Emergency Management Agency;

(b) Natural watercourses and any adjoining stream buffers required to be maintained in a natural vegetated and unaltered state pursuant to

§§ 152.190 - 152.199 hereof. All primary conservation areas shall be designated as open space even if doing so results in open space which exceeds the amount required by the open space standard contained in §§ 152.020 - 152.041.

(2) *Secondary conservation areas.* The following areas are considered secondary conservation areas. When open space is required for a development, some or all the secondary conservation areas on the development site shall be designated as open space to the extent it is necessary to meet the applicable open space standard.

(a) Any identified significant natural areas (e.g., rare plant communities, important wildlife habitat) or other environmentally sensitive areas where development might threaten water quality or ecosystems (e.g., watershed buffers, groundwater recharge areas).

(b) Any identified important historic resources (e.g., homesteads, mills, barns, archeological sites) identified from a local archeological or architectural survey or an individual site survey.

(c) Productive farmland or forest land intended for continued agricultural and/or forestry use.

(3) *Additional open space.* When primary and/or secondary conservation areas do not equal or exceed the open space standard for a development site, additional lands shall be designated as open space in order to meet such standard.

(B) *Open space design.* Provided such use is not inconsistent with §§ 152.190 - 152.199 and with other applicable regulations, open space may be used to provide active and/or passive outdoor recreation opportunities (e.g., ballfields, playgrounds, tennis courts, swimming pools, basketball courts, golf courses, bikeways, walking trails, nature trails, and picnic areas), either for the general public or for the subdivision's residents or employees and their guests.

(1) Open space may contain only such buildings, structures, access ways, and parking facilities as are necessary and accessory to its principal uses, e.g., pedestrian path, recreational clubhouse, utility lines, driveway, small parking area, barns and other farm storage and processing facilities.

(2) The location, size, character, and shape of required open space shall be appropriate to

its intended use (e.g., open space proposed to be used for recreation, particularly active recreation, shall be located and designed so as to be conveniently and safely reached and used by those persons it is intended to serve, and open space proposed to be used for ballfields, playing fields, or other extensive active recreational facilities should be located on land that is relatively flat and dry).

(3) *Ownership and maintenance of open space.*

Arrangements for the perpetual maintenance of open space must be approved in writing by the Land Use Administrator. Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed and approved by the Land Use Administrator which shall prohibit future development of any open space for other than open space or recreation purposes and shall provide for continued maintenance of any open space and recreational facilities.

(Ord. passed 10-1-07)

§ 152.103 COMMON SPACE STANDARDS.

Certain developments are required to develop a specified portion of the development site as common space. Where required, common space shall meet or exceed the standards contained in this section.

(A) *General design standards.* Common space is intended to shape the design and character of a project through a connecting system of pedestrian areas that create a relationship among the various components of the built environment. It shall be designed to create areas where workers, residents and shoppers, as the case may be, are directly or indirectly invited to gather, browse, sit, interact or congregate. It shall be arranged as community space with open areas, landscaping, seating facilities and lighting fixtures which provide for safety and visual effects. Common spaces are intended to be places for social interaction and, thus, may include impervious surfaces. Unless interior common space is approved by the reviewing authority, common space shall be out-of-doors.

(B) *Specific design standards.* In addition to the general design standards contained in § 152.105(A), common space design shall comply with the following.

(1) *Trees.* One tree shall be planted for each 500 square feet of common space. Trees shall have a minimum caliper of three to three and one-half inches measured six inches above ground at the time of planting.

(2) *Utilities.* All utilities service lines and connections shall be underground.

(3) *Seating.* Seating shall be provided to accommodate workers, residents and/or shoppers. Seating may be accomplished in whole or in part using planters or other similar structures.

(4) *Amenities.* Common space for a development shall contain adequate amenities to animate and enliven the environment and to make it conducive for social interaction. Following is a list of such amenities: ornamental fountains, stairways, waterfalls, public art, arbors, trellises, planted beds, drinking fountains, clock pedestals, awnings, canopies, informational kiosks, and similar structures. This list is not intended to be exhaustive.

(C) *Lands which may be designated as common space.* The following standards control what lands in a development may be designated as common space.

(1) Primary conservation areas shall not be designated as common space absent authorization from the town in those circumstances where, due to careful design, the land in question can fulfill the function of common space without compromising the purposes served by primary conservation areas.

(2) Land that is burdened with easements may be used provided that the easements do not interfere with the use of the land for common space and do not permit future development.

(D) *Ownership and maintenance of common space.* Arrangements for the perpetual maintenance of common space must be approved in writing by the Land Use Administrator. Any conveyance to a homeowners association shall be subject to restrictive covenants and easements reviewed by the Land Use Administrator and recorded and filed in accordance with the times specified in this section. The covenants and easements shall prohibit future development of any common space for other than the purposes specified herein and shall provide for continued maintenance of any such common space.

(E) *Completion of common space.* All common space shall be set aside and improved no later than the following applicable date:

(1) For subdivisions: prior to the sale of any lot;

(2) For planned developments: no later than

the date on which certificates of occupancy are issued for the first 75% of the total number of dwelling units to be constructed in the project area.
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(Ord. passed 10-1-07)

§ 152.104 SEPARABILITY.

Should any section or provision of this chapter be declared invalid by any court, such declaration shall not affect the validity of this chapter as a whole or any part thereof which is not specifically declared to be invalid.
(Ord. passed 10-1-07)

§ 152.105 TRANSPORTATION IMPACT ANALYSIS.

The purpose of a transportation impact analysis (TIA) is to assess the impact of a proposed development on the existing transportation system. A TIA will (1) ensure that the transportation network has adequate capacity to handle projected transportation demand associated with the project, (2) identify problems with the transportation system, (3) delineate solutions to identified problems, and (4) identify improvements to be incorporated into the proposed development.

(A) *Required.* Applicants for development authorization in which the proposed development, redevelopment, or change of use is expected to generate 100 or more peak-hour trips (a.m. or p.m.) or 1,000 or more trips daily shall have prepared by a qualified professional a TIA meeting the guidelines established in this section. In addition to the foregoing, the Planning Director shall have the discretion to require a TIA when there are localized safety or capacity deficiencies.

(B) *Presubmittal conference.* An applicant for development authorization for any project expected to meet or exceed one or both of the TIA thresholds specified in division (A), above, shall schedule a presubmittal conference with the town. The engineering firm selected to prepare the TIA shall attend this meeting the purpose of which is to establish the study area, the trip distribution, the traffic counts to be utilized, approved developments in the area, pass-by and internal capture percentages, additional hours of analysis, if required (other than a.m. or p.m. peak), and resolve any other questions specific to the site.

(C) *TIA submission.* Three copies of the TIA, if required, shall accompany the application for development authorization. The TIA shall be prepared by a licensed engineer registered to practice in the State of North Carolina who shall have traffic assessment and transportation management experience. At a minimum, the TIA shall include the following:

(1) Study purpose and objectives.

(2) Description of the site and study area boundaries including appropriate mapping and rationale for selection of the study area boundaries.

(3) A summary of existing conditions including, but not limited to, surrounding street and key intersection traffic volumes (daily and peak-hour), turning movements, capacities, safety deficiencies, and funded transportation improvements.

(4) Anticipated or approved development in the area.

(5) Trip generation, trip distribution, and discussion of the following:

(a) Trip generation rates shall be based on trip generation rates contained in the latest edition of Trip Generation published by the Institute of Transportation Engineers (ITE). The applicant shall also provide the ITE code used to identify the development trip generation rate and assumptions used or data collected for any variations from generally accepted ITE rates or equations.

(b) Pass-by trip factors and assumptions.

(c) Internal trip assumptions for mixed use developments.

(d) Trip distribution assumptions.

(6) Projection of future traffic volumes and assessment of future roadway and intersection operating conditions for the year of the ultimate completion of the project. All projections should specifically document projected background traffic as well as the traffic generated by the proposed development. If the project is to be phased; projections for each phase of the development is required. If the unphased build-out period of the project is greater than nine years, then a minimum of one intermediate and one full build-out projection is required. All projections and assessments should include the following three scenarios:

(a) No build.

(b) Maximum possible development under existing use or zoning. Applicant shall conduct assessment of project phasing. The impact of the development of a particular phase is not to be compared with the total possible build-out of the entire project location.

(c) The development as proposed.

(7) Analysis of the key elements of the development and evaluation of the impacts of the development on the following:

(a) *Generalized peak hour and/or daily Link Level of Service (LOS) analysis.* Using the peak hour directional volumes and daily traffic volumes forecast and service thresholds, a general evaluation shall be made of the street system for the short term and long-term horizon years. If the project is to be phased; then an assessment of conditions after the completion of each phase of the development is required. Incremental differences attributable to the land use action shall be identified. A map showing generalized levels of service shall be presented for each design year.

(b) *Access analysis.* The design, number, and location of access points to collector and arterial roadways must be fully analyzed. The number of access points shall be kept to a minimum and be designed to be consistent with the type of roadway facility. Access analysis shall include a strip accident, intersection accident analysis and bicycle/ pedestrian analysis.

(c) *Intersection analysis (signal warrant analysis, phasing analysis, intersection crash analysis and progression analysis).* The appropriateness of the development's access locations and type must be established. For full-access locations, a signal warrant analysis based on the Manual on Uniform Traffic Control Devices must be conducted for each design year. Traffic signals specifically warranted by the land use action shall be identified.

(d) *Peak hour intersection level of service.* An a.m. and p.m. peak hour intersection level of service analysis shall be conducted for each intersection, based on procedures specified in the most recent release of the Highway Capacity Manual. Levels of service for signalized intersections shall be based on the signal timings developed for the signal progression analysis.

(e) *Turn lane storage requirements.* Turn lane storage needs shall be identified for the "warranted" situation, based on projected turning volumes and AASHTO analytic techniques. Appropriate documentation of the calculations must be provided.

(f) *Sight distance.* The identification of sight distance at the development entrances and all internal streets shall be conducted.

(g) *Appropriateness of acceleration or deceleration lanes.* All proposed development access points on arterials shall be evaluated to determine the need for acceleration lanes or deceleration lanes, with justification and basis provided for recommendations.

(h) *Pedestrian and bicycle analysis.* Continuity and adequacy of pedestrian and bike facilities shall be provided to the nearest attraction (existing or planned) within 1/4 mile of the development site. Destinations of significance include bus stops, elementary schools, parks, activity centers and major bicycle facilities. Adherence to the Americans with Disabilities Act (ADA) shall be required.

(i) *Public transportation analysis.* Existing and proposed (if any) public transportation facilities analysis shall be provided.

(j) *Special analysis/issues.* The town may require specific focused traffic analyses relative to the proposed development.

(8) Recommendations for site access and transportation improvements or mitigation measures needed to maintain traffic flow to, from, within and adjacent to the proposed development at an acceptable and safe level of service (generally assumed at LOS D or better). Any recommendations for roadway improvements should identify funding sources for these improvements.

(9) Data collected for the study shall be made available to the town for evaluation of the study conclusions. The format for data submission as well as format for data to be provided to the town will be determined at a pre-consultation meeting between the applicant and the town. (Ord. passed 10-1-07)

OUTDOOR DISPLAY OF MERCHANDISE

§ 152.110 OUTDOOR DISPLAYS PERMITTED.

Subject to the regulations and requirements of the section, outdoor displays of merchandise shall be permitted in conjunction with permitted uses in the following Zoning District Classifications: C-1 Central Commercial, C-2 Secondary Commercial, C-3 Highway Commercial, I-1 Industrial, NMU Neighborhood Mixed Use, and MICR Medical Institutional Cultural Residential. (Ord. passed 5-5-14)

§ 152.111 REGULATION OF OUTDOOR DISPLAYS.

(A) Businesses intending to display merchandise outdoors should indicate such at the time of business license approval, in accordance with Chapter 110 of this Code, or prior to the commencement of business operations.

(B) Prior to approval of business license or commencement of business operations, all businesses displaying merchandise outdoors must submit a sketch showing the location of the outdoor display or sales area and how the following requirements are to be met:

(1) All outdoor displays shall be located immediately adjacent to the storefront and not in drive aisles, loading zones or fire lanes.

(2) Outdoor display and/or sales areas may be located within parking lots, provided that:

(a) The area is located within a designated area of the parking lot not to exceed 4,000 square feet;

(b) Any parking spaces located within the designated area are in addition to the minimum number of parking spaces required for the principal use;

(c) Any parking spaces within the designated area that are not occupied by merchandise are marked so as to prevent parking within the area;

(d) The area is located so as to minimize the need to cross drive aisles; and

(e) Merchandise, vehicles, trailers or containers within the area will not interfere with the movement of emergency vehicles or disrupt vehicular or pedestrian traffic.

(3) At least five feet along the parking lot side of the display shall be maintained free of obstruction to allow for pedestrian and handicap movement, such that handicapped pedestrians and others do not have to enter the parking lot or drive aisle to walk around the display. Storefronts bordering public sidewalks or streets are prohibited from displaying merchandise upon the same, pursuant to § 95.20 of this Code.

(4) The height of the outdoor display shall not exceed six feet in height unless an exception to this provision has been granted by the Land Use Administrator.

(5) The area of outdoor display and/or sales shall not encompass the width of the entrance doors to the facility as projected straight out from the facility. For example, if the width of the entrance doors is ten feet, then there shall be at least a ten foot clearance from the doors as projected straight out from the facility.

(6) The area used for outdoor display and/or sales shall not be located upon the side or rear yards of buildings, and shall be limited to no more than one-half of the length of the storefront. In the case of a shopping center, the "storefront" shall include the entire frontage of the shopping center, meaning that the total amount of display for all the in-line tenants combined shall not exceed 50% of the aggregate storefront of the overall shopping center.
(Ord. passed 5-5-14)

SPECIAL REQUIREMENTS FOR CERTAIN USES

§ 152.120 PURPOSE.

This subchapter provides for the regulation of certain land uses which, because of their nature or locational requirements, demand additional unique standards in order to be compatible with other permitted or permissible uses within the relevant zoning district.
(Ord. passed 10-1-07)

§ 152.121 APPLICABILITY.

These standards apply to a particular use only when it is designated as a special use, or a “permitted use subject to special requirements” in any particular zoning classification. They do not apply when a use is a permitted use, that is, permitted by right. In such a situation, the development and dimensional standards for the zoning classification and other applicable standards will guide development and use. It is important to note this distinction because the same use may be a special use or a permitted use subject to special requirements in one zoning classification, in which case the standards contained in this subchapter would apply, and a permitted use in another classification, in which case they would not. The standards contained in this subchapter also serve as minimum requirements for developments undergoing special use review; provided, however, nothing herein shall be construed to limit applicants from proposing, and the Board of Aldermen from approving, plans which exceed these standards.

(Ord. passed 10-1-07)

§ 152.122 PROCEDURES FOR APPLYING STANDARDS.

This subchapter does not distinguish between standards on the basis of procedural review. Please refer to the appropriate zoning classification to determine if the proposed use is a special use or a permitted use subject to special requirements. If the proposed use is a special use or a permitted use subject to special requirements, the standards will be applied during the applicable development review procedure in accordance with §§ 152.050 - 152.062, above.

(Ord. passed 10-1-07)

§ 152.123 STANDARDS.

As stated herein, the following standards apply to the indicated use when such use is either a special use or a permitted use subject to special requirements. These standards are in addition to other applicable development standards contained in this chapter.

(A) *Accessory dwelling units.*

(1) Accessory dwelling units may only be situated on a lot on which a principal residential dwelling unit is also situated and shall be clearly incidental or accessory to such principal residential structure.

(2) No more than one accessory dwelling unit may be situated on any lot.

(3) Accessory dwelling units may not exceed 800 square feet of floor area.

(4) The lot shall comply with the minimum lot size requirement for the zoning classification in which it is situated.

(5) The structure containing the accessory dwelling unit shall comply with the set back requirements for the zoning classification in which it is situated.

(B) *Adaptive reuses.*

(1) This section is intended to allow a means for the development of new uses for a building originally designed for a different use. It is intended to have application in two particular areas. The first is for the reuse of a structure which has been used historically for a use permitted in the zoning district classification but for which there is no longer any reasonable demand for such previous use. Example of this first class include church buildings and schools. The second class involves situations in which structures have been devoted historically to a nonconforming use, the owner of the property no longer desires to devote the property to that use or the use has ceased, and there is no reasonable likelihood that the property will revert to a use permitted in the zoning district classification.

(2) Adaptive reuses may only be authorized by means of special use permits processed through the special use review requirements of §§ 152.050 - 152.062, above. In addition to the standards set forth therein, adaptive reuses must also meet the following special requirements.

(a) The developer proposes the reuse of a structure or structures used historically for a use permitted in the zoning district classification but for which there is no longer any reasonable demand for such previous use, or the developer proposes the reuse of a structure or structures used historically as nonconforming use and there is no reasonable likelihood that the property will revert to a use permitted in the zoning district classification.

(b) The developer shall state the precise nature of the proposed adaptive reuse, which shall be compatible with neighboring residential uses. If a special use permit is granted for the adaptive reuse, future use of the property shall be limited to the specified use unless (1) the use is

changed to another use permitted in the zoning classification or (2) a new adaptive reuse is approved. pet stores.

(c) The adaptive reuse shall be housed in an existing structure or structures.

(d) Such structures may be modified or expanded so long as the gross floor area is not increased by more than 10%, so long as the development complies with the open space requirement in division (B)(2)(h), below, and so long as the appearance of the modification is in harmony with the neighboring residential uses.

(e) Off-street parking meeting the requirements of § 152.093, herein, shall be provided. Such off-street parking shall be screened so that it is not readily visible from the street or from adjoining residential uses.

(f) The adaptive reuse may have one sign not to exceed six square feet in area or conforming to the sign requirements for the zoning district where adaptive reuse is located.

(g) The developer shall propose, install and maintain landscaping which will assist in giving it a residential appearance.

(h) The adaptive reuse shall provide open space which shall be not less than the existing open space on the property or 60% of the total area of the development parcel, whichever is less.

(i) Lighting for the adaptive reuse shall be no more than is necessary for safe use of the facility, and shall be designed and installed so that it is directed away from the roadway and any adjacent properties.

(j) Traffic generated by the adaptive reuse shall not be expected to cause an inconvenience to residents of the neighborhood.

(k) The developer shall propose hours of operation for the adaptive reuse which are designed to be compatible with neighboring residential uses. Such hours of operation shall become a condition of the special use permit, violation of which shall be grounds for revocation of the permit.

(C) *Animal boarding facilities.* The standards in this section apply to facilities, such as animal kennels and animal shelters, where the primary purpose is the boarding of household pets. It shall not apply to boarding facilities incidental to the operation of an animal hospital or clinic or to

(1) No animal boarding facility shall be operated without all necessary licensure, certification or other form of permission from the state and any other governmental agency with jurisdiction over its operation. Loss of such permission shall be grounds for revocation of any conditional or special use permit authorizing an animal boarding facility.

(2) No animal boarding facility shall be located within 500 feet of the nearest lot line of a residential use or a residential zoning district.

(3) Animal boarding facilities shall be adequately buffered to prevent sounds from constituting a nuisance to neighboring properties.

(4) Housing facilities for animals shall be structurally sound and shall be maintained in good repair, shall be designed so as to protect the animals from injury, shall contain the animals, and shall restrict the entrance of other animals.

(5) Electric power shall be supplied in conformance with the state electrical codes adequate to supply lighting and heat as may be required by this section. Water shall be supplied at sufficient pressure and quantity to clean indoor housing facilities and primary enclosures of debris and excreta.

(6) Food and bedding shall be stored at facilities adequate to provide protection against infestation or contamination by insects or rodents. Refrigeration shall be provided for the protection of perishable foods.

(7) The applicant shall establish procedures for the safe and sanitary removal and disposal of animal and food waste, bedding, dead animals and debris and shall abide by such procedures. Disposal facilities shall be maintained in a sanitary condition, free from the infestation or contamination of insects or rodents or disease, and from obnoxious or foul odors.

(8) Washroom facilities, including sinks and toilets, shall be provided for animal caretakers.

(9) Indoor housing facilities shall be adequately ventilated to provide for the health of animals contained therein and to assist in the removal of foul and obnoxious odors. Provision shall be made so that the volume of air within any enclosed indoor facility shall be changed three times or more each hour. This may be accomplished through the location and periodic opening of doors and windows. If fans or ventilating equipment are used, they shall be constructed in conformance with current standards of good engineering practice with respect to noise and minimization of drafts.

(10) Indoor housing facilities for animals shall have sufficient natural or artificial lighting to permit routine inspection and cleaning at any time of day. In addition, sufficient natural or artificial lighting shall be supplied in the area of sinks and toilets to provide for the hygiene of animal caretakers.

(11) Interior wall, ceiling and floor surfaces of indoor housing facilities shall be constructed of materials which are resistant to the absorption of moisture and odors, or such surfaces shall be treated with a sealant or with paint when such materials are not originally resistant to moisture or odors. Floor surfaces shall not be unsealed wood. In addition, interior walls shall be constructed so that the interface with floor surfaces is sealed from the flow or accumulation of moisture or debris.

(12) Indoor housing facilities shall contain a drainage system which shall be connected to a sanitary sewer or septic tank system which conforms to the standards of the state building code and shall be designed to rapidly remove water and excreta in the cleaning of such indoor housing facility under any condition or weather or temperature.

(13) Outdoor facilities shall be constructed to provide shelter from excessive sunlight, rain, snow, wind or other elements. In addition, such facilities shall be constructed to provide sufficient space for the exercise and movement of each animal contained therein.

(14) All outdoor facilities shall be constructed to provide drainage and to prevent the accumulation of water, mud, debris, excreta or other materials, and shall be designed so that all animal and food wastes are directed into an approved sanitary sewer system or septic tank.

(15) All outdoor facilities shall be constructed with adequate walls or fences to contain the animals kept therein and to prevent entrance of other animals.

(16) Primary enclosures for animals shall be constructed and maintained so as to provide sufficient space to allow each animal to turn about freely and to easily stand, sit and lie in a comfortably normal position.

(17) Facilities shall be operated in compliance with regulations adopted pursuant to the Animal Welfare Act, G.S. §§ 19A-20, et seq., as it may be amended from time to time.

(18) No animal boarding facility shall be operated at any time after it has been designated by a public health official pursuant to town, state or

federal statues or regulations concerning health, as being infested with insects, rodents or disease which may endanger the public health, until the health officer having jurisdiction shall have certified that the condition has been corrected and the premises then comply with applicable health standards and regulations.

(D) *Assisted living facilities.*

(1) Such facilities may only be situated on a site which contains no less than three acres.

(2) A minimum of 65% of the project tract shall be designated as open space.

(3) Maximum density for rest homes shall be 26 people per acre in all zoning district classifications. In determining the number of people per acre, it is assumed that each room where ambulatory assistance or skilled nursing care is given contains one person per bed in the room. The Board of Aldermen shall have the right to determine a lower density applying as criteria the following: site constraints including but not limited to slopes over 20%, poor soils, presence of floodplain, or other factors such as the traffic-bearing capability of existing roads that would pose a threat to public health, safety or welfare, or violate any of the review standards contained in this subchapter.

(4) Density under this subsection shall be calculated according to the following formula:

(a) Studio apartments shall be assumed to house one person;

(b) One-bedroom apartments shall be assumed to house 1.5 persons;

(c) Two-bedroom apartments shall be assumed to house two persons; and

(d) Each bed assigned to ambulatory assistance or skilled nursing care is assumed to accommodate one person.

(5) No application for a development authorization for an assisted living facility shall be considered unless a certificate of need, if required, has been issued by the North Carolina Department of Health and Human Services, or successor thereto. The certificate of need shall accompany the application.

(E) *Bed and breakfast facilities.*

(1) The facility shall be located in a structure originally constructed as a single-family dwelling or as an inn.

(2) The facility shall be limited in the number of guest rooms it contains. Bed and breakfast facilities in residential districts shall contain no more than six guest rooms. Bed and breakfast facilities in other zoning districts shall contain no more than eight guest rooms.

(3) The owner of the bed and breakfast or a resident manager shall live on the premises.

(4) There shall be no exterior advertising except a sign not to exceed six square feet in area in a residential district or conforming to the sign requirements for the zoning district where the bed and breakfast facility is located.

(5) The facility shall meet all building and fire codes, as well as all health regulations and all other applicable requirements, including any regulations adopted under authority of, the North Carolina General Statutes.

(6) There shall be a buffer strip meeting the specifications of §§ 152.170 - 152.179 along any property adjoining a residential use or district.

(7) No cooking facilities shall be allowed in the lodging units unless authorized by the Macon County Health Department.

(8) Two off-street parking spaces shall be provided for the dwelling unit, and one off-street space shall be provided for each lodging unit. Parking area(s) in or adjacent to residential use districts shall be screened by vegetation, fencing or walls so that vehicles are not visible from the street or from adjacent properties. The applicant shall submit a site plan which shall indicate where the parking is to be located and the manner in which it is to be screened.

(F) *Cemeteries.*

(1) Tombstones, crypts, monuments, mausoleums, columbaria, and other structures associated with cemeteries must be located at least 25 feet from any side or rear lot line which adjoins lots in a residential district and at least ten feet from any side or rear lot line which adjoins lots in nonresidential districts. In any case, they must be at least 40 feet from any street right-of-way.

(2) Buildings for the maintenance, management, rent and/or sale of cemetery lots must be located at least 100 feet from any lot lines which

adjoin lots in any residential district. Otherwise any such buildings must conform to the requirements for principal uses in the district where they are located.

(3) Crematory services may be provided for human corpses as an accessory use within cemeteries situated on a site containing at least 30 acres, subject to the following special requirements:

(a) All applicable local, state, and federal laws and regulations shall be complied with.

(b) The crematory shall be enclosed within a building meeting Building and Fire Code requirements.

(c) The placement of crematory facilities within property in any residential district shall be 100 feet or more from any exterior property line.

(G) *Child care centers.*

(1) Play space must be provided in accordance with the regulations of the North Carolina Department of Human Resources. Any required outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas or land otherwise unsuited for children's play space and may not be in the required setback.

(2) Setback, yard and height requirements will be the minimum required for the zoning classification in which it is located.

(3) Parking shall be provided as specified in § 152.090 - 152.105, above.

(4) No outdoor play shall be permitted after sundown.

(H) *Civic clubs and fraternal organizations.*

(1) All buildings, off-street parking and service areas will be separated by a buffer meeting the requirements of §§ 152.170 - 152.179 from any abutting residential use or residential district.

(2) The use will be located on a lot that fronts a minor or major thoroughfare and primary vehicular access will be provided by means of such minor or major thoroughfare.

(I) *Cultural arts buildings.*

(1) The provision of off-street parking in accordance with the standard for places of public assembly
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contained in §§ 152.090 - 152.105, herein.

(2) When the facility is to be located adjacent to either a residential district or existing residential uses, any boundaries adjoining such residential district or use shall contain a ten-foot B-type buffer consistent with the requirements of §§ 152.170 - 152.179, below.

connection with such home occupation.

(3) Any structures associated with the cultural arts building shall be set back from any adjoining residential use or district a minimum of 100 feet.

(J) *Golf driving ranges.*

(1) Lighting, if any, shall be designed and installed so that it is directed away from the roadway and adjacent residentially-zoned or used properties and does not interfere with the safe use of public rights-of-way.

(2) Adequate assurance shall be provided, by means of separation, fencing or other means, that the operation of such facility shall not constitute a danger to person or property.

(3) Total signage on the property shall not exceed 32 square feet. One freestanding sign may be installed provided it does not exceed eight feet in height. Signs shall not be illuminated except internally or by means of one light bulb per sign face not exceeding 150 watts.

(K) *Home occupation.*

(1) No person other than members of the family residing on the premises shall be engaged in such occupation.

(2) The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the principal structure or 1,000 square feet, whichever is smaller, shall be used in the conduct of the home occupation.

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding six square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

(4) No outside storage of materials or equipment shall be allowed in connection with the home occupation.

(5) There shall be no sales on the premises in

(6) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard or side yard.

(7) Only vehicles used primarily as passenger vehicles (passenger automobiles, passenger vans and passenger pick-up trucks) shall be permitted in connection with the home occupation.

(8) Home occupations may be in operation only between the hours of 7:00 a.m. and 9:00 p.m.

(L) *Mini-warehouses.*

(1) One-way interior travel lanes shall have a minimum width of 15 feet in addition to a ten-foot wide parking lane. All two-way interior travel lanes serving storage units shall have two 12-foot wide travel lanes and be provided with a ten-foot wide parking lane. All portions of the site shall be readily accessible by police and fire equipment and personnel.

(2) Storage units shall be designed for

individual storage. They shall contain no facilities for utility service. They shall not be used for sales or service or for habitation by humans or animals.

(3) No outside storage shall be permitted when the proposed use is situated in a zoning district classification other than I-1.

(M) *Private clubs.*

(1) No private club shall be located within a 500-foot radius of another private club nor within 250 feet of a residential use or residential zoning classification.

(2) The parking lot for such facility shall be adequately lighted to provide security for its patrons and to otherwise comply with §§ 152.090 -152.105, herein.

(N) *Public utility facilities.*

(1) Lots shall conform to minimum setback and yard requirements of the district in which they are located. Unstaffed utility structures with internal floor space of less than 300 square feet are exempted from the minimum lot size requirement.

(2) Electric and gas substations and sewage treatment plants shall be separated by a ten-foot B-type buffer meeting the specifications of §§ 152.170 - 152.179 from the street and any abutting residential use or any property located in a residential zoning district.

(3) Control houses, pump and lift stations, and other similar uses shall be screened from the street and any abutting residential use or any property located in a residential zoning district.

(4) A fence not easily climbable or comparable safety devices must be installed and maintained in order to deter access to the facility.

(5) The design of buildings, structures and facilities on a site should conform as closely as possible to the character of the area or neighborhood.

(6) The facility's lighting shall be shielded to prevent light and glare spill-over on to any adjacent residential properties, if such exist.

(7) The Board of Adjustment may give relief from these requirements so long as public safety and neighborhood compatibility are protected, if strict adherence would constitute a hardship or is unnecessary.

(O) *Restaurants.*

(1) The use must be located on, and have primary access from, a major or minor thoroughfare.

(2) All outside storage areas including dumpsters must be:

(a) Sited to the rear of the building;

(b) Comply with the setback requirements for the zoning district classification within which it is located; and

(c) Screened from view from both adjacent residential properties and public rights-of-way through installation of screening meeting the specifications of §§ 152.170 - 152.179.

(3) The use shall be limited to no more than 40 seats in an NMU zoning district and 60 seats in an MICR zoning district.

(4) Permissible hours of operation shall be limited to the hours between 7:00 a.m. and 11:00 p.m.

(5) No restaurant shall provide drive-in or drive-through service.

(P) *Schools, elementary and secondary.*

(1) The following standards shall be used to govern the establishment or development of new public and private schools:

(a) No structure or parking shall be placed within 50 feet of a property line in the following zoning classifications: R-1, R-2, NMU, MICR;

(b) Off-street parking meeting the requirements of §§ 152.090 - 152.105 shall be provided;

(c) The use will be on a lot which may be accessed by means of a collector, minor thoroughfare or major thoroughfare for elementary schools and junior high schools, and by means of a minor thoroughfare or major thoroughfare for senior high schools; provided, however, the Board of Aldermen may waive this requirement to accommodate a public need so long as traffic shall not be

increased on residential streets to an unacceptable level.

(2) The foregoing standards shall serve as guidelines for the expansion or redevelopment of existing schools; however, the Board of Aldermen may waive any such guidelines when their application would constitute a hardship.

(Q) *Shelter facilities.*

(1) A shelter facility shall not be permitted to locate within 1,500 feet of another shelter facility.

(2) The parcel on which a shelter facility is situated shall not be adjacent to a residential use. For purposes of this subsection, properties situated across a street right-of-way from a proposed shelter facility shall be deemed to be adjacent.

(3) The parcel on which a shelter facility is situated shall not be situated within 200 feet of a residential zoning district.

(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

ADMINISTRATION AND ENFORCEMENT

adjacent rights-of-way.

§ 152.130 LAND USE ADMINISTRATOR.

A Land Use Administrator, designated by the Board of Aldermen, shall administer and enforce this chapter. If the Land Use Administrator shall find that any of the provisions of this chapter are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal buildings or structures or illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violation of its provisions.

(Ord. passed 10-1-07)

§ 152.131 LAND DEVELOPMENT PERMIT REQUIRED.

No building or other structure shall be erected, moved, added to or structurally altered, nor shall a building permit be issued, without a land development permit issued by the Land Use Administrator. No land development permit shall be issued by the Land Use Administrator except in conformity with the provisions of this chapter, unless he or she receives a written order from the Board of Adjustment in the form of an administrative review or variance as provided by this chapter.

(Ord. passed 10-1-07)

§ 152.132 APPLICATION FOR LAND DEVELOPMENT PERMIT.

(A) All applications for a land development permit shall be accompanied by a fee according to a sliding scale currently in use by the town and plans in duplicate drawn to scale which indicate the following. An electronic copy for all submissions for commercial, industrial, and new subdivision developments shall also be provided in a format readable by the town's hardware and software resources. In the case of special use applications additional paper copies will be required for inclusion in the minutes of the meetings as may be required.

(1) The shape and dimensions of the lot on which the proposed building or use is to be erected or constructed.

(2) The location of the said lot with respect to

(3) The shape, dimensions and location of all buildings, existing and proposed on the said lot.

(4) The nature of the proposed use of the buildings or land, including the extent and location of the use on the said lot.

(5) The location and dimensions of off-street parking and means of ingress and egress to such space.

(6) Any other information which the Land Use Administrator may deem necessary for consideration in enforcing the provisions of this chapter.

(B) One copy of the plans shall be returned to the applicant by the Land Use Administrator, after he or she shall have marked such copy either as approved or disapproved and attested to same by his or her signature on such copy. The original of the plans similarly marked shall be retained by the Land Use Administrator.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.133 CONSTRUCTION AND USE TO BE AS

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§ 152.135 PROCEDURES UPON DISCOVERY OF VIOLATIONS.

If the Land Use Administrator finds that any provision of this chapter is being violated, he or she shall send a notice of violation by certified mail, return receipt requested, or by hand delivery to the owner of record of the real property. He or she may also deliver such notice to the occupant, tenant or user of the property subject to the violation. He or she shall indicate the nature of the violation and order the action necessary to correct it. Additional written notices may be sent at the Land Use Administrator's discretion.
(Ord. passed 10-1-07)

§ 152.136 PENALTIES FOR VIOLATIONS.

Any act constituting a violation of the provisions of this chapter or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or special use permits, shall subject the offender to a civil penalty in the amount of \$500.

(A) Violators shall be issued a written notice which must be paid within ten days. Each day's continuing violation

PROVIDED IN APPLICATIONS, PLANS, PERMITS AND CERTIFICATES OF ZONING COMPLIANCE.

Building permits or certificates or zoning compliance issued in the basis of plans and applications approved by the Land Use Administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction differing with that authorized shall be deemed a violation of this chapter and punishable as provided by § 152.136 hereof.
(Ord. passed 10-1-07)

§ 152.134 REMEDIES.

If any building is erected, constructed, reconstructed, repaired, converted or maintained or any building, structure or land is used in violation of this chapter, the Land Use Administrator or other appropriate authority or any adjacent or other property owner who would be damaged by such violation, may institute injunction or other appropriate action in proceeding to stop the violation.
(Ord. passed 10-1-07)

shall be a separate and distinct offense. A civil penalty may not be appealed to the Board of Adjustment if the offender was sent a notice of violation in accordance with § 152.135 and did not take an appeal to the Board of Adjustment within the prescribed time.

(B) Notwithstanding the foregoing, provisions of this chapter may be enforced through equitable remedies issued by a court of competent jurisdiction.

(C) In addition to or in lieu of remedies authorized herein, violations of this chapter or failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with grants of variances or special use permits, may be prosecuted as a misdemeanor, punishable as provided in G.S. § 14-4.
(Ord. passed 10-1-07)

NONCONFORMITIES

§ 152.150 PURPOSE.

The purpose of this section is to regulate and limit the

continued existence of uses and structures

lawfully established prior to the effective date of this chapter, or any amendment thereto, that do not conform to this chapter, as amended. Any nonconformity created by a change in the classification of property or the text of these regulations shall be regulated by the provisions of this subchapter. As used in this subchapter the term, "effective date of this chapter, or any amendment thereto," refers to the date of the chapter which first rendered a use, structure or land nonconforming.

(Ord. passed 10-1-07)

§ 152.151 NONCONFORMING USES.

A nonconforming use is a use of land, buildings, or structures that was lawfully established prior to the effective date of this chapter, or any amendment thereto, but which does not conform to the regulations for the zoning classification in which it is located. Nonconforming uses may be continued subject to the limitations noted herein.

(A) No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming; provided, however, a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.

(B) No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved, or structurally altered unless such building or structure is thereafter devoted to a conforming use; provided, however, such building or structure may be enlarged or extended upon prior authorization from the Board of Adjustment, which authorization shall not be granted unless the Board of Adjustment makes each of the following findings of fact:

(1) The proposed enlargement or extension shall be de minimis in relation to the existing building or structure;

(2) The proposed enlargement or extension shall not increase the intensity of the nonconforming use, which is to say, it will not result in an increase in dwelling units for a residential use nor in gross floor area for a nonresidential use;

(3) The proposed enlargement or extension is designed so that it will not render the use of the property any less compatible than it is in its existing circumstances;

(4) The authorization of such proposed enlargement or extension is not otherwise contrary to the public health, safety or welfare.

(C) (1) A nonconforming use of a structure may not be changed to another nonconforming use unless such change is authorized by the Board of Adjustment. In order to authorize a change in nonconforming use, the Board of Adjustment shall consider the relative impacts of the existing nonconforming use and the proposed nonconforming use with regard to traffic, noise, pollution, visual

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appearance and compatibility with the neighborhood, and shall make each of the following findings:

(a) The proposed use is expected to result in impacts which are less than those associated with the existing use;

(b) The proposed use will be more compatible with the surrounding neighborhood than is the existing use;

(c) Approval of the change in nonconforming use serves the public health, safety and general welfare;

(d) Failure to approve the change in nonconforming use would result in a hardship to the owner of the property on which the nonconforming use is situated.

(2) An existing nonconforming use shall be discontinued within 60 days of the date of approval of a change in nonconforming use. Subsequent to that time, such existing use shall become unlawful.

(D) Where a nonconforming use ceases for 180 consecutive days, then the use shall not be re-established or resumed, and any subsequent use of the land or structure shall conform to the requirements of this chapter. Vacancy and non-use of the building or structure, regardless of the intent of the owner, shall constitute discontinuance under this provision.

(E) Where a building or structure devoted to a nonconforming use is damaged to the extent of 50% or more of its current value, such building or structure, if restored, shall thereafter be devoted to conforming uses.
(Ord. passed 10-1-07)

§ 152.152 NONCONFORMING STRUCTURES.

A nonconforming structure is a building or other structure which lawfully existed prior to the effective date of this chapter, or an amendment thereto, and which no longer could be built under the terms of this chapter, as amended, by reason of restrictions on area, footprint, open space, building height, setbacks, lot width, or other requirements concerning the structure.

(A) A nonconforming structure devoted to a use permitted in the zoning classification in which it is located may continue to be used only in accordance with the provisions of this section.

(B) Normal repair and maintenance may be performed to allow the continuation of nonconforming structures.

(C) Except as provided in divisions (D) and (E), below, a nonconforming structure shall not undergo a change of use, renovation or expansion.

(D) A nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations, provided that:

(1) The change in use or renovation does not increase the floor area of the structure;

(2) The change in use is to a permitted use within the district; and

(3) The number of parking spaces provided for the use is in conformity with the requirements of these regulations.

(E) A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are both brought into conformity with the requirements of this chapter.

(F) A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning classification in which it is located.

(G) Where a nonconforming structure is damaged by fire, flood, wind, or other act of God, and such damage does not exceed 50% of the current assessed taxable value of the structure, it may be restored to its original dimensions and conditions as long as a building permit for the restoration is issued within twelve months of the date of the damage.
(Ord. passed 10-1-07)

§ 152.153 NONCONFORMING VACANT LOTS.

A nonconforming vacant lot is a lot that was lawfully created prior to the effective date of this chapter, or any amendment thereto, but which does not conform to the minimum gross land area or minimum lot requirements for the zoning classification in which it is located.

(A) Except as provided herein, a nonconforming vacant lot may be used for any of the uses permitted by this

chapter in the zoning classification in which it is located, requirements
provided that the use meets all limitations and minimum

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for setback and yards, height, open space, buffers, screening, parking, density and floor area required in this ordinance for the zoning classification in which the lot is located.

(B) If compliance of the structure(s) intended on the nonconforming lot with applicable setback requirements is not reasonably possible, the nonconforming lot may be used as a building site subject to the granting of a variance from such setback requirements by the Board of Adjustment in accordance with the provisions of §§ 152.070 - 152.078.

(C) With regard to residential dwellings, variances authorized pursuant to division (B), above, shall be limited to single-family dwellings. Two-family or multi-family residential dwellings shall not be entitled to such a variance.

(D) Where a nonconforming lot abuts another lot of record (whether conforming or nonconforming) held in the same ownership at or subsequent to enactment of this section, such lots shall be combined or recombined as necessary to form a conforming lot or lots and shall not thereafter be subdivided except in compliance with all of the requirements of this chapter. Where a nonconforming lot was created by public taking action or as a result of a court order, the above combination or recombination of lots shall not be required. (Ord. passed 10-1-07)

§ 152.154 REPAIRS AND MAINTENANCE.

Minor repairs to and routine maintenance of land, buildings, structures, or other development of land devoted to a nonconforming use or having nonconforming structures are permitted, provided the cost of such repairs and maintenance within any 12-month period does not exceed 10% of the current assessed taxable value of the land, buildings, structure, or other development of land. Any structure or other development of land devoted to a nonconforming use that is declared unsafe by the Land Use Administrator because of lack of repairs and maintenance shall not be restored, repaired, reconstructed, or used except in conformity with the provisions of this section. Any structure or other development of land devoted to a nonconforming use that is declared unsafe by the Land Use Administrator, but not because of lack of repairs and maintenance, may be repaired and restored subject to the requirements of this section. (Ord. passed 10-1-07)

AMENDMENTS

§ 152.160 INITIATION OF AMENDMENTS.

This Unified Development chapter, including the zoning map, may be amended only by the Board of Aldermen. Changes or amendments may be initiated by the Board of Aldermen, the Planning Board, the Board of Adjustment, town staff, or by one or more private citizens. (Ord. passed 10-1-07)

§ 152.161 APPLICATION.

An application for any amendment shall contain a description and/or statement of the present and proposed zoning regulation or district boundary to be applied, the names and addresses of the owner or owners of the lot in question, the use of each adjacent property and such other information as may be requested by the Land Use Administrator. If an application is denied, no application for any change in the zoning regulations applicable to the same property or any part thereof shall be filed until the expiration of one year from the date of final determination by the Board of Aldermen. Provided, however, the one-year waiting period shall not be applicable to the rezoning of all or any part of property previously considered by the Board of Aldermen where the new application requests assignment of a different zoning district classification. (Ord. passed 10-1-07; Am. Ord. passed 2-3-14)

§ 152.162 FEE.

A fee shall be paid to the Town of Franklin for each application for an amendment to cover the cost of advertising and other administrative expenses. The fee shall be determined by a resolution of the Board of Aldermen and may be amended at any time in like manner. (Ord. passed 10-1-07)

§ 152.163 PROCESSING OF APPLICATION.

An application for amendment shall be processed in accordance with the provisions of this section.

(A) *Action by the Planning Board.* The Planning Board shall consider and make recommendations to the Board of Aldermen concerning each proposed

zoning amendment. The following policy guidelines shall be followed by the Planning Board concerning zoning amendments.

(1) The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.

(2) There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.

(3) There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change.

(4) There is convincing demonstration that the character of any neighborhood will not be materially and adversely affected by any use permitted in the proposed change.

(5) The proposed change is in accord with the principles of growth, sound planning principles, and any applicable small area plan.

(B) *Notice of public hearing.* No amendment shall be adopted by the Board of Aldermen until after a public notice and hearing. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation once a week for two successive weeks, with the first notice to be published not less than ten nor more than 25 days prior to the date of the hearing.

(1) When a zoning map amendment is proposed, the owner of that parcel of land as shown on the county tax listing, and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail not less than ten nor more than 25 days prior to the date of the public hearing. The person or persons mailing such notices shall certify to the Board of Aldermen that fact, and such certificate shall be deemed conclusive in the absence of fraud.

(2) When a proposed zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, the town may elect to use the expanded published notice provided for in this section rather than the notice stipulated in division (B)(1), above. In

this circumstance, the town may provide notice of the hearing by means of an advertisement not less than one-half newspaper page in size published in a newspaper of general circulation once a week for two successive weeks, with the first notice to be published not less than ten nor more than 25 days prior to the date of the hearing.

(3) When a zoning map amendment is proposed, the town shall prominently post a notice of the public hearing on the site proposed for rezoning or on an adjacent public street or highway right-of-way. The notice shall be a minimum of 18 inches by 24 inches in size. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons.

(C) *Nature of proceedings.* It is the intent of this ordinance that applicants for rezoning to any district other than a special use district or a planned development district shall be prohibited from offering any testimony or evidence concerning the specific manner in which they intend to use or develop the property.

(D) *Protest petitions.* Petitions opposing a change in zoning classification shall comply with the requirements of this section.

(1) *Contents and timing of petition.* To qualify as a valid protest petition, it must comply with the following requirements:

(a) Be signed by the owners of 20 percent or more of either (1) the lots included in a proposed change, (2) the lots within 100 feet of either side or the rear of the tract to be rezoned, or (3) the lots directly opposite the tract to be rezoned and extending 100 feet from the street frontage of such opposite lots.

(b) Be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment.

(c) Be received by the town clerk in sufficient time to allow the town at least two normal working days before the date established for a public hearing on the proposed amendment to determine the sufficiency and accuracy of the petition.

(d) Identify each property owner signing the petition by address and by parcel qualifying the property owner to protest.

Identification of qualifying parcel shall be by Macon County Land Records map and parcel identification number.

(2) A person who has signed a protest petition may withdraw his or her name from the petition at any time prior to the vote on the proposed zoning amendment.

(E) *Effect.* In case of a qualified protest against a zoning map amendment, that amendment shall not become effective except by favorable vote of 3/4 of all members of the Board of Aldermen. These provisions concerning protests shall not be applicable to any amendment which initially zones property added to the territorial coverage of the ordinance as a result of annexation or otherwise, or to an amendment to an adopted special use or planned development district if the amendment does not accomplish any of the following:

(1) Change the types of uses that are permitted within the district;

(2) Increase the land area included within the district;

(3) Increase the approved density for a residential development;

(4) Increase the total approved floor area of nonresidential development; or

(5) Reduce the size of any buffers or screening approved for the district.

(Ord. passed 10-1-07)

§ 152.164 PROPERTY OWNER CONSENT UNDER CERTAIN CIRCUMSTANCES.

Amendments, modifications, supplements, repeal or other changes in zoning regulations and restrictions and zone boundaries shall not be applicable or enforceable without the consent of the owner with regard to lots for which building permits have been issued pursuant to G.S. § 160A-417 prior to the enactment of this chapter making the change or changes so long as the permits remain valid and unexpired pursuant to G.S. § 160A-418 and unrevoked pursuant to G.S. § 160A-422.

(Ord. passed 10-1-07)

BUFFERING, SCREENING AND LANDSCAPING

§ 152.170 PURPOSE AND INTENT.

The Town of Franklin has an abundant and diverse tree and vegetative cover that contributes to the aesthetic value of the town and provides numerous ecological and economic benefits. The landscaping, buffering, and screening standards set forth below require landscaping in certain circumstances and locations in order to achieve the following:

(A) Encourage the preservation of existing trees and vegetation and replenish removed vegetation;

(B) Improve the visual quality of the town and minimize potential negative impacts of development such as noise, dust, glare of lights, parking lots, traffic, heat, overcrowding, and odor;

(C) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater runoff, decreased erosion, improved water and air quality, and protection of wildlife habitat;

(D) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and preserve the character and value of a property and provide a sense of privacy;

(E) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants and other screening materials to assure a high level of quality in the appearance of Franklin while allowing flexibility to promote well designed and creative landscape plantings;

(F) Require the maintenance of landscaping installed to meet the requirements of these standards to ensure that the landscaping continues to thrive and enhance the visual quality of the Town of Franklin.

(Ord. passed 10-1-07)

§ 152.171 LANDSCAPING, BUFFERING AND SCREENING REQUIRED.

Landscaping, buffering and screening shall be required for developments within the planning jurisdiction of the Town of Franklin, including its extraterritorial jurisdiction, as set forth herein.

(A) The following developments must bring the entire site into full compliance with the requirements of this subchapter:

relationships to other properties, and/or prevailing practices in the surrounding

(1) Any new public or private development with the exception of single or two-family homes.

(2) A change of use to a higher impact. For purposes of this section, the following list ranks differing uses from lowest to highest impact: residential, mobile home park, institutional and cultural, commercial, industrial.

(3) Renovations with a total cost exceeding 50% of the assessed value of the building according to Macon County tax records or an appraisal by a state licensed appraiser.

(4) Expansions exceeding 50% of the pre-expansion floor area or paved surface.

(5) Existing unpaved parking lots which are paved over.

(B) Expansions or additions that are less than 50% of the pre-expansion floor area and/or pavement surface must meet the landscaping requirements only in the area around the addition, which is parallel to any edge of the expansion area and extending to the property line or street pavement edge.
(Ord. passed 10-1-07)

§ 152.172 ALTERNATIVE COMPLIANCE.

The landscape requirements are intended to set minimum standards for quality development and environmental protection and are not intended to be arbitrary or inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternate method of compliance with the landscape requirements. The reviewing authority, as specified in §§ 152.050 - 152.062, above, may alter the requirements of this section as long as existing or added landscape features of the development site comply with the intent of this subchapter. Requests for alternative compliance shall be accepted if one or more of the following conditions are met.

(A) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements.

(B) Space limitations, unusually shaped lots, unique

neighborhood (such as use of a specific type of vegetation) may justify alternative compliance when changing the use type of an existing building in an established mature neighborhood or when developing in an historic district.

(C) An alternative compliance proposal is equal or better than normal compliance in its ability to fulfill the intent of this article and exhibits superior design quality.
(Ord. passed 10-1-07)

§ 152.173 EXISTING VEGETATION.

(A) This section seeks to provide incentives to developers to utilize existing vegetation on a development site in meeting the requirements of this subchapter.

(1) *Preservation of existing vegetation.*
Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to a proposed development. It is recommended that groups of trees be preserved, as well as individual trees. Existing preserved trees and shrubs may be credited towards required buffer trees, street trees, and parking lot trees, in accordance with division (A)(2), below.
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(2) *Credits and other incentives to preserve vegetation.* Preserved trees may be credited at the following rate:

- 2 - 6 inch caliper tree = 1 tree
- 7 - 12 inch caliper tree = 2 trees
- 13 - 18 inch caliper tree = 3 trees
- 19 - 24 inch caliper tree = 4 trees
- 25+ inch caliper tree = 5 trees

(B) If the developer chooses to receive credit, preserved vegetation must be in good health and condition. Trees designated to be preserved must be indicated on the site plan and on landscape and grading plans. Protective barriers, if utilized in accordance with division (C), below, must also be shown on the landscape and grading plans. A preserved tree shall be replaced with the total number of trees which were credited to the existing tree if the preserved tree dies within one year of preservation.

(C) *Protection of existing trees during construction.*
The regulations contained in this section shall apply in those circumstances when a developer has elected to protect trees during construction and, thus, after the passage of five years, be excused from the requirement to replace preserved trees.

(1) No grading or other land-disturbing activity can occur on a site with existing trees which are designated to be preserved in order to meet landscaping requirements until protective barriers are installed by the developer and approved by the Land Use Administrator or his or her designee. Trees designated for preservation which are counted toward the landscape requirements must be protected by barriers, while trees designated for preservation which do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of the preserved trees and the location of protective barriers must be shown on landscape and grading plans with the dimension between the tree trunk and barrier indicated.

(2) (a) Protective barriers shall be placed around the critical root zone of preserved trees that are within 50 feet of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every one-inch of tree diameter. For example, a ten-inch diameter tree would have a barricade surrounding it, erected ten feet away from the trunk. All protective barriers must be maintained throughout the building construction process. Protective barriers shall consist of one or more of the following:

1. A fence which is at least three feet high and constructed in a post and rail configuration, using two-by-four posts and one-by-four rails; or

2. A fence with posts placed no farther than ten feet apart covered with four-foot orange polyethylene laminar safety fencing.

(b) The Land Use Administrator may authorize other protective barriers which meet or exceed the protection offered by the above.

(3) (a) All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection areas including the following:

1. Grading;

2. Filling, unless an aeration system, certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist, is installed to protect the tree from suffocation;

3. Parking;

4. Storage of debris or materials, including topsoil;

5. Disposal of hazardous wastes or concrete washout; and

6. Attaching of nails, ropes, cables, signs, or fencing to any tree designated for preservation.

(b) If any area within the critical root zone will be disturbed for any reason, a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist must recommend measures to minimize any potential impact and certify that the activity will not damage the tree under normal circumstances.

(4) The developer should coordinate with utility providers early in the design process to resolve potential conflicts about the placement of utilities and landscape requirements. Utilities must either be placed outside of the tree protection area or, with Planning Department approval, tunneled at least two feet directly below the tree roots, to minimize root damage.

(5) If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of a tree protection zone in order to prevent sediment from accumulating in the critical root zone area.

(D) *Trees in public rights-of-way.* Trees located in any municipal right-of-way cannot be pruned or removed without permission from the Public Works Department. (Ord. passed 10-1-07)

§ 152.174 GENERAL STANDARDS.

The following general standards shall apply to all landscaping requirements in this subchapter.

(A) *Design.* Unless otherwise specified, the exact placement of required plants and structures shall be the decision of the developer. The type of plants used shall be limited to those on the approved "species list" which shall be published and revised from time to time by the Land Use Administrator. Required landscaping shall be designed in such a manner as to impart its aesthetic character when viewed from any area accessible to the public or from adjacent properties.

(B) *Plant material.* Plant materials used for installation shall conform to the standards established

by the American Association of Nurserymen in the "American Standard for Nursery Stock," for each type (i.e., canopy tree, shrub, etc.) with minimum size as appropriate for the minimum caliper size designated in the approved species list. Grass sod, when made a part of a buffer, must be healthy, clean, and reasonably free of weeds, noxious pests, or diseases.

(C) *Installation.* All landscaping/screening shall be installed in a sound, workmanlike manner and according to accepted good planting procedures with the quantity and quality of plant materials as described. All elements of landscaping shall be installed so as to meet all other applicable ordinances and code requirements.

(D) *Maintenance.* The owner, occupant, tenant, and the respective agent of each, if any, shall be jointly and severally responsible for the maintenance of all buffers and landscaping. Buffers and landscaping shall be maintained in a good condition to present a healthy, neat, and orderly appearance at least equal to the original installation and shall be kept free from refuse and debris. Dead vegetation and landscaping material shall be promptly replaced with healthy, living plantings. Evergreen hedges shall be trimmed annually or as needed to provide a full visual screen and, in any event, shall not be allowed to exceed eight feet in height without written approval of the Land Use Administrator.

(E) *Walls and fences.* Any walls used for screening or as part of a buffer shall be constructed in a durable fashion of brick, stone, or other masonry materials. When concrete block is utilized, it shall be finished with stucco on both sides. Wood posts and planks or metal or other materials specifically designed as fencing materials may be approved by the Land Use Administrator for use in a Type C Buffer. Other materials may also be considered through the alternative buffer and screening process described in § 152.172. No more than 10% of the surface of a fence or wall shall be left open, and the finished side of the fence or wall shall face the abutting property. A chain link fence may not be used to satisfy the requirements of this subchapter.

(F) *Overhead utilities.* Landscaping plans, including plant spacing and species selection shall be such that landscaping required under this subchapter does not conflict with overhead utilities.

(G) *Species diversity.* When the total number of trees required under the provisions of this subchapter equals 20 or more, then no single tree species shall comprise more than 25% of the trees planted on the development site. (Ord. passed 10-1-07)

§ 152.175 BUFFERYARDS AND BUFFERS.

Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. A bufferyard is a permanent unit of land together with plantings and structure(s), if any, which is designed to ameliorate such adverse impacts. Bufferyards, as required in this section, shall be depicted on any site plans reviewed under this ordinance and shall be depicted and described on drawings submitted for the purpose of development plan review. Unless deferred pursuant to a letter of compliance issued under § 152.177, below, buffers shall be emplaced and approved prior to issuance of any certificate of occupancy for the development.

(A) *Location of buffers.* Buffers shall be located on lot or parcel boundary lines. Buffers shall not be located on any portion of an existing public or private street or right-of-way, whether opened or unopened.

(B) *Determination of buffer requirements.* To determine a buffer required between two adjacent parcels or between a parcel and a street, the following procedure shall be followed:

(1) Identify the proposed land use.

(2) Identify the use or, if vacant, the zoning district classification, of land adjacent to the proposed use.

(3) Determine the buffer required on each boundary (or segment thereof) of the subject parcel by referring to the following Table of Buffer Requirements. This specifies the buffer required between proposed land uses and existing adjacent land uses or zoning districts.

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TABLE OF BUFFER REQUIREMENTS

<i>Proposed Land Use</i>		<i>Existing Land Use/Zoning Classification</i>		
	Residential	Institutional and Cultural	Commercial	Industrial
Residential	x	x	x	x
Institutional & Cultural	10-foot B	x	x	x
Commercial	10-foot B	8-foot A	x	x
Industrial	25-foot C	15-foot B	15-foot B	x

Notes for table of buffer requirements: Indicated buffering is required if adjacent parcel of land is used or zoned for the category noted regardless whether adjacent parcel is located in the town, the town’s extraterritorial jurisdiction (ETJ), or the planning jurisdiction of another governmental entity. Existing adjacent land use takes precedence over zoning district. Buffer requirement for the district will be used if adjacent land is vacant.

Institutional and cultural category includes religious, recreational, child care and educational uses and the MICR zoning classification.

(C) *Buffer specifications.* The following schedule sets forth the specifications of each of the buffers included in the Table of Buffer Requirements. Unless noted differently, the column entitled planting requirements refers to number of individual plants required per 100 linear feet of the buffer. The column entitled size requirements refers to the minimum size of individual plants at the time of planting. Unless otherwise noted, dimensions refer to height.

For type A and B buffers, the developer may, at his or her option, substitute a masonry wall for the evergreen shrubs. A wooden fence may be incorporated into a buffer but shall not be allowed to substitute for evergreen shrubs.

(D) *Use of buffer.* If approved by the Land Use Administrator, a buffer may be used for passive recreation; however, no plant material may be removed and such use shall not be a nuisance.

(E) *Buffers part of required yards.* Where front, side and rear yards are required by this chapter, buffers may be established within such required yards.

(F) *Buffer requirements when a street separates incompatible uses.* If a street with right-of-way of more than 30 feet lies between two land uses which would require a bufferyard between them, a buffer shall be required along the affected side or rear property lines of the developing use. No bufferyard is required along the front property line.

(G) *Bufferyards in the central commercial district.* In order to preserve and promote existing development patterns within the C-1 Central Commercial District, the bufferyard requirements of this subchapter shall not apply therein.
(Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

<i>Type of Buffer</i>	<i>Planting Requirement/100 Linear Feet</i>	<i>Size Requirements</i>
A	3 Broadleaf canopy trees 20 Evergreen shrubs (4-foot centers) 25 Flowering shrubs	5 - 6 feet 18 - 24 inches 12 - 18 inches
B	4 Broadleaf canopy trees 25 Evergreen shrubs (4-foot centers) 33 Flowering shrubs	1 1/2 - 1 3/4 inch caliper 18 - 24 inches 18 - 24 inches
C	4 Broadleaf canopy trees 10 Understory trees 33 Flowering shrubs Berm Fence or wall on top of berm	1 3/4 - 2 inch caliper 5 - 6 feet 18 - 24 inches 6 feet 8 feet
X	No buffer required	Not applicable

§ 152.176 SCREENING.

(A) These screening requirements shall apply to any development or use other than single-family or two-family residences. A buffer as specified in this subchapter may be used to meet the requirements of this section. Where practicable, the following uses must be screened from abutting property and from public view from a public right-of-way or a parking lot:

landscaping or screening requirements which may apply to his or

(1) Dumpsters or trash handling areas;

(2) Utility structures associated with a building;

(3) Loading docks or spaces;

(4) Outdoor storage of materials, stock and equipment, which shall not include the display of goods for sale; and

(5) Any other uses for which screening is required under this chapter.

(B) As far as practicable, any screening used to comply with the provisions of this section shall consist of a planting area which is at least five feet wide. This area may contain any type screening materials sufficient to separate visually the land uses, provided such materials meet the requirements of this subchapter. If only a wall or fence is used, then the area devoted to the screen need only be wide enough to accommodate the wall or fence and allow for its maintenance. Where practicable, screening shall be designed and maintained in such a manner as to conceal the use from view from the street, from vehicular use areas, and from adjoining properties.

(Ord. passed 10-1-07)

§ 152.177 LETTER OF COMPLIANCE.

It is recognized that land development occurs continuously and that vegetation used in buffers should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this subchapter and to reduce the potential expense of replacing buffering, landscaping, or screening materials which were installed in an untimely or improper fashion, a letter of compliance must be filed with the Land Use Administrator at the time of development plan review. A letter of compliance will allow the issuance of a conditional certificate of occupancy. This letter will acknowledge that the applicant for a certificate of development plan is aware of any buffer,

her property and that he or she will comply with those requirements by a specific date, generally to be within the next planting season, but in no case more than one year after the completion of construction of that portion of the project or building for which the certificate was issued. In no event shall a final certificate of occupancy be issued prior to emplacement and approval of the required buffer, landscaping, or screening. Failure to comply with the provisions of this section within the time noted in the letter of compliance will be a violation of this chapter. (Ord. passed 10-1-07)

§ 152.178 LANDSCAPING FOR VEHICULAR USE AREAS.

Trees and shrubs are required in and around vehicular use areas with more than six spaces to provide attractive views from roads and adjacent properties, provide shade to reduce the heat generated by impervious surfaces, reduce glare from vehicular use areas, and to help filter exhaust from vehicles.

(A) *Perimeter and interior plantings.* Vehicular use areas must be planted with at least one tree and two shrubs for every 4,000 square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas. Trees

shall be spaced so that no parking space is more than 63 feet from a tree. At least 75% of the required parking lot trees must be broadleaf canopy trees. Trees and shrubs must be planted within 20 feet of the vehicular use area to count as parking lot landscaping; provided, however, all street trees required by other provisions of this chapter shall count as parking lot landscaping.

(1) When a development contains 20 or more parking spaces, 50% of the trees and shrubs must be planted in islands or medians located within the parking lot. Tree islands shall be evenly distributed throughout the parking lot in order to provide an even tree canopy throughout the lot. At a minimum, such tree islands shall consist of an area at least equal in size to two parking places side-by-side (360 square feet). Parking bays shall be broken up with landscaped islands or medians to avoid long monotonous rows of parking. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow.

(2) At the time of planting, trees and shrubs required in this section shall meet the following minimum size requirements:

(a) Broadleaf canopy trees: one and one-half to two-inch caliper;

- (b) All other trees: five to six feet in height;
- (c) All shrubs: height or spread of 18 to 24 inches.

(B) *Planting strips.* When a vehicular use area lot is located within 100 feet of an abutting property and no bufferyard is required, a planting strip which is a minimum of five feet wide shall be planted between the vehicular use area and the abutting property, except along approved driveway openings which run perpendicular to the planting strip. One large evergreen or deciduous tree and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in division (A) if the planting strip is located within 20 feet of the vehicular use area. Adjacent businesses on separate lots which share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the reasonable use of the shared parking or driveway. Vehicular use areas located behind buildings and screened from view from public rights-of-way shall be exempt from this requirement.

(C) *Buffering from street.* Vehicular use areas greater than 4,000 square feet any portion of which is located within 50 feet of the right-of-way of a street must be buffered from the street. The buffer shall be at least three feet high at maturity and can consist of plant material alone, or berms, fences, walls, or grade changed combined with plant material.

A vegetative buffer shall consist of at least one evergreen or deciduous shrub planted for every five linear feet of buffer required. If a fence or wall is used, it must be constructed of wood, brick, stone or other masonry and be architecturally compatible with the proposed structure. Seventy-five percent of the fence or wall must be opaque with any spaces evenly distributed. The finished side of the fence or wall shall face the street. At least one shrub shall be planted on the street side for each eight linear feet of fence or wall. Berms and grade changes must be completely covered with vegetation. All shrubs planted can count toward the parking lot landscaping requirements.

(D) *Structured parking facilities.* Structured parking facilities, or parking decks, shall be excused from the parking lot landscaping requirements contained in this section but shall comply with the provisions of this paragraph. In the event that any

openings for ventilation, service, or emergency access are located at the first floor level in the building facade, then they shall be an integral part of the overall building design. These openings as well as pedestrian and vehicular entrances shall be designed to minimize visibility of parked cars. The remainder of street level frontage shall be either commercial space or an architecturally articulated facade designed to minimize the visibility of parked cars. All levels of a structured parking facility shall be designed and screened in such a way as to minimize visibility of parked cars. In no instance will rails or cabling alone be sufficient to meet this screening requirement. The design elements of this paragraph shall only apply to building facades which are visible from a public right-of-way.

(E) *Automobile sales facilities.* Automobile sales facilities, due to the fact that inventory is typically stored and displayed for sale on vehicular use areas, require separate analysis with regard to the parking lot landscaping requirements in this section. Automobile sales facilities are, accordingly, exempted from the need to comply with interior parking lot landscaping requirements for that portion of an automobile sales facility utilized exclusively for the display of goods for sale. Automobile sales facilities are required to comply with the perimeter and planting strip requirements of this section; provided, however, such facilities shall be permitted one display area, which shall not be required to be screened, for each 100 feet of roadway frontage. Each display area shall extend no more than 50 feet in length.

(F) *Effect on other regulations.* Areas devoted to meeting the landscaping requirements of this section may count toward the common open space requirements contained in §§ 152.090 - 152.105, hereof. Where site characteristics and development considerations make it prudent and feasible, landscaping proposed to meet the requirements of this section may also contribute toward meeting the buffering and screening requirements contained in this subchapter.

(G) *Small lots.* Small lots, defined as lots with less than 75 feet of frontage on a roadway or with less than 75 feet of depth, may have site constraints which make strict compliance with the regulations contained in this section a hardship. In such cases, the approving authority for the town may approve deviations from such regulations so long as the plans of development are consistent with the goals and objectives stated herein.

(Ord. passed 10-1-07)

§ 152.179 BUFFER REQUIREMENTS WHEN A STREET SEPARATES INCOMPATIBLE USES.

If a street with right-of-way of less than 30 feet lies between two land uses which would require a bufferyard between them, a buffer shall be required along the affected side or rear property lines of the developing use. No bufferyard is required along the front property line.
(Ord. passed 10-1-07)

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

§ 152.190 STATUTORY AUTHORITY AND LEGISLATIVE FINDINGS OF FACT.

The General Assembly of the State of North Carolina has delegated to local governmental the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Pursuant thereto, the Board of Aldermen of the Town of Franklin, North Carolina, makes the following legislative findings of fact.

(A) The flood prone areas within the Town of Franklin and its extraterritorial jurisdiction are subject to periodic inundation which results in loss of life, property, health hazards, 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.

(B) The development activities listed herein contribute, individually and cumulatively, to the flood losses addressed above: (1) obstructions in flood plains causing increases in flood heights and velocities; (2) the occupancy in flood prone areas of uses vulnerable to floods or other hazards; (3) the loss of wetlands, streamside riparian areas, and other lands that slow, absorb, retain, and cleanse storm and flood waters; and (4) the expansion of impervious surfaces both within and outside of flood prone areas that cause increases in the velocity and rate of the discharge of storm water into bodies of water.

(C) The discharge of urban pollutants and sedimentation into bodies of water results in health and safety hazards and the impairment of environmentally and economically significant aquatic wildlife habitat, adversely affecting the public health, safety, and general welfare.

(D) Development activities cause sedimentation pollution through untreated and uncontrolled storm water from impervious areas, improper land disturbance, and the loss of wetlands, streamside riparian areas, and other lands that absorb and cleanse storm and floodwaters.

(E) The steeply sloping areas within the Town of Franklin and its extraterritorial jurisdiction are particularly susceptible to erosion and landslides, and pose particular difficulties in the construction and maintenance of public infrastructure and the provision of public services. Development activities in such areas are likely to result in the loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. (Ord. passed 10-1-07)

§ 152.191 STATEMENT OF PURPOSE.

It is the purpose of this subchapter to protect and promote the public health, safety, and general welfare by preventing the loss of life and/or public and private economic loss due to landslides, floods, erosion, and sedimentation

pollution. It is further the purpose of this subchapter to protect our existing environmental resources, including steep slopes, flood plains, stream corridors, wetlands, watershed and groundwater recharge areas, soils, forest stands, specimen trees, and other significant vegetation and wildlife, which are of economic value to the town and its citizens and make Franklin a desirable place to live and visit. In furtherance of this purpose, the regulations contained herein are designed to accomplish the following:

(A) Restrict or prohibit uses that are or may be dangerous to health, safety, and property or that may result in damaging increases in erosion, flood heights, or velocities;

(B) Require that uses and infrastructure vulnerable to the movement of earth or flooding be protected against such damage at the time of initial construction;

(C) Control the alteration of steep slopes, natural flood plains, stream channels, and natural protective barriers, which are involved in the accommodation of floodgates;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage;

(E) Require that storm waters that may damage property, increase flood hazards, or pollute surface waters be adequately controlled and treated. all times comply with all
(Ord. passed 10-1-07)

§ 152.192 OBJECTIVES.

The objectives of this subchapter are as follows:

(A) To protect human life and health;

(B) To minimize the expenditure of public money for costly storm water or flood control and stormwater management projects;

(C) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) To minimize prolonged business losses and interruptions;

(E) To 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 on steep slopes or in flood prone areas;

(F) To help maintain a stable tax base by providing for the sound use and development of steep slope areas, flood prone areas, and the control of storm water runoff;

(G) To minimize the impairment of, or damage to, sensitive natural areas and bodies of water; and

(H) To ensure that potential buyers are aware that property is in a special flood hazard area or area of known landslide potential.
(Ord. passed 10-1-07)

§ 152.193 STEEP SLOPE AREA REQUIREMENTS (RESERVED).

(Ord. passed 10-1-07)

§ 152.194 SEDIMENTATION AND EROSION PREVENTION.

In order to prevent soil erosion and sedimentation pollution of streams, springs, flat water bodies, drainage networks, or other surface waters, the property owner shall at

requirements of Chapter 153: Soil Erosion and Sedimentation Control Ordinance of Macon County.
(Ord. passed 10-1-07)

§ 152.195 STORMWATER RUNOFF PROVISIONS.

The purpose of this section is to (1) protect life and property and minimize nuisances by limiting destructive runoff and flooding generated by impervious surface areas and (2) to protect water quality and natural ecosystems by filtering sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons.

(A) *Affected property.* The requirements of this Section shall apply to the following activities:

(1) Any new non-residential or mixed-use development, or any existing non-residential or mixed-use development undergoing significant improvement, or any existing nonresidential or mixed-use development undergoing an expansion of impervious surface area of 25% or more.

(2) Any new residential development or subdivision of four or more dwelling units, any existing

multi-family residential structure of four or more dwelling units undergoing significant improvement, and any expansion of or additions to an existing residential structure or development that would result in four or more dwelling units within the same parcel of land or structure or grouping of joined structures.

(3) All new major subdivisions and any new phase or expansion of existing major subdivisions.

(4) All new non-residential or mixed-use minor subdivisions and any new phase or expansion of an existing non-residential or mixed-use minor subdivision.

(5) Any new development project permitted by means of a special use permit.

(6) New structures; significant improvements to existing non-residential or mixed use structures; significant improvements to existing residential structures containing four or more dwelling units; and any expansion of impervious surface area of 25% or more within any development except expansions to residential structures containing fewer than four dwelling units, unless otherwise subject to these requirements.

(7) Any project for which stormwater management is required as a condition of approval by the Land Use Administrator or the Board of Aldermen.

(B) *Exempt activities.* The following activities are exempt from the stormwater management provisions of this section:

(1) Bona fide agricultural structures used exclusively for agricultural purposes; and

(2) Except as provided elsewhere in this chapter, the placement of small accessory buildings or structures or small amounts of other built-upon area; provided, however, that the total additional built-upon area shall be no greater than 400 square feet and the additional built-upon area shall not be placed within a special flood hazard area or surface water protection area.

(C) *Stormwater management requirements.* Development activities tend to increase the volume of stormwater runoff due to the elimination of pervious surfaces through paving and the construction of buildings and other structures. Stormwater runoff impacts the public health, safety, and welfare by flooding private and public property, by discharging pollutants, such as oils and greases, into receiving water bodies, and by making public streets and roads unsafe. Therefore, applicants for development authorization shall not be entitled to a land development permit until the applicant has demonstrated compliance with this section.

(1) The developer of all affected property shall be required to install a stormwater management system designed to control the peak runoff from a ten-year, 24-hour storm in accordance with the standards contained herein.

(a) The post-development rate of runoff shall not exceed the pre-development rate of runoff.

(b) The system shall be designed to remove 85% of the Total Suspended Solids (TSS) from the first inch of rainfall of any rain event.

(c) Stormwater measures shall have a drawdown of at least 48 hours, but not more than 120 hours.

(2) Stormwater measures shall be designed by an appropriately qualified engineer, landscape architect or other appropriately qualified professional, and shall be constructed and maintained in accordance with commonly accepted

best practices. Innovative designs that utilize “low impact” and non-structural control and treatment measures are encouraged.

(3) Stormwater measures may be located off-site provided such measures are located within a parcel of land under the same ownership as the affected property or within a common area under the management of a property owners’ association or similar entity. When stormwater measures are located off-site, deeds of both the affected property and the property containing the stormwater measure shall be provided and shall clearly reference an access easement and the right and responsibility of the owner of the affected property to access and maintain such measure.

(4) In all instances stormwater measures shall be designed to compliment a development and surrounding community and to minimize any threat to public health. If ponds or lakes are used, such areas shall be landscaped as amenities or hidden from view. This provision applies regardless whether the pond or lake typically contains water or may be dry for periods of time.

(D) *Permit requirements.* The Land Use Administrator shall review all stormwater plans required by this chapter to ensure compliance therewith. In making this determination, the Land Use Administrator shall use the Stormwater Best Management Practices Design Manual published by the North Carolina Department of Environment and Natural Resources or other commonly accepted information and engineering data.

(1) *Stormwater management system concept plan.* When required as part of any project, a written or graphic concept plan of the proposed post-development storm water management system shall be submitted along with other application materials and shall include the following: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

(2) *As-built plans and final approval.* Upon completion of a project, and before final development approval or a certificate of occupancy may be granted, the applicant shall certify that the completed project has been built in accordance with the approved stormwater management plans and

designs. The applicant shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed.

(a) The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed.

The designer of the storm water management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this chapter.

(b) A final inspection and approval by the Land Use Administrator is necessary prior to the issuance of any certificate of occupancy, release of improvement guarantee, or other final approval.

(E) *Inspections.* The Land Use Administrator may, from time to time, inspect approved storm water measures for compliance with this section and approved plans. Inspections may include, but are not limited to, reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in storm water measures; and evaluating the condition of storm water measures. No person shall obstruct, hamper, or interfere with the Land Use Administrator while carrying out his or her official duties. If the owner or occupant of any affected property refuses to allow such inspection, the Land Use Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. § 15-27.2 or its successor.

(F) *Maintenance of stormwater measures.* The owner of any stormwater measure installed pursuant to this section shall maintain and operate such measure to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the storm water measure was designed. Furthermore, stormwater measures installed prior to the enactment of this chapter as a requirement of the issuance of any permit shall be subject to the maintenance requirements contained herein. The owner of each stormwater measure, whether structural or non-structural in design, shall maintain it so as not to create or permit a nuisance condition.

(G) *Illicit discharges.* Except as provided herein, no person shall cause or allow the discharge, emission, disposal, pouring, or pumping, whether directly or indirectly, of any liquid, solid, gas, or other substance, other than stormwater, into any surface water, ground water, or stormwater

conveyance. This prohibition applies to any substance deposited upon the land in manner and amount that the substance is likely to reach a stormwater conveyance, surface or ground water.

(1) The following discharges shall not be deemed illicit and shall be permitted under the terms stated:

(a) Water line flushing, except any anti-freezing agent;

(b) Landscape irrigation;

(c) Diverted stream flows;

(d) Rising ground waters;

(e) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20);

(f) Uncontaminated pumped ground water;

(g) Discharges from potable water sources;

(h) Foundation drains;

(i) Air conditioning condensation;

(j) Irrigation water;

(k) Springs;

(l) Water from crawl space pumps;

(m) Footing drains;

(n) Lawn watering;

(o) Individual residential car washing;

(p) Flows from riparian habitats and wetlands;

(q) Dechlorinated swimming pool discharges;

(r) Street wash water; and

(s) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina.

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(2) Prohibited discharges include but are not

limited to the following:

(a) Discharges of oil, anti-freeze, chemicals, paints, garbage, litter;

(b) Raw sewage discharges or overflows;

(c) Discharges of wash water resulting from the hosing or cleaning of gasoline stations, auto repair garages, or other types of automotive service facilities;

(d) Discharges resulting from the cleaning, repair, or maintenance of any type of equipment, machinery, or facility (including motor vehicles, cement-related construction equipment, port-a-potty servicing, etc.);

(e) Discharges of wash water from mobile operations such as steam cleaning, power washing, pressure washing, carpet cleaning, and mobile carwash facilities; discharges of wash water from the cleaning or hosing of impervious surfaces in industrial and commercial areas including parking lots, streets, sidewalks, driveways, patios, plazas, work yards, and outdoor eating or drinking areas;

(f) Discharges of runoff from material storage areas containing chemicals, fuels, grease, oil or hazardous materials or chemicals;

(g) Discharges of pool or fountain water containing chlorine, biocides or other chemicals, and discharges of pool or fountain filter backwash water;

(h) Discharges of water containing sediment or construction-related wastes; and

(i) Discharges of food-related wastes such as grease, oil, fish processing water, kitchen mat wash water, trash bin wash water, pouring liquids into dumpsters.

(H) *Illicit connections.* Other than those exceptions listed in division (B), above, it shall be unlawful to cause or permit any connection to a surface water or stormwater conveyance or stormwater conveyance system that allows the discharge of anything other than stormwater.

(1) Prohibited connections include, but are not limited to the following: floor drains, wastewater from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and wastewater from septic systems.

(2) Where such connections exist in violation of this section and said connections were

made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one year following the effective date of this chapter. Provided, however, the one-year grace period shall not apply to connections which may result in the discharge of hazardous materials or other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat.

(3) Upon determining that an illicit connection may result in the discharge of hazardous materials or may pose an immediate threat to health and safety, or is likely to result in immediate injury and harm to real or personal property, natural resources, wildlife, or habitat or that a connection was made in violation of any applicable regulation or ordinance, other than this section the Land Use Administrator shall designate the time limit within which the connection shall be removed. In setting the time limit for compliance, the Land Use Administrator shall take these matters into consideration:

(a) The quantity and complexity of the work;

(b) The consequences of delay;

(c) The potential harm to the environment, to the public health, and to public and private property; and

(d) The cost of remedying the damage.

(I) *Fee-in-lieu of stormwater compliance.* On-site compliance with the requirements of this section may be impractical or impossible in certain watersheds of the town. The owner and/or developer of affected properties may, pursuant to the provisions set forth herein, opt to pay a fee-in-lieu of compliance with the stormwater management requirements of this section.

(1) Payment may be made in the form of contribution of funds, contribution of land, contribution of engineered stormwater control construction work, or a combination of these, the total value of which shall be in accordance with the stormwater fee-in-lieu schedule which shall be established by the Land Use Administrator and periodically revised to account for changes in construction and maintenance costs.

(2) Fees shall be based upon actual cost of construction of a structural storm water measure to control and treat storm water runoff from the total impervious surface area of the affected property.

(3) The Board of Aldermen shall adopt a map of watersheds within which a fee-in-lieu of stormwater compliance may be permitted.

(4) Fee-in-lieu contributions shall be set aside in a dedicated, watershed-specific special fund, and applied to stormwater management and other water quality improvement projects within the same watershed as the affected property. Purposes eligible for fee-in-lieu contributions include the following:

(a) The acquisition, design, or construction of storm water control and treatment measures.

(b) Stream bank, wetland, or other surface water protection and restoration projects that enhance stormwater management goals, reduce erosion, and enhance water quality.

(c) The elimination of illicit or inappropriate connections to storm water conveyances.

(d) Other activities identified by the Land Use Administrator, provided that such activities are for the sole purpose of improving water quality.

(e) Matching funds for grants to fund any of the aforementioned types of activities.

(f) Matching funds for participation in any water quality improvement program funded by the Macon County Soil and Water Conservation Service, the North Carolina Department of Environment and Natural Resources, the USDA Natural Resources Conservation Service, or other local, regional, state or federal agencies.

(5) The expenditure of stormwater contributions is limited as follows:

(a) To the extent practical, contributions shall be applied to activities that will result in water quality benefits comparable to the benefits of controlling and treating stormwater on the contributing property.

(b) Contributions shall not be applied to the storm water management requirements of other affected properties, or to the same affected property to satisfy the stormwater

management requirements of future site plan approvals.

(c) Contributions shall not be applied to any other purpose or activity of the town not directly related to stormwater management and water quality improvement. (Ord. passed 10-1-07; Am. Ord. passed 10-20-08)

§ 152.196 SURFACE WATER PROTECTION REQUIREMENTS.

The purpose of this section is to provide a network of protected stream corridors thereby helping to maintain water quality, provide wildlife habitats, filter pollutants, store floodwaters, and contribute to the "green infrastructure" of the Town of Franklin and lands within its jurisdiction. Stream systems are comprised of each stream and its respective drainage basin. Streams have the primary natural functions of conveying storm, ground, and surface waters, storing floodwaters, and supporting aquatic life. Vegetated lands adjacent to the stream channel serve to protect the stream's ability to fulfill its natural functions. Surface water protection areas have the primary natural functions of protecting water quality by (1) filtering sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons, (2) providing intermittent storage for flood waters, (3) allowing channels to meander naturally, and (4) providing suitable habitat for wildlife.

(A) *Applicability.* This section shall apply to all surface waters (as defined by this chapter), and all nonencroachment areas and regulatory floodways (as delineated upon the most recently published Flood Boundary and Floodway Map (FBFM) and/or Flood Insurance Rate Map (FIRM), within the planning jurisdiction of the Town of Franklin.

(B) *Relationship to previously approved development plans, structures, and uses.* Uses and structures approved and constructed in a protection area prior to the enactment of this chapter may remain as nonconformities, subject to any legal requirements attributed to that status. All development plans, development projects, and uses permitted subsequent to the enactment of this chapter, including expansions to previously approved and constructed uses and structures, shall comply with the surface water protection requirements of this chapter.

(C) *Surface water protection area delineation.* Surface water protection area requirements apply to the regulatory floodway and non-encroachment

areas, as well as lands within 30 feet from the top of each bank of a stream or other surface water body.

(1) For streams and other surface waters with defined channels, protection area widths are measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the channel.

(2) "Top of bank" shall be determined by the Land Use Administrator by considering factors such as the break in slope for a watercourse and the presence of streamside vegetation.

(3) For wetlands, as defined in this chapter, protection area widths are measured horizontally, landward from the outermost point at which wetland conditions can be identified.

(4) For ponds, lakes, and other impounded surface waters, protection areas widths are measured horizontally, landward from the ordinary high water line. Protection areas requirements do not apply to wet ponds used as structural stormwater control and treatment measures for stormwater.

(5) For other surface waters, the protection area shall be determined by the Land Use Administrator in consideration of the purposes of this section.

(6) When a combination of floodway/non-encroachment area and/or surface water types exist, the most restrictive measurement of surface water protection area shall apply.

(D) *Surface water protection area requirements.* The following requirements shall apply to surface water protection areas as defined herein.

(1) Protection areas shall be left in a naturally vegetated state, unless reforestation of disturbed protection areas is required as part of any site plan approval. When reforestation of a disturbed protection area is required, it shall be done in accordance with a planting plan approved by the Land Use Administrator.

(2) Concentrated runoff from ditches or other manmade conveyances shall be diverted to diffuse flow before the runoff enters the protection area.

(3) Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to avoid the formation of erosion gullies.

(4) Diffuse flow of runoff shall be maintained in the protection area by dispersing concentrated flow and reestablishing vegetation.

(5) Surface water protection areas shall be delineated upon any development plan and shall be noted as protection areas within which no disturbance or development shall be permitted.

(6) The following impacts are expressly forbidden in surface water protection areas (including floodways, non-encroachment areas) and associated water bodies:

(a) The placement of fill or the deposition of any natural or manmade material or substance.

(b) New development, substantial improvements, new construction, new impervious surfaces, the placement of structures or any other form of development or encroachment, except those associated with public utilities.

(c) Grading, excavation, the removal of vegetation, or any disturbance of any kind except excavation and fill required to plant any new trees or vegetation.

(d) The ditching, dredging, channelization, straightening, relocation, diking, levying, or any other alteration or modification of any kind, to surface waters, except dredging necessary to maintain pre-existing, human-made water impoundments such as ponds and lakes.

(e) The routing underground (by culvert or other means) of any surface water, except to facilitate crossings by approved roads, streets, driveways, greenways, sidewalks, and other transportation facilities.

(f) The impoundment of water bodies (this shall not prohibit the maintenance of existing ponds, lakes, and other impoundments).

(g) Any other type of encroachment, disturbance, or modification to floodways, nonencroachment areas, or other surface water protection areas or associated surface waters.

(7) The following protection area impacts are permitted provided that design and construction shall comply with applicable town standards for stabilization of disturbed areas to minimize negative effects on the quality of surface waters.

(a) Road crossings for connectivity or transportation links and required utilities including public and private streets, driveways, and bridges, where the town has granted site plan approval.

(b) Parallel water and sewer utility installation as approved by the town.

(c) Approved public or common area open space, paths and trails. Pathways should use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall be "on-grade" and shall preserve existing drainage patterns and avoid drainage structures that concentrate stormwater.

(d) Incidental drainage improvements/repairs for maintenance provided that such maintenance does not result in channelization, straightening, or modification of the natural course of a stream channel or the deforestation of the regulatory floodway or protection areas.

(e) Mitigation approved by a local, state, or federal agency acting pursuant to Sections 401 or 404 of the Federal Clean Water Act.

(f) Stream bank or stream channel restoration or soil stabilization activities of the North Carolina Cooperative Extension Service, Macon County Soil and Water Conservation Service, USDA Natural Resources Conservation Service, Macon County, the Town of Franklin, the North Carolina Forest Service, or a cooperating organization or entity. This exception does not include the straightening or channelization any watercourse.

(g) The removal of invasive exotic plant and tree species or trees posing a hazard to life or property.

(8) Uses permitted in the protection area shall be coordinated to ensure minimal disturbance of the protection area system. For example, if it is necessary to install utilities within the protection area and if greenway trails are then to be built, they should follow these cleared areas instead of necessitating additional clearing.

(9) The approving authority may reduce the required setbacks by up to 20% of the required distance in order to facilitate compliance with this section. Additional setback deviations shall be considered as variances by the Board of Adjustment in accordance with the procedures set forth in this chapter.

(Ord. passed 10-1-07)

§ 152.197 FLOODPLAIN PROTECTION STANDARDS (RESERVED).

(Ord. passed 10-1-07)

§ 152.198 VARYING REQUIREMENTS WHEN THERE IS AN INCREASE IN FUNCTIONALITY.

Occasionally, development sites will contain steep slopes, surface water areas, and/or flood plain, which, due to previous clearing or development, diking, erosion, or other reasons, are of limited functionality. This chapter seeks to encourage landowners and developers to find creative means to improve these existing conditions. Accordingly, the entity with the authority to grant development authorization pursuant to §§ 152.050 - 152.062, above, may vary the requirements of this subchapter when the applicant for development authorization demonstrates the proposed development, along with any management practices, will result in an increase of functionality of any regulated natural resources on the development site. Any mitigation proposed to offset loss of a natural resource regulated herein must take place on the development site itself or on neighboring properties pursuant to a recorded easement authorizing such activities.

(Ord. passed 10-1-07)

§ 152.199 REMEDIES FOR VIOLATIONS OF THE NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION ARTICLE.

In addition to any other remedies provided in this chapter or elsewhere, the Land Use Administrator is authorized to require restoration of any natural resources damaged or destroyed in violation of the provisions of this subchapter.

(Ord. passed 10-1-07)